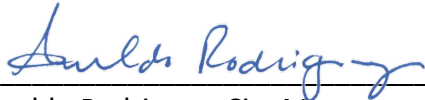


## REPORT TO CITY COUNCIL

**Approved by:**

**Council Meeting of:** September 15, 2021

**Agenda Number:** D-1

  
Arnoldo Rodriguez, City Manager

### **SUBJECT:**

Second Reading and Adoption of Ordinance Amending the City's Municipal Code Relating to Cannabis and adoption of Negative Declaration

### **RECOMMENDATION:**

1. Waive full reading and Adopt an Ordinance of the City of Madera, California Amending Section 6-5.33 (D) Of Title VI, Chapter 5 of the Madera Municipal Code Relating to Location and Design of Cannabis Businesses [Relative to Lions Town & Country Community Park]
2. Adopt the Negative Declaration that determined that the proposed project will not have significant adverse effects on the environment

### **SUMMARY:**

The City Council (Council) introduced an amendment to the City's Municipal Code at its September 1 meeting. Changes to the Municipal Code generally require two readings. This represents the second reading and adoption.

The proposed amendment would modify the adopted cannabis-related regulations that Council initially approved at its meeting on June 16, 2021. The adopted ordinance provides distance requirements for cannabis-related businesses from sensitive uses as designated by state law. Generally, this includes schools, daycare centers, and youth-related centers. Given existing development patterns in the City, the Council exempted said distance requirements from specific locations, such as downtown, the Library, Fairgrounds, and four parks and/or community centers. Staff is proposing that Lions Town & Country Community Park (LTCCP) be added to said list, expanding potential sites for cannabis activities. In short, the text amendment proposes to amend Section 6-5.33(D)(2) of the Madera Municipal Code (MMC) by adding LTCCP as a use not subject to the 600-foot buffer distance requirement.

## **BACKGROUND:**

Initial workshops on the cannabis regulatory ordinance and related procedures were presented to Council on January 6, 2021, January 20, 2021, and April 21, 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 solicited feedback and direction by Council majority on policy considerations before completing the preparation of the ordinance and land use ordinance designating zone districts where cannabis businesses may be permitted. Following the workshops, Council considered regulations pertaining to cannabis on June 7, 2021, and adopted them on June 16, 2021.

The existing cannabis regulatory ordinance is designed to regulate the commercial cultivation, processing, manufacturing, testing, sale, delivery, and distribution of cannabis and cannabis products responsibly to protect the health, safety, and welfare of the residents of the City and to enforce rules and regulations consistent with state law.

## **PROPOSED AMENDMENT:**

### ***Regulatory Ordinance (Chapter 5 To Title VI)***

The MMC outlines and codifies the process for obtaining a permit to operate a cannabis business. This includes the initial application procedure, permittee selection process, renewal, revocation, and transfer of a cannabis business permit. The MCC also outlines operating requirements for commercial cannabis businesses, including the location and design, recordkeeping, security measures, general operating requirements, and operating requirements specific to each permitted business type.

Cannabis businesses are restricted to specific commercial and industrial zones and are subject to all the requirements of the zone in which the business chooses to locate. Cannabis businesses must be a minimum of 600 feet from any sensitive use, school (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12), commercial daycare, or youth center that is in existence at the time a permit application is deemed complete; however, exceptions were added to allow for cannabis activities in certain areas which are suitable for cannabis activities. These areas include:

- (1) The Fresno River
- (2) Rotary Park, Courthouse Park, Wells Center (including the community garden and Centennial Park), and Frank Bergon Center
- (3) Madera County Fairgrounds
- (4) Madera Municipal Golf Course
- (5) Madera County Library
- (6) Madera Downtown Business Improvement Area

Upon further examination, staff is recommending that LTCCP be added to the aforementioned list. If approved, the MMC would be amended to read as follows (underline and bold font added

to identify the proposed change):

- (D) The distance requirements prescribed in this section (§6-5.33) shall not apply to:
- (1) The Fresno River
  - (2) Rotary Park, Courthouse Park, Wells Center (including the community garden and Centennial Park), Frank Bergon Center, and Lions Town and Country Community Park
  - (3) Madera County Fairgrounds
  - (4) Madera Municipal Golf Course
  - (5) Madera County Library
  - (6) Madera Downtown Business Improvement Area

It is noted that cannabis-related activities are not permitted, nor would be permitted, in residential areas; this ordinance proposes to allow those activities to occur primarily south of West Industrial Avenue and east of the park (east of South Schnoor Avenue). Moreover, adding LTCCP to the list above would provide additional opportunities, particularly south in the expansive industrial area. No other amendments are proposed, and all cannabis businesses would need to meet City and State regulations. This includes but is not limited to the following:

1. Maintaining accurate books and records in an electronic format, detailing revenues.
2. Maintaining an inventory control and reporting system that documents the present location, amounts, and descriptions of products for all stages.
3. Providing access to City officials for the purpose of conducting an audit or examination within 24 hours of City request.
4. Complying with strict security measures. Examples of security measures include installation of 24-hour security surveillance cameras, sensors and secure alarm systems, controlled access, security lighting, and on-site security personnel.
5. Adhering to restrictions on sales of alcohol or tobacco, prohibition of on-site consumption, and loitering and odor control.
6. Complying with signage regulations which are limited to only that needed for identification and shall not contain any logo or image of cannabis or cannabis products.
7. Preventing youth consumption of cannabis. In general, persons under the age of 21 are not to be allowed on the premises of a commercial cannabis business or employed by a commercial cannabis business. Businesses must check the IDs of all patrons prior to entrance using current ID scanning technology. The exception being for those aged 18-21 with a valid physician's recommendation for medicinal cannabis.

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):**

The proposed project has been reviewed for compliance with CEQA. The City prepared an initial study and, on that basis, determined that the proposed project will not have significant adverse effects on the environment and that a Negative Declaration could be prepared. The Initial

Study/Negative Declaration (IS/ND) was published for a 21-day review and comment period commencing on August 11, 2021. No comments have been received as of the date of this report.

**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.
- Publication and distribution of public notices (Initial Study availability/intent to adopt a Negative Declaration and public hearing) fees totaling approximately \$1,400
- 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.

**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 additional information or provide an alternative action.

**ATTACHMENTS:**

1. Ordinance, Municipal Code Update
2. Initial Study/Negative Declaration pursuant to the California Environmental Quality act



**AN ORDINANCE OF THE CITY OF MADERA, CALIFORNIA AMENDING  
SECTION 6-5.33 (D) OF TITLE VI, CHAPTER 5 OF THE MADERA MUNICIPAL  
CODE RELATING TO LOCATION AND DESIGN OF CANNABIS BUSINESSES**

**THE CITY COUNCIL OF THE CITY OF MADERA DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Subsection 6-5.33 (D) of Title VI, Chapter 5 of the Madera Municipal Code is amended to read as follows:

- (D) The distance requirements prescribed in this section (§6-5.33) shall not apply to:
- (1) The Fresno River
  - (2) Rotary Park, Courthouse Park, Wells Center (including the community garden and Centennial Park), Frank Bergon Center, and Lions Town and Country Community Park
  - (3) Madera County Fairgrounds
  - (4) Madera Municipal Golf Course
  - (5) Madera County Library
  - (6) Madera Downtown Business Improvement Area as depicted in the following diagram

Benefit Zone B: subject to MDBID Assessment

**SECTION 3. CEQA.** The City Council further finds that the project will not cause substantial environmental damage to fish and/or wildlife and their habitats, nor have the potential for adverse effect(s) on wildlife resources or the habitat upon which wildlife depends. The Negative

Declaration prepared for the text amendment of the Madera Municipal Code is in conformance with State and local environmental guidelines and adopted said Negative Declaration and a Notice of Determination will be recorded with the County Recorder.

**SECTION 4. 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 5. Publication.** This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

**SECTION 6. Effective Date.** This ordinance shall become effective thirty days from the date of adoption.

# **City of Madera Cannabis Business Location Setback Exemptions Amendment**

Initial Study / Negative Declaration

August 2021

Prepared by:



Planning Department  
205 W. 4<sup>th</sup> Street  
Madera, CA 93637

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# Chapter 1 Introduction

The City of Madera (City) has prepared this Initial Study/Negative Declaration (IS/ND) to address the environmental effects of the proposed amendment to Section 6-5.33(D)(2) of Chapter 5 of Title VI of the City of Madera Municipal Code (MMC) (Location and Design of Cannabis Businesses) to include Lions Town & Country Community Park as a public facility exempt when siting a cannabis business from any parcel in the City designated by state law as a sensitive use (“Project”). Pursuant to 6-5.33, cannabis business shall be no closer than 600 hundred feet from any zoned parcel in the City designated by state law as a sensitive use. Lions Town & Country Community Park is located at 2300 Howard Road, between South Schnoor Avenue and South Granada Drive. This document has been prepared in accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq. The City of Madera is the CEQA lead agency for this proposed Project. The site and the proposed Project are described in detail in [Chapter 2 Project Description](#).

## 1.1 Regulatory Information

An Initial Study (IS) is a document prepared by a lead agency to determine whether a project may have a significant effect on the environment. In accordance with California Code of Regulations Title 14 (Chapter 3, Section 15000, *et seq.*)-- also known as the CEQA Guidelines-- Section 15064 (a)(1) states that an environmental impact report (EIR) must be prepared if there is substantial evidence in light of the whole record that the proposed Project under review may have a significant effect on the environment and should be further analyzed to determine mitigation measures or project alternatives that might avoid or reduce project impacts to less than significant levels. A negative declaration (ND) may be prepared instead if the lead agency finds that there is no *substantial* evidence in light of the whole record that the project may have a significant effect on the environment. An ND is a written statement describing the reasons why a proposed Project, not otherwise exempt from CEQA, would not have a significant effect on the environment and, therefore, why it would not require the preparation of an EIR (CEQA Guidelines Section 15371). According to CEQA Guidelines Section 15070, a ND or *mitigated* ND shall be prepared for a project subject to CEQA when either:

- a. *The IS shows there is no substantial evidence, in light of the whole record before the agency, that the proposed Project may have a significant effect on the environment, or*
- b. *The IS identified potentially significant effects, but:*
  1. *Revisions in the project plans or proposals made by or agreed to by the applicant before the proposed ND and IS is released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur is prepared, and*
  2. *There is no substantial evidence, in light of the whole record before the agency, that the proposed Project as revised may have a significant effect on the environment.*

## 1.2 Document Format

This Initial Study/Negative Declaration (IS/ND) contains four chapters plus appendices. [Chapter 1 Introduction](#), provides an overview of the proposed Project and the CEQA process. [Chapter 2 Project Description](#) provides a detailed description of proposed Project components. [Chapter 3 Determination](#) identifies the environmental factors potentially affected based on the analyses contained in this IS and

includes with the Lead Agency's determination based upon those analyses. **Chapter 4 Impact Analysis** presents the CEQA checklist and environmental analyses for all impact areas and the mandatory findings of significance. A brief discussion of the reasons why the Project impact is anticipated to be potentially significant, less than significant with mitigation incorporated, less than significant or why no impacts are expected is included.

# Chapter 2 Project Description

## 2.1 Project Background

### 2.1.1 Project Title

City of Madera Cannabis Business Location Setback Exemptions Amendment

### 2.1.2 Lead Agency Name and Address

City of Madera  
205 W. 4<sup>th</sup> Street  
Madera, CA 93637

### 2.1.3 Contact Person and Phone Number

#### Lead Agency Contact

John Thomason, Senior Planner  
(559) 661-5400  
[jthomason@madera.gov](mailto:jthomason@madera.gov)

#### Applicant Information

City of Madera  
205 W. 4<sup>th</sup> Street  
Madera, CA 93637

### 2.1.4 Study Prepared By

City of Madera  
205 W. 4<sup>th</sup> Street  
Madera, CA 93637

### 2.1.5 Project Location

The Project site is limited to a 600-foot radius of Lions Town & Country Community Park, located at 2300 Howard Road, between South Schnoor Avenue and South Granada Drive in the City of Madera.

### 2.1.6 Zoning

The Project site is the 600-foot radius from Lions Town & Country Community park in all directions, which includes the following zones:

- Residential 1 (R-1) to the west and north;
- Neighborhood Commercial (CN) to the west;
- Planned Development 6000 (PD 6000) to the southwest;

- Residential 3 (R-3) to the northwest;
- Industrial Park (IP) to the south;
- Public Facilities (PF) to the southeast;
- Industrial (I) to the southeast;
- Light Commercial (C-1) to the east;
- Heavy Commercial (C-2) to the east;
- Professional Office (PO) and PD 6000 to the northeast.

## 2.1.7 Description of Project

### Project Description

On June 27, 2016, the State of California enacted the Medical Cannabis Regulatory Safety Act (“MCRSA”) to protect residents’ use of medical cannabis and to establish regulations for personal and commercial medical cannabis activity. On November 8, 2016, California voters passed Proposition 64, the Adult Use of Marijuana Act (“AUMA”) to regulate personal and commercial non-medical marijuana activity. On January 1, 2018, the State began issuing temporary commercial licenses for medicinal and non-medicinal cannabis. Many California cities and counties are now implementing local cannabis regulations. In November 2020, the City of Madera voters adopted an ordinance establishing a Cannabis Business Tax and the adoption of both regulatory and zoning ordinances as described below.

The purpose and intent of the cannabis regulatory ordinance is to provide access to adult-use cannabis for persons aged 21 and over as authorized AUMA (“Proposition 64”) approved by the 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 the Municipal Code in conjunction with the cannabis regulatory ordinance, 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.

The previously adopted amendments defined buffer zones of 600 feet around sensitive uses, with some exceptions. The proposed Project analyzed herein would include Lions Town & Country Community Park as an exempt sensitive use, allowing the possibility that the relevant zones (C-1, C-2, I, or IP) within a 600-foot buffer of the park could experience cannabis-related development in the future.

#### **RELEVANT ADOPTED AMENDMENTS:**

Various changes to the Municipal Code as it relates to cannabis have been adopted by City Council, including (in order as outlined in the two Ordinances):

- Title X: Planning and Zoning of the Municipal Code
- Title VI, Chapters 1 and 5 (Businesses, Professions, and Trades)
- Title IV, Chapter 15 (Public Welfare)

The following provides a summary of the amendments relevant to the proposed Project:

#### **1. Zoning Ordinance Amendments**

Chapter 2 Project Description  
City of Madera Cannabis Business Location  
Setback Exemptions Amendment

The cannabis regulatory ordinance adopted by Council is subject to the Zoning Code's ability to permit the cultivation, processing, manufacturing, testing, distribution, and the sale of cannabis and cannabis products pursuant to meeting specific requirements.

The Zoning districts specific to implementing the proposed cannabis regulatory ordinance are the C-1 (Light Commercial), C-2 (Heavy Commercial), I (Industrial), and the IP (Industrial Park) Zones. Absent amending the Zoning Ordinance, cannabis related activities within the City would not be possible. Therefore, Council amended the Zoning Ordinance. As noted above, the following zones would be affected by the proposed Project (areas within 600 feet of Lions Town & Country Community Park, proposed to be excluded as a sensitive use):

- Residential 1 (R-1)
- Neighborhood Commercial (CN)
- Planned Development 6000 (PD 6000)
- Residential 3 (R-3) to the
- Industrial Park (IP) to the
- Public Facilities (PF) to the
- Industrial (I)
- Light Commercial (C-1)
- Heavy Commercial (C-2)
- Professional Office (PO)

Of these, the areas within 600 feet of the park in C-1, C-2, I, and IP zones would be affected as the adopted ordinances would apply to these areas whereas before they were excluded as the park was designated a sensitive use.

Relevant language adopted by City Council for these three zones as it relates to cannabis is below:

**A. Section §10-3.802 (Light Commercial Zone District; C-1)**

Section 10-3.802 details the uses permitted. Subsection (A) would be amended to allow the sale of cannabis and cannabis products in a C-1 zone by right as follows:

(A) The following retail stores selling new merchandise exclusively and personal service establishments within a building, including:

~~(43) Other retail businesses or retail commercial enterprises which are similar in character or rendering neighborhood commercial services and are not more detrimental to the welfare of the neighborhood in which located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification;~~

(43) Cannabis and Cannabis Product Retail Sales as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(44) Other retail businesses or retail commercial enterprises which are similar in character or rendering neighborhood commercial services and are not more detrimental to the welfare of the neighborhood in which located than any use

listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

**B. Section §10-3.902 (Heavy Commercial; C-2)**

Section §10-3.902 details allowable uses in the C-2 (Heavy Commercial) zone by right. Subsection (A) would be amended to allow the sale of cannabis and cannabis products in a C-1 zone by right as follows:

(A) The following uses shall be permitted in the C-2 zone:

(7) Cannabis and Cannabis Product Retail Sales as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

**C. §10-3.1002 (Industrial Zone District; I)**

Section §10-3.1002 details allowable uses in the I (Industrial) zone. Subsection (A) would be amended to allow the cultivation, distribution, manufacturing, testing labs, and retail of cannabis and cannabis products as follows:

(A) The following uses shall be permitted in I zones:

~~(17) Other retail and wholesale stores or storage and service establishments, light industrial and manufacturing uses determined by the Planning Commission to be similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification~~

(17) Cultivation, Distribution, Manufacturing, Testing Labs as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(18) Retail only in conjunction with Vertical Integration Business as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(19) Other retail and wholesale stores or storage and service establishments, light industrial and manufacturing uses determined by the Planning Commission to be similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

**D. §10-3.11.503 (Industrial Park Zones; IP)**

Section 10-3.11.503 details allowable uses in the IP (Industrial Park) zone. Subsection (A) would be amended to allow the cultivation, distribution, manufacturing, testing labs, and retail of cannabis and cannabis products as follows:

(A) The following uses shall be permitted in IP zones:

(11) Cultivation, Distribution, Manufacturing, Testing Labs as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(12) Retail only in conjunction with Vertical Integration Business as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

## 2. Regulatory Ordinance (Chapter 5 To Title VI)

The ordinance outlined and codified the process for obtaining a permit to operate a cannabis business. This included the initial application procedure, permittee selection process, renewal, revocation, and transfer of a cannabis business permit. It should be noted that applications will be reviewed per Procedure Guidelines and Review Criteria.

### *Operating Requirements*

Chapter 5 of Title VI of the MMC outlines operating requirements for commercial cannabis businesses, including the location and design, recordkeeping, security measures, general operating requirements, and operating requirements specific to each permitted business type.

Cannabis businesses are restricted to specific commercial and industrial zones and are subject to all the requirements of the zone in which the business chooses to locate. **Cannabis businesses must be a minimum 600 feet from any sensitive use, school (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12), commercial daycare, or youth center that is in existence at the time a permit application is deemed complete; however, exceptions are proposed to allow for cannabis activities in certain areas, such as downtown, which are suitable for retail activities.**

### Potential Cannabis Use - Acreage Gained by Lions Town & Country Park Exclusion as a Sensitive Use

| Zone                   | Acreage Gained |
|------------------------|----------------|
| Light Commercial (C-1) | 5.77           |
| Heavy Commercial (C-2) | 20.57          |
| Industrial (I)         | 18             |
| Industrial Park (IP)   | 62             |

### *PROPOSED UPDATE TO THE ADOPTED ORDINANCE AS IT RELATES TO CEQA ANALYSIS*

The exclusion of Lions Town & Country Community Park as detailed on the figures below is being considered after July 1, 2021, and thus outside of the CEQA exemption cited above. It is for this reason that this document has been prepared.

## **2.1.8 Other Public Agencies Whose Approval May Be Required**

No other public agencies have authority over the implementation of the proposed Project as either Lead or Responsible Agencies under CEQA.

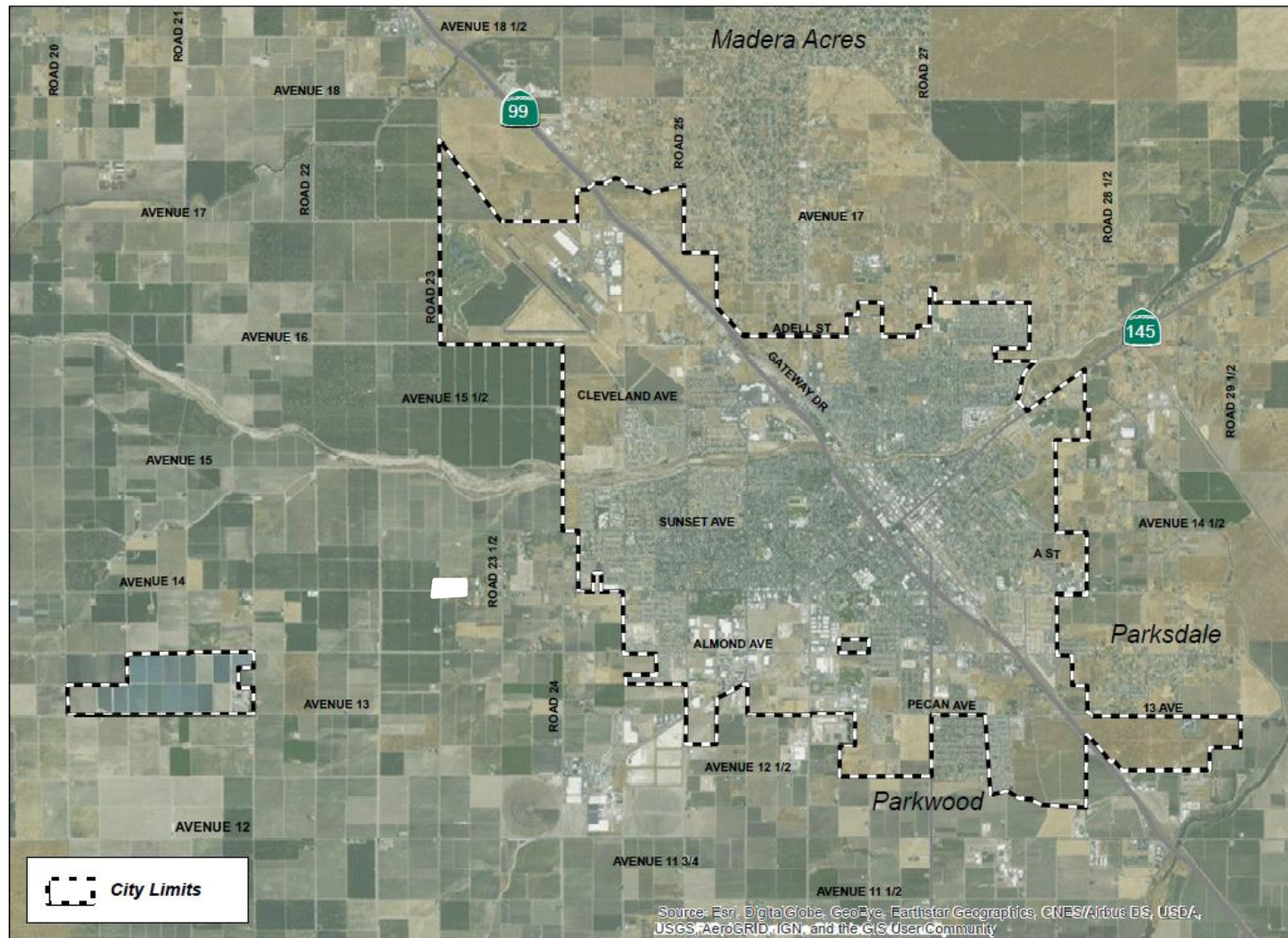
## **2.1.9 Consultation with California Native American Tribes**

Public Resources Code Section 21080.3.1, *et seq.* (codification of AB 52, 2013-14)) requires that a lead agency, within 14 days of determining that it will undertake a project, must notify in writing any California Native American Tribe traditionally and culturally affiliated with the geographic area of the project if that Tribe has previously requested notification about projects in that geographic area. The notice must briefly describe the project and inquire whether the Tribe wishes to initiate request formal consultation. Tribes have 30 days from receipt of notification to request formal consultation. The lead agency then has 30 days to initiate the consultation, which then continues until the parties come to an agreement regarding necessary mitigation or agree that no mitigation is needed, or one or both parties determine that negotiation occurred in good faith, but no agreement will be made.

The City of Madera has not received written correspondence from any California Native American Tribe pursuant to Public Resources Code Section 21080.3.1 requesting notification of proposed projects in the City of Madera



Figure 2-1 Area Map



### Figure 2-2 Project Update Overview

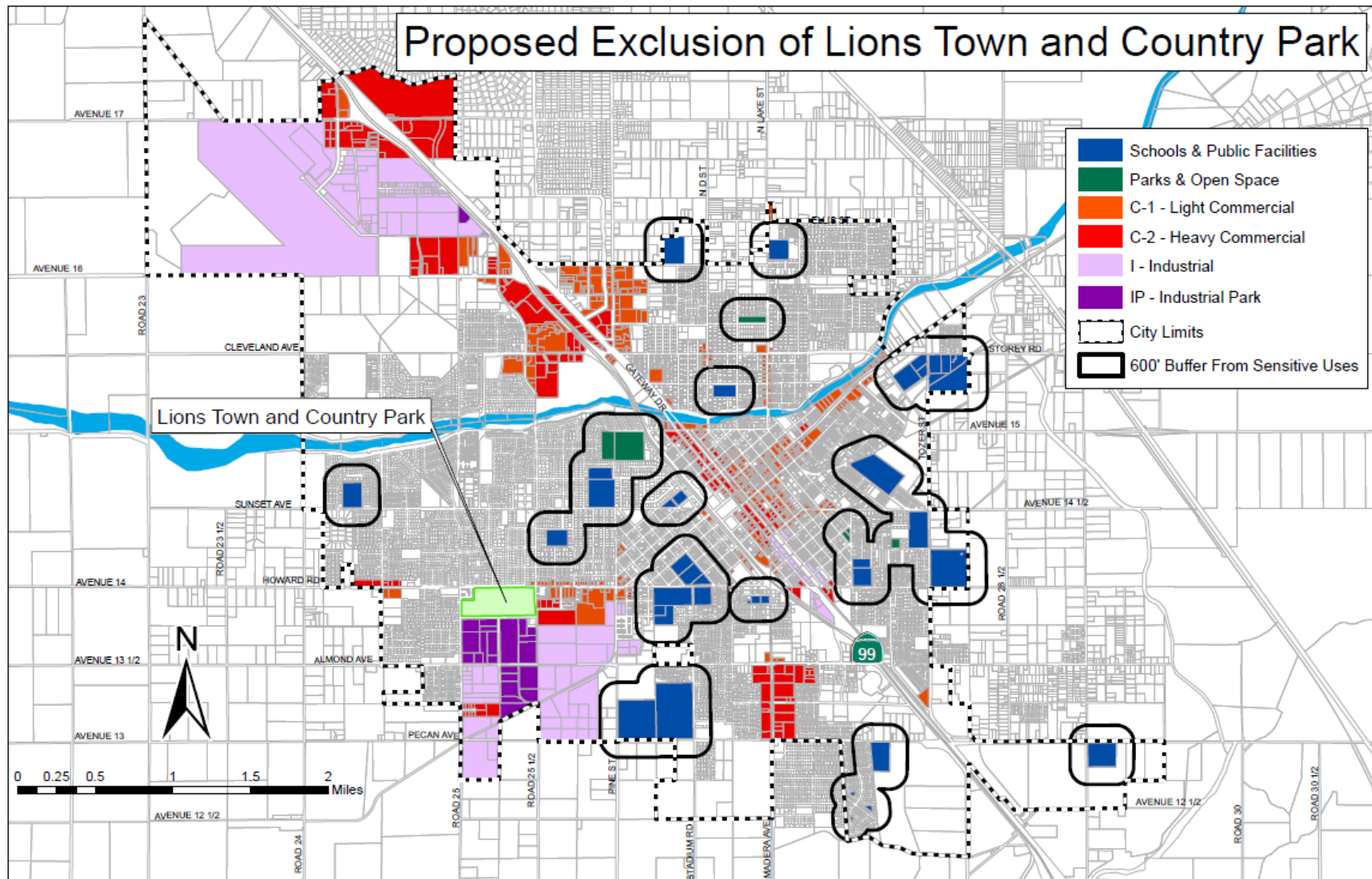
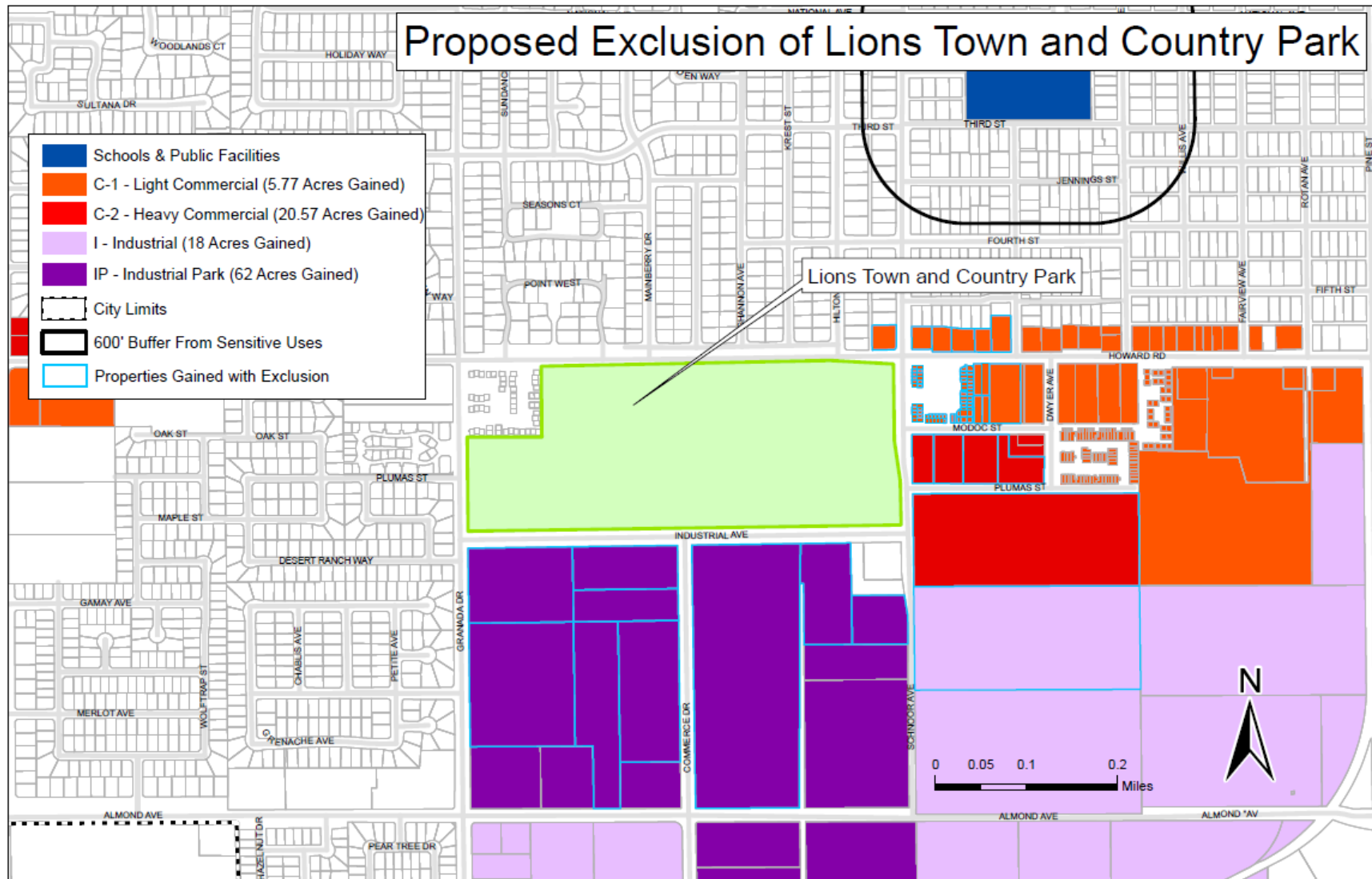


Figure 2-3 Project Update Detail





# Chapter 3 Determination

## 3.1 Environmental Factors Potentially Affected

As indicated by the discussions of existing and baseline conditions, and impact analyses that follow in this Chapter, environmental factors not checked below would have no impacts or less than significant impacts resulting from the project. Environmental factors that are checked below would have potentially significant impacts resulting from the project. Mitigation measures are recommended for each of the potentially significant impacts that would reduce the impact to less than significant.

- |                                                    |                                                           |                                                             |
|----------------------------------------------------|-----------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Aesthetics                | <input type="checkbox"/> Agriculture & Forestry Resources | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources      | <input type="checkbox"/> Cultural Resources               | <input type="checkbox"/> Energy                             |
| <input type="checkbox"/> Geology/Soils             | <input type="checkbox"/> Greenhouse Gas Emissions         | <input type="checkbox"/> Hazards & Hazardous Materials      |
| <input type="checkbox"/> Hydrology/Water Quality   | <input type="checkbox"/> Land Use/Planning                | <input type="checkbox"/> Mineral Resources                  |
| <input type="checkbox"/> Noise                     | <input type="checkbox"/> Population/Housing               | <input type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Recreation                | <input type="checkbox"/> Transportation                   | <input type="checkbox"/> Tribal Cultural Resources          |
| <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Wildfire                         | <input type="checkbox"/> Mandatory Findings of Significance |

The analyses of environmental impacts in **Chapter 4 Impact Analysis** result in an impact statement, which shall have the following meanings.

**Potentially Significant Impact.** This category is applicable if there is substantial evidence that an effect may be significant, and no feasible mitigation measures can be identified to reduce impacts to a less than significant level. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.

**Less than Significant with Mitigation Incorporated.** This category applies where the incorporation of mitigation measures would reduce an effect from a “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measure(s), and briefly explain how they would reduce the effect to a less than significant level (mitigation measures from earlier analyses may be cross-referenced).

**Less Than Significant Impact.** This category is identified when the proposed Project would result in impacts below the threshold of significance, and no mitigation measures are required.

**No Impact.** This category applies when a project would not create an impact in the specific environmental issue area. “No Impact” answers do not require a detailed explanation if they are adequately supported by the information sources cited by the lead agency, which show that the impact does not apply to the specific project (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

## 3.2 Determination

On the basis of this initial evaluation (to be completed by the Lead Agency):

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Gary Conte  
Signature

8/10/21

Date

Gary Conte, AICP, Planning Manager

# Chapter 4 Impact Analysis

## 4.1 Aesthetics

| Except as provided in Public Resources Code Section 21099, would the project:                                                                                                                                                                                                                                                                                               | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Have a substantial adverse effect on a scenic vista?                                                                                                                                                                                                                                                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?                                                                                                                                                                                                                    | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?                                                                                                                                                                                                                                                       | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.1.1 Environmental Setting

The City of Madera is located within Madera County in the San Joaquin Valley, Central California. The City's visual features predominately include urbanized land uses, agricultural land uses, rivers and creeks, and trees. There are no designated State scenic highways within the Project area.

### 4.1.2 Impact Assessment

#### a) Would the project have a substantial adverse effect on a scenic vista?

**No Impact.** The Madera General Plan does not identify or designate scenic vistas within the City's Sphere of Influence; in addition, there are no State-defined scenic vistas within the City. The Project does not propose specific development and therefore could not result in an adverse effect on a scenic vista, including any federal, state, or locally classified scenic vistas or areas, historic resources, or a scenic highway. No impacts would occur, and future development would be subject to site-specific environmental review.

- b) Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

**No Impact.** According to the California State Scenic Highway System Map, no part of the Project area is located within a State Scenic Highway. In addition, no specific development is proposed, and future development would undergo site-specific analysis. No impacts would occur.

- c) In non-urbanized areas, would the project substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

**No Impact.** The Project site is within an urbanized area that is characterized by industrial and commercial development and thereby, the existing visual character or quality of public views of the site and its surroundings is predominately industrial and commercial. In addition, the Project does not propose specific development and future projects that could occur would be subject to site-specific environmental review. No impacts would occur.

- d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

**No Impact.** The addition of the potential development that could occur upon Project implementation could create a new source of light or glare in the Project area, but the light or glare would be generally compatible and equal to existing light sources in the area. In addition, future project-level development would be subject to site-specific environmental review. No impacts would occur.

## 4.2 Agriculture and Forestry Resources

| Would the project:                                                                                                                                                                                                                                                                         | Potentially Significant Impact | Less than Significant With Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?                                             | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?                                                                                                                                                                                                       | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Result in the loss of forest land or conversion of forest land to non-forest use?                                                                                                                                                                                                       | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?                                                                               | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.2.1 Impact Assessment

- a) Would the project convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

**No Impact.** According to the Farmland Monitoring and Mapping Program, California Important Farmland Finder, the project site affected by the proposed changes is not an area of farmland of significance. The project site is within the urbanized area of the City of Madera. No impacts would occur.

- b) Would the project conflict with existing zoning for agricultural use, or a Williamson Act contract?



**No Impact.** The Project site is not zoned for or is located within an area for agricultural uses and is not under a Williamson Act contract. In addition, the Project does not propose specific development and future development that could occur as a result of Project implementation would undergo site-specific environmental review. No impacts would occur.

- c) Would the project conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

**No Impact.** The Project site does not contain forest land or timberland and is not zoned for forestry or timberland uses. In addition, the Project does not propose specific development and future development that could occur as a result of Project implementation would undergo site-specific environmental review. No impacts would occur.

- d) Would the project result in the loss of forest land or conversion of forest land to non-forest use?

**No Impact.** The Project site does not contain forest land or timberland and is not zoned for forestry or timberland uses. In addition, the Project does not propose specific development and future development that could occur as a result of Project implementation would undergo site-specific environmental review. No impacts would occur.

- e) Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

**No Impact.** No portion of the Project footprint is currently zoned for agriculture or under such uses. In addition, the Project does not propose specific development and future development that could occur as a result of Project implementation would undergo site-specific environmental review. No impacts would occur.

## 4.3 Air Quality

| Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project: | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan?                                                                                                                                        | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?                      | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Expose sensitive receptors to substantial pollutant concentrations?                                                                                                                                                 | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?                                                                                                      | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.3.1 Environmental Setting

The City of Madera lies within the central portion of the San Joaquin Valley Air Basin that is bounded by the Sierra Nevada Mountain range to the east, Coastal Ranges to the west, and Tehachapi mountains to the south. In general, there are four (4) major sources of air pollutant emissions in this Air Basin: motor vehicles, industrial plants, agricultural activities, and construction activities. The San Joaquin Valley Air Pollution Control District (SJVAPCD) oversees the San Joaquin Valley Air Basin.

### 4.3.2 Impact Assessment

#### Thresholds of Significance

To assist local jurisdictions in the evaluation of air quality impacts, the SJVAPCD has published the *Guide for Assessing and Mitigating Air Quality Impacts* (GAMAQI). This guidance document includes recommended thresholds of significance to be used for the evaluation of short-term construction, long-term operational, odor, toxic air contaminant, and cumulative air quality impacts. Accordingly, the SJVAPCD-recommended thresholds of significance are used to determine whether implementation of the proposed Project would result in a significant air quality impact. Projects that exceed these recommended thresholds would be considered to have a potentially significant impact to human health and welfare. The thresholds of significance are summarized, as follows:

**Short-Term Emissions of Particulate Matter (PM<sub>10</sub>):** Construction impacts associated with the proposed Project would be considered significant if the feasible control measures for construction in compliance with

Regulation VIII as listed in the SJVAPCD guidelines are not incorporated or implemented, or if project-generated emissions would exceed 15 tons per year (TPY).

**Short-Term Emissions of Ozone Precursors (ROG and NOX):** Construction impacts associated with the proposed Project would be considered significant if the project generates emissions of Reactive Organic Gases (ROG) or NO<sub>x</sub> that exceeds 10 TPY.

**Long-Term Emissions of Particulate Matter (PM<sub>10</sub>):** Operational impacts associated with the proposed Project would be considered significant if the project generates emissions of PM<sub>10</sub> that exceed 15 TPY.

**Long-Term Emissions of Ozone Precursors (ROG and NOX):** Operational impacts associated with the proposed Project would be considered significant if the project generates emissions of ROG or NOX that exceeds 10 TPY.

**Conflict with or Obstruct Implementation of Applicable Air Quality Plan:** Due to the region's nonattainment status for ozone, PM<sub>2.5</sub>, and PM<sub>10</sub>, if the project-generated emissions of either of the ozone precursor pollutants (i.e., ROG and NO<sub>x</sub>) or PM<sub>10</sub> would exceed the SJVAPCD's significance thresholds, then the project would be considered to conflict with the attainment plans. In addition, if the project would result in a change in land use and corresponding increases in vehicle miles traveled, the project may result in an increase in vehicle miles traveled that is unaccounted for in regional emissions inventories contained in regional air quality control plans.

**Local Mobile-Source CO Concentrations:** Local mobile source impacts associated with the proposed Project would be considered significant if the project contributes to CO concentrations at receptor locations in excess of the CAAQS (i.e., 9.0 ppm for 8 hours or 20 ppm for 1 hour).

Exposure to toxic air contaminants (TAC) would be considered significant if the probability of contracting cancer for the Maximally Exposed Individual (i.e., maximum individual risk) would exceed 10 in 1 million or would result in a Hazard Index greater than 1.

Odor impacts associated with the proposed Project would be considered significant if the project has the potential to frequently expose members of the public to objectionable odors.

**a) Would the project conflict with or obstruct implementation of the applicable air quality plan?**

**No Impact.** The Project does not propose specific development and therefore does not have the potential to generate air pollutant emissions of any kind. Future development that could occur under the proposed Project would be subject to emissions analyses to determine conflicts with any applicable air quality plans. No impacts would occur.

**b) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?**

**No Impact.** The San Joaquin Valley Air Basin is in non-attainment for ozone, PM<sub>10</sub>, and PM<sub>2.5</sub>, which means that certain pollutants' exposure levels are often higher than the normal air quality requirements. As noted above, the Project does not propose specific development and it is therefore not possible to quantify

emissions as a result of its implementation. Future development that could occur upon Project implementation would be subject to site-specific emissions calculations which would inform cumulative analysis of emissions. No impacts would occur.

**c) Would the project expose sensitive receptors to substantial pollutant concentrations?**

**No Impact.** Sensitive receptors are defined as people that have an increased sensitivity to air pollution or environmental contaminants. Sensitive receptor locations include schools, parks and playgrounds, day care centers, nursing homes, hospitals, and residential dwelling unit(s). Although sensitive receptors are located within 600 feet of portions of the Project area, it is not known if emissions from future development would expose those receptors to substantial pollutant concentrations as determined by SJVAPCD. Such projects would undergo site-specific environmental analysis to determine the answer to this question. Therefore, no impacts would occur as a result of Project implementation.

**d) Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?**

**No Impact.** Specific land uses that are considered sources of undesirable odors include landfills, transfer stations, composting facilities, sewage treatment plants, wastewater pump stations, asphalt batch plants and rendering plants. Cannabis production facilities also have the potential to emit objectionable odors. However, the Project does not propose specific developments. Future development that could occur as a result of Project implementation would include site-specific analysis to determine if odors would affect substantial numbers of people. No impacts would occur.

## 4.4 Biological Resources

| Would the project:                                                                                                                                                                                                                                                                                               | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?                                                              | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?                                                                               | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?                                                                                                                                                                              | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?                                                                                                                             | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.4.1 Environmental Setting

According to the California Natural Diversity Database, seven (7) plant and animal special-status species have been found in the City of Madera in the past. The database also shows one (1) “natural community”

that has also been found in the City of Madera. This Natural Community, Northern Hardpan Vernal Pool, contains vernal pools (which fill seasonally during the rainy season) that could harbor sensitive plant and animal species (including fairy shrimps). These vernal pools are generally found in annual grasslands, grasslands where the soils include an impermeable clay-pan layer below the surface, conditions which are widely distributed in the eastern portion of the City.

Sensitive plants and animals that have been found in the City of Madera are listed below.

- Burrowing Owl.
- California Tiger Salamander.
- Blunt nosed leopard lizard.
- California linderiella (“fairy shrimp”).
- Vernal pool fairy shrimp.
- Madera leptosiphon.
- Hairy orcutt grass.

Although most of the City of Madera has been changed from its natural condition by farming and urban uses, a few areas of natural habitat remain. These include:

- Annual grasslands.
- Riparian areas.
- Wetlands. In addition, according to state records, one type of “Natural Community” is found in the Planning Area.

The Madera General Plan Conservation Element outlines the following policies related to conservation of biological resources.

**Conservation Policy CON-23:** The City shall seek to conserve and improve native wildlife and plant habitat in cooperation with governmental agencies, private associations and individuals in Madera.

**Conservation Policy CON-24:** Residential, commercial, industrial and recreational projects shall avoid impacts to native wildlife and plant habitat to the extent feasible.

**Conservation Policy CON-25:** The City encourages the preservation of habitat areas needed for the ongoing viability of native species, and habitat connectivity through the use of conservation easements or other methods.

**Conservation Policy CON-26:** To offset possible additional losses of native wildlife and plant habitat due to development projects, developers shall be responsible for mitigation. Such mitigation measures may include providing and permanently maintaining similar quality and quantity of replacement habitat, enhancing existing habitat areas or paying in-lieu funds to an approved wildlife habitat improvement and acquisition fund. Replacement habitat may occur either on site or at approved offsite locations, but preference shall be given to on-site replacement.

***Conservation Policy CON-27:*** The City supports the revitalization of the Fresno River as an amenity which can be enjoyed by both visitors and residents of Madera and serve as a source of civic pride, while continuing to provide for plant and wildlife habitat opportunities.

## 4.4.2 Impact Assessment

- a) Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

**No Impact.** The California Department of Fish and Wildlife’s Natural Diversity Database indicates seven (7) plant and animal special-status species that have been observed in or near the City of Madera (See Environmental Setting above). Although the Project does not propose specific development and it is therefore unknown whether future development would affect such species, future developments would undergo site-specific analysis to determine if impacts would occur at those sites. No impacts would occur as a result of Project implementation.

- b) Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

**No Impact.** As noted above, the Project does not propose specific development on any specific site. It is therefore not possible to determine if future development under the Project would result in impacts to riparian habitats or other sensitive natural communities. Future developments would undergo site-specific analysis to determine if there would be impacts to habitats. No impacts would occur.

- c) Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

**No Impact.** No specific development is proposed by the Project, and future development under the Project would undergo site-specific analysis to determine any impacts to protected wetlands. No impacts would occur.

- d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

**No Impact.** Although it is unlikely that any future development that could occur under the proposed Project would be located in wildlife corridors as the Project area is urbanized, future developments would undergo a site-specific analysis to determine on a project-specific basis. No impacts would occur.

- e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

**No Impact.** The Madera General Plan Conservation Element outlines policies related to conservation of biological resources. Future developments that could occur upon Project implementation would be required to comply with the policies in the City’s Conservation Element. No impacts would occur.



- f) Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

**No Impact.** There are no specific plans that are in place in the City regarding biological resources. As a result, future development that could take place as a result of Project implementation would have no impacts.

## 4.5 Cultural Resources

| Would the project:                                                                                            | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|---------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Disturb any human remains, including those interred outside of dedicated cemeteries?                       | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.5.1 Impact Assessment

**a) Would the project cause a substantial adverse change in the significance of a historical resource pursuant to in §15064.5?**

**No Impact.** There are no historic districts in the City, and it is unlikely that future development that would occur under the Project would affect historic resources as new uses would be located in only commercial and industrial zones. In addition, such developments would undergo site-specific environmental review. No impacts would occur.

**b) Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**

**No Impact.** As with historic resources, it is unlikely that future development under the proposed Project would affect archaeological resources. The City's commercial and industrial zones where development could occur are urbanized and previously disturbed. As the Project does not propose specific development and future development would undergo site-specific environmental analysis, no impacts would occur.

**c) Would the project disturb any human remains, including those interred outside of dedicated cemeteries?**

**No Impact.** It is unlikely that human remains would be discovered at sites that could be developed under the Project as the sites are likely previously disturbed. Specific sites proposed for development would be evaluated at a project level to determine the likelihood of this occurring. No impacts would occur.

## 4.6 Energy

| Would the project:                                                                                                                                                                | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.6.1 Environmental Setting

Appendix F – Energy Conservation of the CEQA Guidelines requires consideration of energy implications in project decisions, including a discussion of the potential energy impacts with emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy resources (Public Resources Code Section 21100(b)(3)). Per Appendix F, a project would be considered inefficient, wasteful and unnecessary if it violated existing energy standards, had a negative effect on local and regional energy supplies and requirements for additional capacity, had a negative effect on peak and base period demands for electricity and other energy forms, and effected energy resources.

The California Energy Commission updates the Building Energy Efficiency Standards (Title 24, Parts 6 and 11) every three years as part of the California Code of Regulations. The standards were established in 1978 in effort to reduce the state’s energy consumption. They apply for new construction of, and additions and alterations to, residential and nonresidential buildings and relate to various energy efficiencies including but not limited to ventilation, air conditioning, and lighting.<sup>1</sup> Part 11, or the California Green Building Standards Code (CalGreen), was developed in 2007 to meet the state goals for reducing Greenhouse Gas emissions pursuant to AB32. CalGreen covers five (5) categories: planning and design, energy efficiency, water efficiency and conservation, material and resource efficiency, and indoor environmental quality.<sup>2</sup> The 2019 Building Energy Efficiency Standards went into effect on January 1, 2020. Additionally, the California Air Resources Board (CARB) oversees air pollution control efforts, regulations, and programs that contribute to reduction of energy consumption. Compliance with these energy efficiency regulations and

<sup>1</sup> California Energy Commission, “2019 Building Energy Efficiency Standards.” Accessed June 22, 2021, <https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2019-building-energy-efficiency>.

<sup>2</sup> California Department of General Services, “CALGreen.” Accessed June 22, 2021, <https://www.dgs.ca.gov/BSC/Resources/Page-Content/Building-Standards-Commission-Resources-List-Folder/CALGreen>.

programs ensure that development will not result in wasteful, inefficient, or unnecessary consumption of energy sources.

#### 4.6.2 Impact Assessment

- a) Would the project result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

**No Impact.** Energy resources would not be consumed by the Project as it does not propose specific development. Future development that could occur as result of Project implementation would undergo project-specific environmental review to determine energy consumption during both construction and operations. No impacts would occur.

- b) Would the project conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

**No Impact.** As stated above, energy resources would not be consumed by the Project as it does not propose specific development. Future development that could occur as result of Project implementation would undergo project-specific environmental review to determine energy consumption during both construction and operations as it relates to State and local plans regarding energy efficiency. No impacts would occur.

## 4.7 Geology and Soils

| Would the project:                                                                                                                                                                                                                                                                     | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:                                                                                                                                                         |                                |                                                    |                              |                                     |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| ii) Strong seismic ground shaking?                                                                                                                                                                                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| iii) Seismic-related ground failure, including liquefaction?                                                                                                                                                                                                                           | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| iv) Landslides?                                                                                                                                                                                                                                                                        | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Result in substantial soil erosion or the loss of topsoil?                                                                                                                                                                                                                          | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994) creating substantial direct or indirect risks to life or property?                                                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?                                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| f) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature?                                                                                                                                                                              | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

## 4.7.1 Environmental Setting

The City of Madera is located within the San Joaquin Valley which is part of the Great Valley Geomorphic Providence that is bounded to the east by the Sierra Nevada mountain range, to the west by the Coastal Range, and to the south by the Tehachapi mountains. Madera is generally flat with some areas of slopes including areas near rivers and streams. In addition, the City has no known active earthquake faults and is not in any Alquist-Priolo Special Studies Zones. The nearest active fault is more than 50-miles from the City. Potential ground shaking may occur due to earthquakes on nearby faults. However, compliance with the California Building Code (CBC) would be sufficient to prevent significant damage during seismic events.

CEQA requires an analysis of the Project's impacts on the environment, not the environment's potential impacts on the Project; therefore, shaking, liquefaction, and other seismic activities are less than significant.

## 4.7.2 Impact Assessment

- a) Would the project directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

*a-i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.*

**No Impact.** There are no known active earthquake faults in Madera, nor is Madera within an Alquist-Priolo earthquake fault zone as established by the Alquist-Priolo Fault Zoning Act. Thus, the Project would not cause rupture of a known earthquake fault and therefore, would have no impact. In addition, the Project does not propose specific development and CEQA requires an analysis of a Project's effects on the environment as opposed to the environment's effects on a Project. No impacts would occur.

*a-ii) Strong seismic ground shaking?*

**No Impact.** As mentioned above, there are no known active earthquake faults in Madera and the Project site and vicinity are located in an area traditionally characterized by relatively low seismic activity. In addition, the Project does not propose specific development and CEQA requires an analysis of a Project's effects on the environment as opposed to the environment's effects on a Project. No impacts would occur.

*a-iii) Seismic-related ground failure, including liquefaction?*

**No Impact.** Liquefaction is a seismic phenomenon in which loose, saturated, fine-grained granular soils behave similarly to a fluid when subjected to high-intensity ground shaking. As previously described, there are no geologic hazards or unstable soil conditions known to exist in the City. In addition, the Project does not propose specific development and CEQA requires an analysis of a Project's effects on the environment as opposed to the environment's effects on a Project. No impacts would occur.

*a-iv) Landslides?*

**No Impact.** There are generally no slopes in the City that would put Project sites at risk of landslides. In addition, the Project does not propose specific development and CEQA requires an analysis of a Project's

effects on the environment as opposed to the environment's effects on a Project. No impacts would occur.

**b) Would the project result in substantial soil erosion or the loss of topsoil?**

**No Impact.** Developments that could occur under the proposed Project would require typical site preparation activities such as grading and trenching which may result in the potential for short-term soil disturbance or erosion impacts. Such impacts would be addressed by applicable regulations set forth by the Regional Water Quality Control Board (RWQCB), including standards and regulations set forth by the City of Madera for grading and drainage, and subsequent requirements of the State Water Resources Control Board (SWRCB). Further, because the Project would disturb one (1) or more acres of soil it would be subject to the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order 2009-0009-DWQ) and would need to develop a Storm Water Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer that includes best management practices (BMPs) to be implemented during and post construction, consistent with the California Storm Water Quality Association Best Management Practice Handbooks or equivalent guidelines. Implementation of a SWPPP minimizes the potential for the Project to result in substantial soil erosion or loss of topsoil. However, the Project does not propose specific development and future projects that could occur would be subject to site-specific environmental review. No impacts would occur.

**c) Would the project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

**No Impact.** The City is in an area of infrequent and low historic seismic activity of nearby faults. Such factors minimize the potential for other geologic hazards such as landslides, lateral spreading, subsidence, liquefaction or collapse. In addition, the Project does not propose specific development and future projects that could occur would be subject to site-specific environmental review. No impacts would occur.

**d) Would the project be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?**

**No Impact.** Unstable soils are not known to be an impediment to development in the City of Madera. In addition, the Project does not propose specific development and future projects that could occur would be subject to site-specific environmental review. No impacts would occur.

**e) Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?**

**No Impact.** The Project does not propose specific development; future development that occur under the Project would undergo specific analysis including for wastewater disposal. No impacts would occur.

**f) Would the project directly or indirectly destroy a unique paleontological resource or site or unique geological feature?**

**No Impact.** Although the Project does not propose specific development, there is some possibility that a non-visible, buried site may exist and may be uncovered during ground disturbing construction activities which would constitute a significant impact by future developments. However, such developments would undergo site-specific environmental review that would address the likelihood of encountering

paleontological resources. No impacts would occur.



## 4.8 Greenhouse Gas Emissions

| Would the project:                                                                                                               | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?      | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.8.1 Environmental Setting

Various gases in the Earth's atmosphere, classified as atmospheric greenhouse gases (GHGs), play a critical role in determining the Earth's surface temperature. Solar radiation enters Earth's atmosphere from space, and a portion of the radiation is absorbed by the Earth's surface. The Earth emits this radiation back toward space, but the properties of the radiation change from high-frequency solar radiation to lower-frequency infrared radiation.

Naturally occurring greenhouse gases include water vapor (H<sub>2</sub>O), carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), and ozone (O<sub>3</sub>). Several classes of halogenated substances that contain fluorine, chlorine, or bromine are also GHGs, but they are, for the most part, solely a product of industrial activities. Although the direct greenhouse gases CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O occur naturally in the atmosphere, human activities have changed their atmospheric concentrations. From the pre-industrial era (i.e., ending about 1750) to 2011, concentrations of these three GHGs have increased globally by 40, 150, and 20 percent, respectively (Intergovernmental Panel on Climate Change [IPCC], 2013).

GHGs, which are transparent to solar radiation, are effective in absorbing infrared radiation. As a result, this radiation that otherwise would have escaped back into space is now retained, resulting in a warming of the atmosphere. This phenomenon is known as the greenhouse effect. Among the prominent GHGs contributing to the greenhouse effect are carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), ozone (O<sub>3</sub>), water vapor, nitrous oxide (N<sub>2</sub>O), and chlorofluorocarbons (CFCs).

The emissions from a single project will not cause global climate change, however, GHG emissions from multiple projects throughout the world could result in a cumulative impact with respect to global climate change. Therefore, the analysis of GHGs and climate change presented in this section is presented in terms of the proposed project's contribution to cumulative impacts and potential to result in cumulatively considerable impacts related to GHGs and climate change.

Cumulative impacts are the collective impacts of one or more past, present, and future projects that, when combined, result in adverse changes to the environment. In determining the significance of a proposed

project's contribution to anticipated adverse future conditions, a lead agency should generally undertake a two-step analysis. The first question is whether the combined effects from both the proposed project and other projects would be cumulatively significant. If the agency answers this inquiry in the affirmative, the second question is whether "the proposed project's incremental effects are cumulatively considerable" and thus significant in and of themselves.

The cumulative project list for this issue (climate change) comprises anthropogenic (i.e., human made) GHG emissions sources across the globe and no project alone would reasonably be expected to contribute to a noticeable incremental change to the global climate. However, legislation and executive orders on the subject of climate change in California have established a statewide context and process for developing an enforceable statewide cap on GHG emissions. Given the nature of environmental consequences from GHGs and global climate change, CEQA requires that lead agencies consider evaluating the cumulative impacts of GHGs. Small contributions to this cumulative impact (from which significant effects are occurring and are expected to worsen over time) may be potentially considerable and, therefore, significant.

In assessing the significance of impacts from GHG emissions, Section 15064.4(b) of the CEQA Guidelines states that a lead agency may consider the following:

- The extent to which the project may increase or reduce GHG emissions as compared to the environmental setting.
- Whether the project emissions exceed a threshold of significance that the lead agency determines applies to the project.
- The extent to which the project complies with regulations or requirements adopted to implement a statewide, regional, or local plan for the reduction or mitigation of greenhouse gas emissions.

The SJVAPCD's Guidance for Valley Land Use Agencies in Addressing GHG Impacts for New Projects Under CEQA (2009) provides screening criteria for climate change analyses, as well as draft guidance for the determination of significance.<sup>3,4</sup> These criteria are used to evaluate whether a project would result in a significant climate change impact (see below). Projects that meet one of these criteria would have less than significant impact on the global climate.

- Does the project comply with an adopted statewide, regional, or local plan for reduction or mitigation of GHG emissions? If no, then:
- Does the project achieve 29% GHG reductions by using approved Best Performance Standards (BPS)? If no, then
- Does the project achieve AB 32 targeted 29% GHG emission reductions compared with Business As Usual (BAU)?

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<sup>3</sup> San Joaquin Valley Air Pollution Control District. (2009). Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA. Accessed June 15, 2021, <http://www.valleyair.org/Programs/CCAP/12-17-09/3%20CCAP%20-%20FINAL%20LU%20Guidance%20-%20Dec%2017%202009.pdf>.

<sup>4</sup> San Joaquin Valley Air Pollution Control District. (2000). Environmental Review Guidelines: Procedures for Implementing the California Environmental Quality Act. Accessed June 15, 2021, [http://www.valleyair.org/transportation/CEQA%20Rules/ERG%20Adopted%20\\_August%202000\\_.pdf](http://www.valleyair.org/transportation/CEQA%20Rules/ERG%20Adopted%20_August%202000_.pdf)

Because BPS have not yet been adopted and identified for specific development projects, and because the City of Madera has not yet adopted a plan for reduction of GHG with which the Project can demonstrate compliance, the California Air Resources Board (CARB) 2017 Climate Change Scoping Plan will be used as an additional threshold of significance for this analysis as the adopted statewide plan for reduction or mitigation of GHGs. Assembly Bill (AB) 32 was enacted by the California State legislature in 2006 with the aim to reduce GHG emissions to levels of 1990 by 2020. Recommended actions to achieve these aims were adopted by the California Air Resources Board (CARB) in 2008 (i.e., the Climate Change Scoping Plan). The Scoping Plan involves several measures to reduce pollution and GHG emissions, indicating a decrease of GHG emissions to 389 million metric tons (MMT) of CO<sub>2</sub>e by 2030.

## 4.8.2 Impact Assessment

a) **Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?**

**No Impact.** Future development of commercial and industrial cannabis operations that could occur under the proposed Project could lead to GHG emissions at levels of significance as determined by the San Joaquin Valley Air Pollution Control District's adopted thresholds. However, because specific development is not proposed by the Project analyzed herein and such development would undergo site-specific environmental review in the future, no impacts would occur. Such emissions would be quantified on a project-level basis.

b) **Would the project conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?**

**No Impact.** As noted above, future development of commercial and industrial cannabis operations that could occur under the proposed Project could lead to GHG emissions at levels of significance as determined by the San Joaquin Valley Air Pollution Control District's adopted thresholds. However, because specific development is not proposed by the Project analyzed herein and such development would undergo site-specific environmental review in the future, no impacts would occur. Such emissions would be quantified on a project-level basis.

## 4.9 Hazards and Hazardous Materials

| Would the project:                                                                                                                                                                                                                                                                  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?                                                                                                                                             | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?                                                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                                                      | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?                                                                                                                                                           | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| g) Expose people or structures, either directly or indirectly to a significant risk of loss, injury or death involving wildland fires?                                                                                                                                              | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.9.1 Environmental Setting

For the purposes of this section, the term “hazardous materials” as defined by the California Code of Regulations, are substances with certain physical properties that could pose a substantial present or future

hazard to human health or the environment when improperly handled, disposed, or otherwise managed. Hazardous materials are grouped into the following four categories, based on their properties:

- Toxic: causes human health effect
- Ignitable: has the ability to burn
- Corrosive: causes severe burns or damage to materials
- Reactive: causes explosions or generates toxic gases

A hazardous waste is any hazardous material that is discarded, abandoned, or slated to be recycled. The criteria that define a material as hazardous also define a waste as hazardous. If improperly handled, hazardous materials and hazardous waste can result in public health hazards if released into the soil or groundwater or through airborne releases in vapors, fumes, or dust. Soil and groundwater having concentrations of hazardous constituents higher than specific regulatory levels must be handled and disposed of as hazardous waste when excavated or pumped from an aquifer. The California Code of Regulations, Title 22, Sections 66261.20-24 contains technical descriptions of toxic characteristics that could cause soil or groundwater to be classified as hazardous waste.

Hazardous materials are routinely used, stored, and transported in Madera that are associated with industrial and commercial/retail businesses, as well as in educational facilities, hospitals, and households. Hazardous waste generators may include industries, businesses, public and private institutions, and households. Federal, state, and local agencies maintain comprehensive databases that identify the location of facilities using large quantities of hazardous materials, as well as facilities generating hazardous waste. Some of these facilities use certain classes of hazardous materials that require risk management plans to protect surrounding land uses.

## 4.9.2 Impact Assessment

### a) Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

**No Impact.** Cannabis uses that could result from the implementation of the proposed Project do have the potential to transport, use, and dispose of hazardous materials. However, those developments would have to undergo project-level environmental review to determine environmental impacts associated with hazardous materials. No impacts would occur as the Project analyzed herein does not propose specific development.

### b) Would the project create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

**No Impact.** As discussed under item a) above, there is potential for future development that could occur under the proposed Project to handle hazardous materials such that accident conditions could occur. However, those developments would have to undergo project-level environmental review to determine environmental impacts associated with hazardous materials. No impacts would occur as the Project analyzed herein does not propose specific development.

- c) Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

**No Impact.** Although there is the possibility that future developments would be within one-quarter mile of a school, the Project does not propose specific development. Future projects would be evaluated on their proximity to existing or proposed schools in a project-level environmental analysis. No impacts would occur.

- d) Would the project be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

**No Impact.** Although there is the possibility that future developments would be located on a hazardous materials site, the Project does not propose specific development. Future projects would be evaluated on their proximity to hazardous materials sites in a project-level environmental analysis. No impacts would occur.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

**No Impact.** The City of Madera is home to the Madera Municipal Airport in the northwestern portion of the City. The applicable airport land use plan for the Madera Municipal Airport is the Madera Countywide Airport Land Use Compatibility Plan (2015). Although some areas affected by the Project could be located within two miles of the airport, it is not possible to analyze definitively as the Project does not propose specific development. Future development would be analyzed on a site-specific basis to determine any impacts. Thus, no impacts would occur.

- f) Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

**No Impact.** Impacts to emergency response plans are typically the result of a development's construction phase or long-term operations resulting in lane closures on established emergency evacuation routes. Because the Project does not propose specific development, impacts could only be determined by site-specific analysis of future proposed developments. Thus, no impacts would occur.

- g) Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

**No Impact.** The City is not identified by the California Department of Forestry and Fire Protection (Cal Fire) or the City of Madera as a Very High Fire Hazard Severity Zone (VHFHSZ). In addition, the Project does not propose specific development. No impacts would occur.

## 4.10 Hydrology and Water Quality

| Would the project:                                                                                                                                                                                                     | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?                                                                             | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?                                  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: |                                |                                                    |                              |                                     |
| i) result in substantial erosion or siltation on- or off-site;                                                                                                                                                         | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;                                                                                            | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or                             | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| iv) impede or redirect flood flows?                                                                                                                                                                                    | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?                                                                                                                    | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?                                                                                                | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

## 4.10.1 Environmental Setting

The City of Madera is part of the San Joaquin River watershed which originates in the Sierra Nevada Mountain range, traveling for approximately 330 miles before converging with the Sacramento River in the Sacramento-San Joaquin Delta. The San Joaquin River forms the western and much of the southern boundary of Madera County. The San Joaquin River watershed is divided into hydrologic areas and subareas. The City of Madera lies within the Madera and Berenda Creek hydrologic area, which both drain to the Fresno River.

As with most Cities in the Central San Joaquin Valley, water demands for the City of Madera are increasing each year. In 2014, the City had an annual demand of 13,800 acre-feet to service the 63,105 population.<sup>5</sup> The City of Madera uses various methods to facilitate groundwater recharge. The Madera General Plan, along with the Madera County Local Hazard Mitigation Plan, and FEMA Flood Insurance Study have noted the Madera County area has good drainage.<sup>6,7</sup>

Stormwater from the City is sent to retention basins to recharge and manage the Madera Subbasin. During drier periods of time, the City has the option to use small purchases of surface water from the Madera Irrigation District (MID) to send to the City's stormwater basins. The proposed Project includes an on-site retention basin to capture stormwater from the subject site. The stormwater will percolate and allow for groundwater recharge. A study conducted by the EPA (among others) discusses urban water management BMPs and has identified successful water quality control within infiltration basins where runoff infiltrated into the ground separates contaminants that attach to the soil and those that dissolve.<sup>8</sup>

The following Madera General Plan policies address groundwater recharge and supplies:

**Conservation Element Policy CON-1:** The City will coordinate with local, regional, and state water suppliers and water resource managers to identify water management strategies and issues that ensure a clean and sustainable water supply.

**Conservation Element Policy CON-2:** The City supports the consideration and implementation of a broad range of strategies to ensure the long-term sustainability of its water supply, including strategies related to conservation, reclamation, recharge, and diversification of supply.

**Conservation Element Policy CON-3:** The City supports natural groundwater recharge and new groundwater recharge opportunities through means such as:

- Developing a comprehensive groundwater recharge program to be applied in conjunction with new development
- Increasing the area on developed sites into which rainwater can percolate

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<sup>5</sup> County of Madera (2017). County of Madera Storm Water Resource Plan, op. cit.

<sup>6</sup> City of Madera (2010). General Plan.

<sup>7</sup> County of Madera (2017). Madera County Local Hazard Mitigation Plan Update. op. cit.

<sup>8</sup> United States Environmental Protection Agency. (1999). Preliminary Data Summary of Urban Storm Water Best Management Practices. Accessed July 1, 2021, [https://www.epa.gov/sites/production/files/2015-11/documents/urban-stormwater-bmps\\_preliminary-study\\_1999.pdf](https://www.epa.gov/sites/production/files/2015-11/documents/urban-stormwater-bmps_preliminary-study_1999.pdf)



- Providing areas where rainwater and other water can collect and percolate into the ground.
- Providing for groundwater recharge in storm drainage facilities.
- The use of reclaimed water to recharge the groundwater table.

## 4.10.2 Impact Assessment

### a) Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

**No Impact.** Although it is unlikely that developments that could be constructed and operated under the Project would consume water such that either water quality standards or waste discharge would be significantly impacted, the Project does not propose specific development. Development that could occur under the Project would undergo site-specific environmental review based upon its own proposed construction and operations. Thus, no impacts would occur.

### b) Would the project substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

**No Impact.** Because specific developments that could occur under Project implementation would be unlikely to significantly impact groundwater supplies due to the nature of cannabis retail or vertically integrated uses proposed, in addition to the fact that no such developments are proposed by the Project analyzed herein, no impacts would occur.

### c) Would the project substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

#### *i) result in substantial erosion or siltation on- or off-site.*

**No Impact.** Although it is unlikely that the cannabis developments that could be permitted under the proposed Project would lead to erosion or siltation due to such uses having to implement a Storm Water Pollution Prevention Plan (SWPPP) under the California Construction General Permit (CGP), that would be determined under project-level environmental review. The Project analyzed herein does not propose specific development, therefore no impacts would occur.

#### *ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.*

**No Impact.** As discussed above, the Project does not propose specific development. Site-specific environmental analysis include surface runoff potential would be conducted for developments proposed in the future. No impacts would occur.

#### *iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or*

**No Impact.** As previously described above, the Project does not propose specific development so it is not possible to determine if future developments under the project would create or contribute runoff that would exceed the capacity of stormwater drainage systems. Such development would undergo site-specific environmental review to determine any impacts regarding this topic. No impacts would occur.

*iv) impede or redirect flood flows?*

**No Impact.** Because the Project does not propose specific development it is not possible to determine if flood flows would be impeded or redirected. Future development would be analyzed at a project level to determine any impacts regarding flood flows. No impacts would occur.

**d) Would the project in flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundations?**

**No Impact.** Future projects that could be implemented would not be in tsunami or seiche zones, although it is possible that they would be located in flood hazard areas. It is not possible to determine impacts as the Project analyzed herein does not propose specific development, but rather this would be analyzed at a site-specific level when future developments are proposed. No impacts would occur.

**e) Would the project conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?**

**No Impact.** The Project does not propose specific development. Future cannabis development that could occur under Project implementation would be evaluated individually to determine if conflicts or obstruction of a water quality control plan or sustainable groundwater management plan would occur. No impacts would result from Project implementation.

## 4.11 Land Use and Planning

| Would the project:                                                                                                                                                                     | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Physically divide an established community?                                                                                                                                         | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### a) Would the project physically divide an established community?

**No Impact.** Typically, physical division of an established community is associated with new, intersecting roadways, or new incompatible uses inconsistent with the planned or existing land uses. The Project does not propose specific development and future projects would be evaluated on their specific proposals in terms of both land use and site location. No impacts would occur.

### b) Would the project cause a significant environmental conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

**No Impact.** As noted above, the Project does not propose specific development. However, future development would be ensured to comply with the City's land use plans as they would be permitted by right in the commercial and industrial zones. No impacts would occur.

## 4.12 Mineral Resources

| Would the project:                                                                                                                                                     | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?                                 | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.12.1 Environmental Setting

According to the California Department of Conservation, California Geological Survey's Surface Mining and Reclamation Act (SMARA) Mineral Lands Classification (MLC) data portal, the Project area (the City of Madera) does not contain any state or locally designated mineral resource.<sup>9</sup>

### 4.12.2 Impact Assessment

**a) Would the project result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?**

**No Impact.** The Project sites are not located in any area designated for mineral resource preservation or recovery. Therefore, the Project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state. Therefore, the Project would have no impact.

**b) Would the project result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?**

**No Impact.** As described above, the Project site is not located in any area designated for mineral resource preservation or recovery. Therefore, the Project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state. No impacts would occur.

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<sup>9</sup>California Department of Conservation. "Surface Mining and Reclamation Act Mineral Lands Classification data portal." Accessed June 1, 2021, <https://maps.conservation.ca.gov/cgs/informationwarehouse/index.html?map=mlc>

## 4.13 Noise

| Would the project result in?                                                                                                                                                                                                                                                                                 | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?                                                            | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Generation of excessive ground borne vibration or ground borne noise levels?                                                                                                                                                                                                                              | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people be residing or working in the project area to excessive noise levels? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.13.1 Environmental Setting

In general, there are two (2) types of noise sources: 1) mobile source and 2) stationary sources. Mobile source noises are typically associated with transportation including automobiles, trains, and aircraft. Stationary sounds are sources that do not move such as machinery or construction sites. The Madera General Plan Noise Element outlines goals and policies to mitigate health effects of noise in the community and prevent exposures to excessive noise levels. The following goals and policies are applicable to the Project.

**Noise Policy N-1.** The City will protect residential areas and other noise-sensitive uses from excessive noise by doing the following:

- 1) Requiring that land uses, roadways, and other sources do not create incompatible noise levels on adjacent parcels.
- 2) Allowing homes or noise-sensitive uses to be developed only in places where existing and projected noise levels will meet the exterior noise guidelines and standards shown in Policies N-5 and N-6.
- 3) Requiring that City decisions which would cause or allow an increase in noise created by stationary or mobile sources (such as development of noise-generating land uses or the construction of new or wider roadways) be informed by a noise analysis and accompanied by noise reduction measures to keep noise at acceptable levels. The analysis may be accomplished by reviewing available noise data, by requiring additional information on potential noise that

would be created, or by a noise analysis prepared as part of the project's environmental analysis. Roadway projects which are consistent with the Circulation Map in this General Plan will generally not require the preparation of a noise analysis.

**Noise Policy N-2.** To implement Policy N-1, the following shall apply:

- 1) No use regulated by the City shall be permitted to generate noise that would cause the ambient noise on any adjacent parcel to exceed the "completely compatible" 24-hour guidelines shown in Policy N-5 or the 30-minute noise standards in Policy N-6.
- 2) The City shall ensure that noise mitigation to achieve a "completely compatible" 24-hour exterior noise level and conformance with the 30-minute exterior noise standard is provided in conjunction with any decision<sup>2</sup> it makes that would cause a violation of item 1) above.
- 3) Developers of new residential or other noise-sensitive uses which are placed in environments subject to existing or projected noise that exceeds the "completely compatible" guidelines in Policy N-5 shall be responsible for ensuring that acceptable exterior and interior noise levels will be achieved.
- 4) The City shall ensure that transportation projects such as new or widened roadways include mitigation measures to maintain at least "tentatively compatible" noise levels as shown in Policy N-5. Mitigation for roadway noise need not be provided where "tentatively compatible" noise guidelines would be exceeded on vacant lands but shall be installed as part of the transportation project where the noise would affect existing homes. In those instances where noise mitigation is not initially triggered, it shall be the responsibility of the project which places residential units on the vacant lands.

**Noise Policy N-3.** The following definitions shall be used to interpret and implement the policies in this Noise Element.

- "Noise-Sensitive Use" is any use other than residential or commercial for which an acceptable interior or exterior noise level is defined in this General Plan or other uses as determined by the City. Generally, noise-sensitive uses will be those which require a reasonable level of quiet as part of their ordinary functioning.
- Noise standards in residential areas shall be applied to outdoor activity areas. Where the outdoor activity areas are not known, the exterior noise standard shall be applied to all areas within 50 feet of the residential dwelling.
- "Outdoor Activity Areas" for residential uses include rear yard areas, including patios located in a rear yard; private ground-floor patios; and community play areas, pools, etc.
- "Projected Noise Levels" shall be those projected to exist at a time 20 (twenty) years in the future, based on projected future development, traffic, and other factors.
- "Residential Area" is any area designated for residential uses on the Land Use Map of this General Plan.
- "Transportation Noise" consists of noise generated by motor vehicles, trains, and aircraft takeoffs and landings. "Noise-Sensitive Use" is any use other than residential or commercial for which an acceptable interior or exterior noise level is defined in this General Plan or other uses as determined by the City. Generally, noise-sensitive uses will be those which require a reasonable level of quiet as part of their ordinary functioning.
- Noise standards in residential areas shall be applied to outdoor activity areas. Where the outdoor activity areas are not known, the exterior noise standard shall be applied to all areas within 50 feet of the residential dwelling.

- “Outdoor Activity Areas” for residential uses include rear yard areas, including patios located in a rear yard; private ground-floor patios; and community play areas, pools, etc.
- “Projected Noise Levels” shall be those projected to exist at a time 20 (twenty) years in the future, based on projected future development, traffic, and other factors.
- “Residential Area” is any area designated for residential uses on the Land Use Map of this General Plan.
- “Transportation Noise” consists of noise generated by motor vehicles, trains, and aircraft takeoffs and landings.

**Noise Policy N-4.** The following compatibility standards shall be used to determine whether a proposed use is appropriate for its location, given the projected ambient noise level.

- “Completely Compatible” means that the specified land use is satisfactory, and both the indoor and outdoor environments are pleasant.
- “Tentatively Compatible” means that noise exposure may be of concern, but common building construction practices will make the indoor living environment acceptable, even for sleeping quarters, and outdoor activities will not be unduly disturbed by noise.
- “Normally Incompatible” means that noise exposure warrants special attention, and new construction or development should generally be undertaken only after a detailed analysis of noise reduction requirements is made and needed noise insulation features are included in the design. Careful site planning or exterior barriers may be needed to make the outdoor environment tolerable.
- “Completely Incompatible” means that the noise exposure is so severe that new construction or development should generally not be undertaken.

**Noise Policy N-5.** The following are the maximum 24-hour exterior noise levels for land designated by this General Plan for residential, commercial/retail, and public parks.

- See Policy N-4 for the definitions of these levels of compatibility.
- These guidelines apply to land designated by this General Plan for these uses. Residential, retail, or public parks which have been developed on land designated for other uses shall be subject to the exterior noise guidelines for the land on which they are located.
- Non-residential uses located on residentially designated land shall be subject to the exterior noise guidelines for residential lands.
- All uses on commercial lands, including non-commercial uses, shall be subject to the standards for commercial land.
- Land use designations not listed above do not have exterior noise compatibility standards. Land use designations with no exterior noise compatibility standard include office and industrial.
- Standards for public schools are set and enforced by the State of California and are not regulated by the City of Madera. Therefore, no standards for public schools are shown in Table N-B.



**TABLE N-B: EXTERIOR NOISE COMPATIBILITY GUIDELINES FOR NOISE FROM ALL SOURCES, INCLUDING TRANSPORTATION NOISE (24-HOUR DAY-NIGHT AVERAGE [CNEL/Ldn])**

| Land Use Designations                                                                      | Completely Compatible | Tentatively Compatible | Normally Incompatible | Completely Incompatible |
|--------------------------------------------------------------------------------------------|-----------------------|------------------------|-----------------------|-------------------------|
| All Residential (Single- and Multi-Family)                                                 | Less than 60 dBA      | 60-70 dBA              | 70-75 dBA             | Greater than 75 dBA     |
| All Commercial                                                                             | Less than 70 dBA      | 70-75 dBA              | Greater than 75 dBA   | (1)                     |
| Public Parks (Lands designated as Open Space on which public parks are located or planned) | Less than 65 dBA      | 65-70 dBA              | 70-75 dBA             | Greater than 75 dBA     |

(1) No "Completely Incompatible" category is shown for commercial uses because not all commercial uses are incompatible with noisy environments. The City may determine as part of the review of individual development proposals that some types of commercial uses are incompatible with noise environments in excess of 75 dBA CNEL.

**Noise Policy N-6.** The following are the City's standards for maximum exterior non transportation noise levels to which land designated for residential land uses may be exposed for any 30-minute period on any day.

- Where existing ambient noise levels exceed these standards, the ambient noise level shall be highest allowable noise level as measured in dBA Leq (30 minutes).
- The noise levels specified above shall be lowered by 5 dB for simple tonal noises (such as humming sounds), noises consisting primarily of speech or music, or for recurring impulsive noises (such as pile drivers, punch presses, and similar machinery). Example: the Single Family/Duplex standard from 10 p.m. to 7 a.m. for these types of noises is 45 dBA.
- The City may impose exterior noise standards which are less restrictive than those specified above, provided that: 1) The noise impact on the residential or other noise-sensitive use is addressed in an environmental analysis, 2) A finding is made by the approving body stating the reasons for accepting a higher exterior noise standard, and 3) Interior noise standards will comply with those identified in Policy N-7.

**Noise Policy N-7.** The following are the City's standards for acceptable indoor noise levels for various types of land uses. These standards should receive special attention when projects are considered in "Tentatively Compatible" or "Normally Incompatible" areas.

- Noise created inside a use listed above shall not count toward the acceptable noise levels to be maintained in accordance with this policy.

**Noise Policy N-9.** The City's preferences for providing noise mitigation are, in order (#1 is the most preferred, #5 the least)

- 1) Reduce noise at the source.
- 2) If #1 is not practical, seek to designate land uses which are compatible with projected noise levels.
- 3) If #1 or #2 are not practical, use distance from the source to reduce noise to acceptable levels.



- 4) If #1, #2, or #3 are not practical, use buildings, berms, or landscaping or a combination of these to reduce exterior noise to acceptable levels. Use construction techniques (sound-reducing windows, etc.) to reduce interior noise to acceptable levels.
- 5) The last measure which should be considered is the use of a sound wall to reduce noise to acceptable levels.

**Noise Policy N-10.** Where they are constructed, sound walls should be:

- 1) Considered only if proven effective by accompanying noise studies.
- 2) Be visually attractive, complement the surroundings, and require a minimum of maintenance. (See Community Design Element references to sound wall designs).
- 3) As small/low as possible consistent with the need to reduce noise to acceptable levels.

**Noise Policy N-13.** For the purposes of CEQA analysis, a 5 db increase in CNEL or Ldn noise levels shall be normally considered to be a significant increase in noise.

Madera Municipal Code, Chapter 11, Noise Control, sets forth the City's noise controlling regulations. Specific noise prohibitions applicable to the Project are as follows.

**§ 3-11.02 Specific Noise Prohibitions.**

The following activities are specifically prohibited:

(A) Operating, playing, or permitting the operation or playing of any radio, television set, loudspeaker, stereo, drum, musical instrument, or similar device which produces or reproduces sound which is in violation of the provisions of § [3-11.01](#) of this title.

(B) *Between the hours of 8:00 p.m. and 6:00 a.m. of the following day.* Noise sources associated with operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration, remodeling, paving, or grading of any real property or demolition work which creates sound which is in violation of § [3-11.01](#) of this title is prohibited. Provided, however, the Community Development Director or their designated representative may, for good cause, exempt certain construction work from the provisions of this chapter for a limited time when an unforeseen or unavoidable condition occurs during a construction project and the nature of the project necessitates that work in process be continued until a specific phase is completed. In such circumstance, the contractor or owner shall be allowed to work after 8:00 p.m. and to operate machinery and equipment necessary until the specific work in progress can be completed in a manner which will not jeopardize the inspection or acceptance of a project or create undue financial hardships for the contractor or property owner.

(C) *Between the hours of 10:00 p.m. and 6:00 a.m. of the following day.* Operating or permitting the operation of any mechanically powered saw, drill, grinder, lawn or garden tool, or similar tool which creates sound which is in violation of § [3-11.01](#) of this title.

### 4.13.2 Impact Assessment

- a) Would the project result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

**No Impact.** It is possible that the construction of cannabis retail and/or vertically integrated manufacturing facilities could lead to construction or operational level noise emissions in exceedance of the standards detailed above. However, the Project does not propose specific development and future development would undergo project-level noise evaluations including potentially noise technical studies. No impacts would occur.

- b) Would the project result in generation of excessive ground borne vibration or ground borne noise levels?

**No Impact.** As described under item a) above, the Project does not include specific development. Future development would undergo site-specific noise evaluations. No impacts would occur.

- c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people be residing or working in the project area to excessive noise levels?

**No Impact.** The Project site is more than two miles south of Madera Municipal Airport. No impacts would occur.

## 4.14 Population and Housing

| Would the project:                                                                                                                                                                                                  | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?                                                                                     | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.14.1 Impact Assessment

- a) Would the project induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

**No Impact.** Although it is possible that the development of cannabis commercial and industrial activity under the Project could lead to unplanned population growth, the Project analyzed herein does not propose specific developments. Thus, future developments would be analyzed at a project level to determine if population growth would result from their implementation either directly or indirectly. No impacts would occur.

- b) Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

**No Impact.** Because future developments that could occur under the proposed Project would be located in commercial and industrial areas of the City it is unlikely that people or housing would be displaced. However, such developments would undergo project-level review based on their specific size and location to determine impacts regarding this topic. No impacts would occur.

## 4.15 Public Services

| Would the project:                                                                                                                                                                                                                                                                                                                                                                                        | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: |                                |                                                    |                              |                                     |
| Fire protection?                                                                                                                                                                                                                                                                                                                                                                                          | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| Police protection?                                                                                                                                                                                                                                                                                                                                                                                        | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| Schools?                                                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| Parks?                                                                                                                                                                                                                                                                                                                                                                                                    | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| Other public facilities?                                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.15.1 Impact Assessment

- a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

#### *Fire Protection:*

**No Impact.** Although future development would be protected by fire services, the fact that the Project does not propose specific development ensures that no impacts would occur. Future development would be evaluated on a site-specific basis with regard to such services.

#### *Police Protection*

**No Impact.** Although future development would be protected by police services, the fact that the Project does not propose specific development ensures that no impacts would occur. Future development would be evaluated on a site-specific basis with regard to such services.

### *Schools*

**No Impact.** Although future development that could occur under the proposed Project would potentially increase employment in the area such that new schools could be required, the Project does not propose specific development. Thus, no impacts would occur.

### *Parks*

**No Impact.** As with schools, future employment increases associated with specific development under the proposed Project could increase demand on area parks. However, as the Project does not propose specific development, no impacts would occur.

### *Other Facilities*

**No Impact.** As no specific development is proposed the Project no impacts would occur.

## 4.16 Recreation

| Would the project:                                                                                                                                                                           | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?      | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.16.1 Impact Assessment

- a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

**No Impact.** Park and recreational facilities are typically impacted by an increase in use from proposed residential development. The Project does not propose specific development; thus, there would be no increased demand for existing neighborhood and regional parks, or other recreation facilities associated with the Project. No impacts would occur.

- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

**No Impact.** The Project would permit future cannabis uses under specific circumstances in specific land uses and zones. Such projects would undergo site-specific environmental analysis and are unlikely to be of a nature and scale such that employment would be generated at levels that would necessitate new or improved recreational facilities. No impacts would occur.

## 4.17 Transportation

| Would the project:                                                                                                                                               | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?          | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)??                                                                           | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Result in inadequate emergency access?                                                                                                                        | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.17.1 Environmental Setting

Under Senate Bill 743 (SB743), traffic impacts associated with development projects in the State of California must be analyzed using the Vehicle Miles Traveled (VMT) metric as opposed to Level of Service (LOS). Because the proposed Project does not propose specific development, VMT calculations could not be performed. Future development that could occur under the Project would undergo site-specific VMT analysis per regulations adopted by the Madera County Transportation Commission (MCTC).

### 4.17.2 Impact Assessment

- a) **Would the project conflict with a plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?**

**No Impact.** The proposed Project does not propose specific development and future development that could occur upon Project implementation would be required to undergo site-specific VMT analysis. As a result, no impacts would occur.

- b) **Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3 subdivision (b)?**

**No Impact.**

#### ***Vehicle Miles Traveled***

Senate Bill (SB) 743 requires that relevant CEQA analysis of transportation impacts be conducted using a metric known as vehicle miles traveled (VMT) instead of Level of Service (LOS). VMT measures how much actual automobile travel (additional miles driven) a proposed project would create on California roads. If the project adds excessive automobile travel onto roads, then the project may cause a significant

transportation impact.

The State CEQA Guidelines were amended to implement SB 743 by adding Section 15064.3. Among its provisions, Section 15064.3 confirms that, except with respect to transportation projects, a project's effect on automobile delay shall not constitute a significant environmental impact. Therefore, LOS measures of impacts on traffic facilities are no longer a relevant CEQA criteria for transportation impacts.

CEQA Guidelines Section 15064.3(b)(4) states that "[a] lead agency has discretion to evaluate a project's VMT, including whether to express the change in absolute terms, per capita, per household or in any other measure. A lead agency may use models to estimate a project's VMT and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate VMT and any revision to model outputs should be documented and explained in the environmental document prepared for the project." Below is a discussion of the threshold and analysis used to analyze VMT impacts from the proposed Project.

According to page 19 of the Technical Advisory on Evaluating Transportation Impacts in CEQA published by the Governor's Office of Planning and Research (OPR), "of land use projects, residential, office, and retail projects tend to have the greatest influence on VMT. For that reason, OPR recommends the quantified thresholds described above for purposes of analysis and mitigation. Lead agencies, using more location-specific information, may develop their own more specific thresholds, which may include other land use types." Neither the City of Madera nor the County's Regional Transportation Planning Agency (Madera County Transportation Commission (MCTC)), have established VMT thresholds or guidelines. Since the MCTC and the City of Madera do not have established thresholds or guidelines, the state guidelines, including the Technical Advisory document mentioned above, have been utilized as the default methodology used to analyze VMT impacts.

Although it is likely that any proposed developments that could be implemented under the proposed Project could be screened out and thus VMT impacts determined to be less than significant, such developments would nonetheless be required to undergo both traffic impact and VMT analysis as applicable on a project level. No impacts would occur.

**c) Would the project substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?**

**No Impact.** Because the proposed Project does not specify any development, there are no traffic design features such as curves or intersections. Future development that could be constructed and operated would undergo project-specific analysis. No impacts would occur.

**d) Would the project result in inadequate emergency access?**

**No Impact.** Emergency access would only be affected if development construction would result in lane closures or long-term operations would result in restricted road capacity. Because the Project does not propose specific development and such development would undergo site-specific analysis with regard to emergency access, no impacts would occur.



## 4.18 Tribal Cultural Resources

| Would the project:                                                                                                                                                                                                                                                                                                                                                                                                        | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:                                              | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| i) Listed or eligible for listing in the California Register of Historical Resources, or in the local register of historical resources as defined in Public Resources Code section 5020.1(k), or                                                                                                                                                                                                                          | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe. | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.18.1 Environmental Setting

Assembly Bill 52 (AB 52) requires consultation with California Native American tribes during the CEQA process to determine potential effects of proposed projects on a tribal cultural resource. Pursuant to Public Resources Code (PRC) Section 21080.3.1, the lead agency shall begin consultation with the California Native American tribe that is traditionally and culturally affiliated with the geographical area of the proposed project. Such significant cultural resources are either sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe which is either on or eligible for inclusion in the California Historic Register or local historic register, or, the lead agency, at its discretion, and support by substantial evidence, choose to treat the resources as a Tribal Cultural Resources (PRC Section 21074(a) (1-2)). To date, the City of Madera has not received a request from any California Native American tribes in the geographic area to be notified about projects in the City of Madera.

## 4.18.2 Impact Assessment

- a) Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
- i) *Listed or eligible for listing in the California Register of Historical Resources, or in the local register of historical resources as defined in Public Resources Code section 5020.1(k), or*

**No Impact.** The Project does not propose specific development. Such development that could occur would be analyzed in a site-specific environmental review including with regard to Tribal Cultural Resources.

- ii) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.*

**No Impact.** The Project does not propose specific development. Such development that could occur would be analyzed in a site-specific environmental review including with regard to Tribal Cultural Resources.

## 4.19 Utilities and Service Systems

| Would the project:                                                                                                                                                                                                                                                                   | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?                                                                                                                           | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?                                                    | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?                                                                                              | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?                                                                                                                                                                   | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.19.1 Environmental Setting

The Project does not propose specific development. Future projects that could occur as a result of Project implementation would be required to connect to water, sewer, stormwater, and wastewater services provided by the City of Madera and may be subject to fees to be provided such services. In addition, future projects would be subject to compliance with the City's Water System Master Plan (2014), Sanitary Sewer System Master Plan (2014), and Urban Water Management Plan (2015).

## 4.19.2 Impact Assessment

- a) Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

**No Impact.** The project would permit the construction and operation of both vertically integrated and retail only cannabis businesses in specific areas of the City. It is unlikely that such activities would require new water or storm water infrastructure, however the Project analyzed herein does not propose specific development. Future development that could occur under the Project would be subject to project-level environmental review, including on the topic of water and wastewater infrastructure. Because the Project does not propose specific development, no impacts would occur.

- b) Would the project have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

**No Impact.** As mentioned in the above under item a), the Project is a regulatory and policy ordinance that would permit a limited number of cannabis businesses in certain sections of the City subject to specific regulations. It is unlikely that developments that could be permitted under the Project would use water supplies at a rate such that current water supplies become insufficient. However, the Project does not propose specific development and future development would be subject to project-level environmental review. Therefore, no impacts would occur.

- c) Would the project result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

**No Impact.** The City of Madera Wastewater Treatment Plant (WWTP) is the regional facility for disposal of wastewater for residential, commercial, and industrial accounts. As previously mentioned, the Project does not propose specific development and would therefore not generate additional wastewater. No impacts would occur.

- d) Would the project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

**No Impact.** Although future developments that could occur as a result of Project implementation would be required to comply with Madera Municipal Code, Title V: Sanitation and Health, Chapter 3: Garbage, Refuse, and Recycling, and all other State and local solid waste standards, the Project itself does not propose specific development. Therefore, no impacts would occur as no solid waste would be generated as a result of Project implementation.

- e) Would the project comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

**No Impact.** Although vertically integrated cannabis production facilities that would be constructed and operated under the proposed Project have the potential to generate solid waste beyond what is currently

generated in the City, it is not known to what extent as the Project does not propose specific development. Future developments that could occur as a result of Project implementation would undergo site-specific environmental reviews. No impacts would occur.

## 4.20 Wildfire

| If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:                                                                                                                                   | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Substantially impair an adopted emergency response plan or emergency evacuation plan?                                                                                                                                                                           | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrollable spread of wildfire?                                                        | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?                                                                            | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.20.1 Environmental Setting

The Project site is not identified by the California Department of Forestry and Fire Protection (Cal Fire) or the City of Madera as a Very High Fire Hazard Severity Zone (VHFHSZ).

### 4.20.2 Impact Assessment

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

#### a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

**No Impact.** The Project site is not within an area of local responsibility and are not identified by Cal Fire as a Very High Fire Hazard Severity Zone (VHFHSZ). Further, future projects implemented under the cannabis ordinances would be required to comply with adopted emergency response plans and emergency evacuation plans and thereby would not substantially impair any such plans. As such, the Project would have no impact.

- b) Due to slope, prevailing winds, and other factors exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?

**No Impact.** The City of Madera does not lie within a VHFHSZ so future projects that could occur under the ordinances both adopted and amended would be unlikely to expose occupants to wildfire hazards beyond existing conditions. However, the Project does not propose specific developments and such developments that could occur in the future would have site-specific environmental evaluations. No impacts would occur.

- c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

**No Impact.** Cannabis developments that could occur under the adopted and amended ordinances would be subject to individual environmental review, including infrastructure provision. Because the ordinances do not propose specific development, no impacts would occur.

- d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

**No Impact.** The Project site is composed of relatively flat, infill properties. As a result, slopes are not expected to be affected by future projects that would be constructed in the Project site. In addition, future developments in the footprint would be required to undergo project-specific environmental evaluation. No impacts would occur.

## 4.21 CEQA Mandatory Findings of Significance

| Does the project:                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Potentially Significant Impact | Less than Significant with Mitigation Incorporated | Less than Significant Impact | No Impact                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|----------------------------------------------------|------------------------------|-------------------------------------|
| a) Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| b) Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?                                                                                                                                       | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |
| c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?                                                                                                                                                                                                                                                                                                                                          | <input type="checkbox"/>       | <input type="checkbox"/>                           | <input type="checkbox"/>     | <input checked="" type="checkbox"/> |

### 4.21.1 Impact Assessment

- a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

**No Impact.** The analyses of environmental issues contained in this Initial Study indicate that the Project is not expected to have substantial impact on the environment or on any resources identified in the Initial Study. Any potential impacts based on specific development that could be developed in the future would be subject to project-level environmental review. No impacts would occur.

- b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are



considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

**No Impact.** CEQA Guidelines Section 15064(i) states that a Lead Agency shall consider whether the cumulative impact of a project is significant and whether the effects of the project are cumulatively considerable. The assessment of the significance of the cumulative effects of a project must, therefore, be conducted in connection with the effects of past projects, other current projects, and probable future projects. As stated elsewhere above, the Project does not propose specific development. No impacts would occur.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

**No Impact.** As stated elsewhere above, the Project does not propose specific development. No impacts would occur. Future development would be evaluated on a project-specific basis.

# Appendix A

## Ordinance 976 C.S.

**ORDINANCE NO. 976 C.S.**

**AN ORDINANCE OF THE CITY OF MADERA AMENDING SECTIONS 10-3.802, 10-3.902, 10-3.1002, AND 10-3.11.503 OF THE MADERA MUNICIPAL CODE RELATING TO AUTHORIZING COMMERCIAL CANNABIS ACTIVITIES IN CERTAIN ZONE DISTRICTS OF THE CITY**

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

**SECTION 1.** Section 10-3.802 relating to the Light Commercial Zone District (C-1) of the Madera Municipal Code is amended to read as follows:

**§ 10-3.802 USES PERMITTED.**

(A) The following retail stores selling new merchandise exclusively and personal service establishments within a building, including:

- (1) Appliance stores, sales and repair;
- (2) Bakeries, limited to retail sales on the same premises;
- (3) Banks;
- (4) Barber shops;
- (5) Beauty parlors;
- (6) Bicycle repair and sales;
- (7) Book stores;
- (8) Candy stores;
- (9) Department stores;
- (10) Dressmaking or millinery shops;
- (11) Drug stores;
- (12) Dry goods or notions stores;
- (13) Florist shops;
- (14) Food stores (groceries, fruits, and vegetables);
- (15) Hardware stores;
- (16) Insurance offices;
- (17) Jewelry stores;
- (18) Meat markets or delicatessens;
- (19) Nurseries (plant material and supplies);
- (20) Offices, business or professional;

(21) Service stations, but not including auto engine and transmission overhauling, tire rebuilding, or battery manufacture;

(22) Restaurants and cafes;

(23) Shoe shops, sales and repair;

(24) Stationery stores;

(25) Studios, photographic;

(26) Tailor shops;

(27) Single bay, fully automatic car wash accessory to a permitted use; and

(28) Apparel stores and boutiques;

(29) Art galleries;

(30) Arts and craft studios;

(31) Automobile parts and supply stores;

(32) Clinics (medical and dental);

(33) Electrical appliance repair shop (small appliances only);

(34) Hobby supplies and craft sales;

(35) Laundries;

(36) Laundromat, self serve;

(37) Locksmith and key shops;

(38) Newspaper and magazine stands;

(39) Newspaper and magazine stands;

(40) Pet shops;

(41) Pharmacies;

(42) Video arcades of five or fewer games;

(43) Cannabis and Cannabis Product Retail Sales as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(44) Other retail businesses or retail commercial enterprises which are similar in character or rendering neighborhood commercial services and are not more detrimental to the welfare of the neighborhood in which located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification.

**SECTION 2.** Section 10-3-9.202 relating to the Heavy Commercial Zone District (C-2) of the Madera Municipal Code is amended to read as follows:

**§ 10-3.902 USES PERMITTED.**

(A) The following uses shall be permitted in the C-2 zone:

- (1) Any use permitted in the C-1 zone.
- (2) Wholesale stores and storage within buildings.
- (3) Building material yards.
- (4) Lumber yards.
- (5) Used secondhand merchandise within enclosed buildings.
- (6) Emergency shelter as provided in § 10-3.422.

(7) Cannabis and Cannabis Product Retail Sales as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

**SECTION 3.** Section 10-3.1002 relating to the Industrial Zone District (I) of the Madera Municipal Code is amended to read as follows:

**§ 10-3.1002 USES PERMITTED.**

(A) The following uses shall be permitted in I zones:

- (1) Animal hospitals, kennels and veterinarians;
- (2) Automobile dismantling and use parts storage, provided such must be conducted wholly within a building;
- (3) Boat-building works;
- (4) Building materials, sales and storage;
- (5) Dairy products processing;
- (6) Dwelling for a caretaker or security guard and his immediate family, necessary and incidental to a use located in such zone;
- (7) Electrical and electronic instruments, devices and appliances, manufacture and assembly;
- (8) Garment manufacture;
- (9) Ice and cold storage plants;
- (10) Laboratory, experimental and testing;
- (11) Machine shops;
- (12) Pharmaceuticals and drugs, manufacture;
- (13) Prefabrication of buildings;
- (14) Stone monument works;
- (15) Textile manufacturing;
- (16) Accessory buildings and uses customarily incidental to any of the above uses;

(17) Cultivation, Distribution, Manufacturing, Testing Labs as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(18) Retail only in conjunction with Vertical Integration Business as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(19) Other retail and wholesale stores or storage and service establishments, light industrial and manufacturing uses determined by the Planning Commission to be similar in character and are not more detrimental to the welfare of the neighborhood in which they are located than any use listed in this subsection, unless such business or enterprise is hereafter in this chapter specifically listed in another classification

**SECTION 4.** Section 10-3.11.503 relating to the Industrial Park Zone District (IP) of the Madera Municipal Code is amended to read as follows:

**§ 10-3.11.503 PERMITTED USES.**

(A) The following uses shall be permitted in IP zones:

- (1) Apparel and other finished products made from fabrics and similar materials;
- (2) Books, newspaper and magazine printing and publishing and allied industries;
- (3) Electrical and electronic instruments, machinery, equipment and supplies manufacturing;
- (4) Furniture and fixture manufacturing;
- (5) Fabricated metal products manufacturing, except ordnance machinery and transportation equipment;
- (6) Leather and leather products;
- (7) Textile mill products;
- (8) Professional, scientific, and controlling instruments;
- (9) Photographic and optical goods;
- (10) Watches and clocks.

(11) Cultivation, Distribution, Manufacturing, Testing Labs as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

(12) Retail only in conjunction with Vertical Integration Business as authorized under the Cannabis Permit Ordinance of the City of Madera in Chapter 5 of Title VI of the Madera Municipal Code.

**SECTION 5.** CEQA. Until July 1, 2021, Business and Professions Code section 26055, subdivision (h), as amended, provides that the California Environmental Quality Act (CEQA) does not apply to adoption of an ordinance, rule, or regulation by local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. The proposed ordinance is subject to a statutory exemption from CEQA because the City requires discretionary review

and approval, including applicable environmental review pursuant to CEQA of permits or other authorizations to engage in commercial cannabis activity.

**SECTION 6.** 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 7.** Publication. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

**SECTION 8.** Effective Date. This ordinance shall become effective thirty days from the date of adoption.

The foregoing Ordinance No. 976 C.S. was introduced and given its first reading at a special meeting of the City Council of the City of Madera held on the 7<sup>th</sup> day of June 2021 and adopted after a second reading at a regular meeting of the City Council held on 16<sup>th</sup> day of June 2021 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, and Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: District 5 is currently vacant.

APPROVED:

  
\_\_\_\_\_  
SANTOS GARCIA, Mayor

ATTEST:

  
\_\_\_\_\_  
ALICIA GONZALES, City Clerk





# Appendix B

## Ordinance No. 977 C.S.

**ORDINANCE NO. 977 C.S.**

**AN ORDINANCE OF THE CITY OF MADERA, CALIFORNIA  
ADDING CHAPTER 5 TO TITLE VI RELATING TO CANNABIS  
BUSINESSES; REPEALING CHAPTER 15, MEDICAL MARIJUANA  
AND CULTIVATION, OF TITLE IV, PUBLIC WELFARE; AND  
ADDING SUBSECTION 95 TO CHAPTER 1, BUSINESS LICENSE, OF  
TITLE VI, BUSINESS, PROFESSIONS, AND TRADES OF THE  
MADERA MUNICIPAL CODE**

THE CITY COUNCIL OF THE CITY OF MADERA DOES 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 Application Review 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**
- 6-5.24 Grounds for Appeal**
- 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.

**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/or 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.

#### **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) "City" shall mean the City of Madera, California.
- (G) "City Manager" shall mean the City of Madera City Manager or his or her designee.
- (H) "Commercial cannabis business" means any business or operation which engages in medicinal or adult-use commercial cannabis activity.
- (I) "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.
- (J) "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.
- (K) "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- (L) "Distributor" shall have the same meaning as that appearing in Section 26070 of the Business and Professions Code.
- (M) "Limited-access area" means an area in which cannabis is stored or held and is only accessible to a permittee and authorized personnel.
- (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-retailer business" means a wholesale business which includes cultivation, manufacturing, distribution, and testing labs.
- (R) "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.
- (S) "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 (CO<sub>2</sub>) used for extraction and ethanol used for extraction or post-extraction processing.
- (T) "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.
  - (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:
    - (a) A general partner of a commercial cannabis business that is organized as a partnership.
    - (b) A non-member manager or manager of a commercial cannabis business that is organized as a limited liability company.
    - (c) An officer or director of a commercial cannabis business that is organized as a corporation.
    - (d) 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.
- (U) "Package" means any container or receptacle used for holding cannabis or cannabis products.
- (V) "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.
- (W) "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.
- (X) "Person with an identification card" shall have the same meaning as that contained in California Health and Safety Code Section 11362.7.
- (Y) "Processing" means a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis and nonmanufactured cannabis products.
- (Z) "Retailer" or "Storefront Retailer" shall have the same meaning as that contained in Section 26070(a)(1) of the California Business and Professions Code.
- (AA) "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.
- (BB) "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 California Health and Safety Code Section 109925.

- (CC) "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.
- (DD) "Vertical Integration" means a Cannabis Business that will hold a minimum of three (3) non-retail cannabis permit which includes manufacturing, distribution, and at least one cultivation license which shall cultivate at least 20,000 square feet of canopy in the City. A Vertical Integrated business may also be eligible to operate a retail or non-storefront retail business upon evidence of actual operation of at least three non-retail cannabis permit in the City.
- (EE) "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.
- (FF) "Youth center" means any:
- (1) Public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:
    - (a) Private youth membership organizations or clubs,
    - (b) Social service teenage club facilities,
    - (c) 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
    - (d) Similar amusement park facilities, and
    - (e) Must be used for youth activities at least 60 percent of the time in a calendar year.
  - (2) 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 public or private school grounds, or on City, county, or state parks.
  - (3) 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, 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) Possesses a valid Cannabis Business Permit from the City;
- (B) Possesses a valid State of California Seller's Permit;
- (C) Possesses a valid City cannabis business license tax certificate; and
- (D) 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 owner or employee 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 owner or employee has ever been convicted of 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 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:
  - (1) The applicant has been denied a cannabis license due to a disqualifying factor or has had a cannabis license suspended or revoked by any city, county, city and county or any other state cannabis licensing authority;
  - (2) 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;
  - (3) Evidence that the applicant is delinquent in payment of federal, state, or local taxes and/or fees, and has taken no steps to cure the delinquency when notified by the appropriate agencies;
  - (4) As of June 16, 2021, applicant was conducting cannabis activity in the City of Madera in violation of local and state law.
- (B) No person shall be issued a Cannabis Business Permit to operate if that person 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 above unless 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 and make any changes by resolution.
- (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.

#### **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.

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

- (A) By resolution the City Council shall adopt Procedure Guidelines (also referenced as application process in this Chapter) 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, requirements, 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 interview or other decision process as determined by City Council resolution.
- (E) The City Manager shall be authorized to prepare any necessary forms and adopt any necessary rules to implement the Procedures Guidelines and Review Criteria.
- (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.
- (G) For applicants with ten or more employees, the applicant shall attest that the applicant has entered into a labor peace agreement and will abide by the terms of the agreement, and the applicant shall provide notarized statement thereof to the City. For applicants that have not yet entered into a labor peace agreement, the applicant shall provide a notarized statement indicating that within 30-days of receipt of cannabis permit from the City, the applicant will enter into and abide by the labor peace agreement.

**6-5.14 Application Review 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, or his or her designee shall verify whether they are

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 City Council resolution will be eligible to participate in the final selection process.
- (D) Upon the completion of the review 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:
  - (1) 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, or his or her designee in order to provide adequate public notification; and
  - (2) Any person or group who has filed a written request for notice regarding the specific application.
  - (3) 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.
- (G) Applications shall be vetted by the City Manager and a team of his/her choice consistent with Review Criteria established by City Council Resolution. At the conclusion of the vetting process, the City Manager shall prepare a report for consideration by the City Council.
- (H) The City Council may either deny or approve the final candidates and shall select the top candidates in each category of the cannabis businesses pursuant to Review Criteria established by City Council Resolution. The City Council's decision as to the selection (denial or approval) of the prevailing candidates shall be final and shall not be subject to further administrative or City Council review or appeal.
- (I) The City will issue a notice to the prevailing applicants 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:
  - (1) A Certificate of Occupancy has been issued,
  - (2) The permitted use(s) has commenced on the site, and
  - (3) 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, it shall be considered abandoned unless mitigating circumstance occur which were beyond the control of the permittee and an extension has be authorized by the City Manager.
- (B) The approval of a new use under the City's zoning ordinance 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 date of the denial. This section shall not apply to an approved applicant not awarded a permit resulting from the City not selecting them for one of the permits in the application 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:
- (1) 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.
  - (2) The Cannabis Business Permit is suspended or revoked at the time of the application.
  - (3) 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.
  - (4) 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.
  - (5) The permittee fails or is unable to renew its State of California license.
  - (6) 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 is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety, or welfare. Appeals from the decision of the City Manager shall be handled pursuant to this Chapter.
- (F) If a renewal application is denied, a person may file a new application pursuant to this Chapter not 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 interview or other process established by the City Council; 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 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 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.**

- (A) Denial of Initial Permit Decision. The City Manager or an appointed hearing officer will hear appeals that address the following issues:
  - (1) 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:
  - (2) 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;
  - (3) 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;



- (4) 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.
  - (5) 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.
- (B) A hearing officer or body as determined by City Council Resolution shall hear appeals relating to denial of a renewed application, to revoke or suspend a permit, or to add conditions to an existing permit.
  - (C) An applicant that is eligible to participate in the interview or other final decision process but is not selected during the interview or other final decision process shall not 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 to deny advancement to the interview or other final decision process, to revoke or suspend a permit, to deny a renewed application for a permit; or to add conditions to a permit, 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 6-5.24 (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:
  - (1) Name, address, and telephone number of the appellant.
  - (2) Specify decisions, actions, or a particular part thereof, made that are the subject of the appeal.
  - (3) Include a true and correct copy of the notice issued by the City Manager for which the appellant is appealing.

- (4) 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.
  - (5) All documents or other evidence pertinent to the appeal that the appellant requests the hearing officer or body to consider at the hearing.
  - (6) An appeal fee as established by Resolution of the City Council.
- (C) 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.
  - (D) 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.
  - (E) 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 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 Appointed Hearing Officer or Body; Administrative Hearing and Proceedings.
  - (1) Appellants who file a timely written Notice of Appeal will be entitled to an administrative hearing before a hearing officer or body as set forth in the City Council Procedures and Guidelines Resolution.
  - (2) 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.

- (3) 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").
  - (4) 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:
- (1) 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 permitted by law, and irrelevant, collateral, undue, and repetitious testimony may be excluded.
  - (2) 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.
  - (3) The issuance of the City Manager's notice constitutes prima facie evidence of grounds for the denial, nonrenewal, suspension or revocation.
  - (4) The 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 hearing officer or body shall determine whether a particular fact or facts amount to good cause on a case-by-case basis.
  - (5) The appellant may bring a language interpreter to the hearing at their sole expense.
  - (6) 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) Final Decision. Following the conclusion of the administrative 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 reasons for the decision.
- (F) The written decision of the 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. 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 for review along with an application amendment fee.

**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 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 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 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 procedures used for the existing application and for renewal of applications. 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 shall be valid for a period of one year beginning on the day the City Manager 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 for a transfer of permit, provided:
  - (1) The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical)
  - (2) 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.

**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 applicable 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 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.**

- (A) A cannabis business must meet land use and building standards pursuant to Title X of this Code:
- (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 pursuant to Title X of this Code.

- (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.

(C) A cannabis business must meet all of the following requirements:

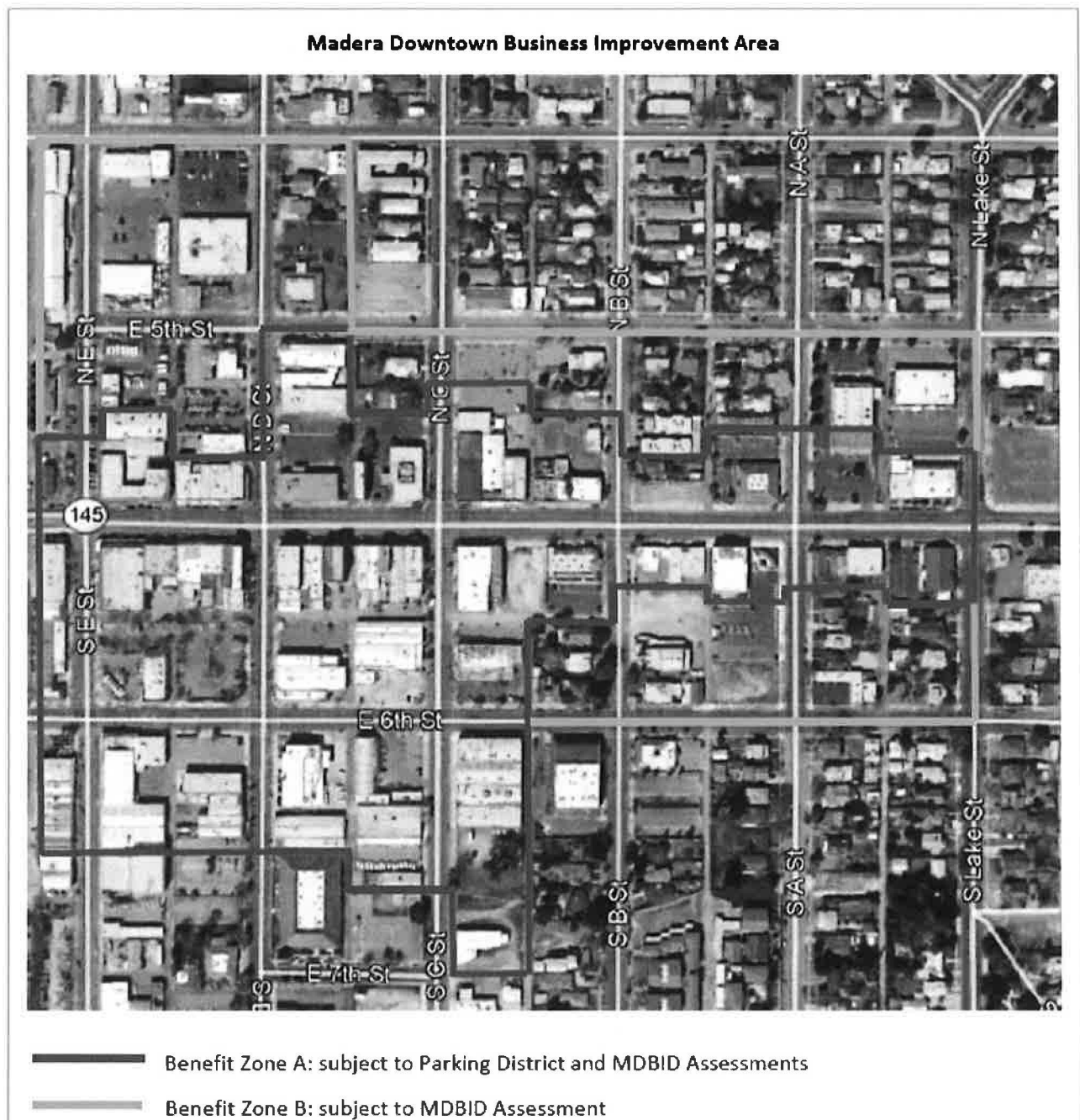
- (1) Shall be no closer than six hundred (600) feet from any zoned parcel in the City designated by state law as a sensitive use. The distance measured shall be the horizontal distance measured in a straight line from the property line of those parcels to the closest property line of the lot on which the cannabis business is located.
- (2) Shall not be 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 permit is issued, unless the State licensing authority or the City specifies a greater radius.

(D) The distance requirements prescribed in this section (§6-5.33) shall not apply to:

- (1) The Fresno River
- (2) Rotary Park, Courthouse Park, Wells Center (including the community garden and Centennial Park), Frank Bergon Center
- (3) Madera County Fairgrounds
- (4) Madera Municipal Golf Course
- (5) Madera County Library



- (6) Madera Downtown Business Improvement Area as depicted in the following diagram



#### 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 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.
- (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 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.

**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, these security measures shall include, but shall not be limited to, all of the following:
  - (1) 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.
  - (2) 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.
  - (3) Establishing limited access areas accessible only to authorized cannabis business personnel.
  - (4) 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.
  - (5) 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, 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 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 upon request. 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.

- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) Security personnel shall be on-site 24 hours a day or alternative security as authorized by the City Manager 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, with such approval not to be unreasonably withheld.
- (11) 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.
- (12) 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.
- (13) 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.

- (14) 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.
  - (15) 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.
  - (16) Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
  - (17) Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.
  - (18) 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 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 upon request that meets the following requirements:
- (1) Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
  - (2) Identifies all Managers of the cannabis business and their contact phone numbers.
  - (3) Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
  - (4) 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.
  - (5) 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.
- (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 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 within twenty-four (24) hours after discovering any of the following:
  - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager.
  - (2) Diversion, theft, loss, or any criminal activity involving the cannabis business or any agent or employee of the cannabis business
    - (a) The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the cannabis business.
    - (b) Any other breach of security.
- (F) Compliance with the foregoing requirements shall be verified by the City Manager prior to commencing business operations. The City Manager may supplement these security requirements once operations begin, subject to review by the City Manager 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 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 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.
- (F) Emergency Contact. Each cannabis business shall provide the City Manager 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.
  - (1) In addition to the requirements otherwise set forth in this section, business identification signage for a cannabis business shall conform to the requirements of

Title X, Chapter 6 Sign Regulations the City, including, but not limited to, seeking the issuance of a City sign permit.

- (2) No signs placed on the premises of a cannabis business shall obstruct any entrance or exit to the building or any window.
  - (3) 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.
  - (4) 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.
  - (5) 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.
  - (6) 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.
- (1) 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 employ any person at a cannabis business who is not at least twenty-one (21) years of age.
  - (2) 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.
  - (3) Notwithstanding Section 6-5.38(h)(a), persons at least 18 years shall be allowed on the premises of a cannabis retail business if they can produce a physician's recommendation and/or Health and Safety Code Section 11362.71 identification



card (Medical Marijuana Card). 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.

- (I) **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:
  - (1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
  - (2) 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.
- (J) **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.
- (K) **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, 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.

- (L) 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.
- (M) 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.
- (N) Each cannabis operator shall establish minimum training standards for all employees. The City Manager 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 may develop other cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety, and welfare.

#### **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.
  - (1) 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.
  - (2) 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.
  - (3) No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.
  - (4) All cannabis goods sold by a retail business shall be contained in child-resistant packaging.
  - (5) 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.
  - (6) 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.

- (1) Access to the premises of a retail licensee/permittee shall be limited to individuals who are at least 21 years of age.
- (2) 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.

(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 Retailer, Non-Store Front Retailer and Microbusiness Delivery Requirements.**

- (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 and/or Health and Safety Code Section 11362.71 identification card (Medical Marijuana Card). 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.
- (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 premises. 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.

#### **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.

**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 CO<sub>2</sub> gas extraction system every vessel must be certified by the manufacturer for its safe use as referenced in Section 6-5.45(f). The CO<sub>2</sub> 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:
  - (1) The American Society of Mechanical Engineers (ASME);
  - (2) American National Standards Institute (ANSI);
  - (3) Underwriters Laboratories (UL); or
  - (4) 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.
- (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.
- (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:
  - (1) 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).
  - (2) A description of a legal water source, irrigation plan, and projected water use.
  - (3) Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
  - (4) 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 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 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.

#### **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 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.
- (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.

#### **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, and other interested parties as deemed appropriate by the City Manager, 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 when and as requested by the City Manager.
- (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.

**6-5.53 Inspection and Enforcement.**

- (A) The City Manager 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 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.** Chapter 15, Medical Marijuana and Cultivation, of Title IV, Public Welfare of the Madera Municipal Code is repealed.

**SECTION 3.** Chapter 1, Business License, of Title VI, Business, Professions, and Trades of the Madera Municipal Code is amended by adding Subsection 95 thereto read:

**6-1.95 Cannabis.**

Any person or organization wishing to conduct commercial cultivation, processing, manufacturing, testing, distribution, or the sale of cannabis or cannabis products in the City shall obtain and maintain a Cannabis Business License pursuant to Chapter 5 of Title VI of this Code.

**SECTION 4. CEQA.** Until July 1, 2021, Business and Professions Code section 26055, subdivision (h), as amended, provides that the California Environmental Quality Act (CEQA) does not apply to adoption of an ordinance, rule, or regulation by local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. The proposed ordinance is subject to a statutory exemption from CEQA because the City requires discretionary review and approval, including applicable environmental review pursuant to CEQA of permits or other authorizations to engage in commercial cannabis activity.

**SECTION 5. 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 6. Publication.** This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

**SECTION 7. Effective Date.** This ordinance shall become effective thirty days from the date of adoption.

The foregoing Ordinance No. 977 C.S. was introduced and given its first reading at a special meeting of the City Council of the City of Madera held on the 7<sup>th</sup> day of June 2021 and adopted after a second reading at a regular meeting of the City Council held on 16<sup>th</sup> day of June 2021 by the following vote:

AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, and Villegas.

NOES: None.

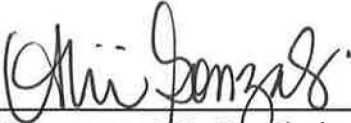
ABSTENTIONS: None.

ABSENT: District 5 is currently vacant.

APPROVED:

  
SANTOS GARCIA, Mayor

ATTEST:

  
ALICIA GONZALES, City Clerk

