

CITY OF ALAMEDA ORDINANCE NO. _____

New Case

AMENDING THE ALAMEDA MUNICIPAL CODE BY REPEALING SECTION 30-5.15 (MEDICAL DISPENSARIES AND CULTIVATION) IN ITS ENTIRETY; ADDING A NEW ARTICLE XVI (CANNABIS BUSINESSES); ADDING A NEW SECTION 30-10 (CANNABIS); AND AMENDING SECTIONS 24-11 (SMOKING PROHIBITIONS IN PLACES OF EMPLOYMENT AND UNENCLOSED PUBLIC PLACES) AND 24-12 (SMOKING PROHIBITIONS IN HOUSING)

WHEREAS, this Ordinance is adopted pursuant to the City's police powers, afforded by the state constitution and state law, and as recognized by the Adult Use of Marijuana Act (AUMA) and Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to protect the health, safety, and welfare of the public.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALAMEDA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1: Section 30-5.15 (Medical Marijuana Dispensaries and Cultivation) of the Alameda Municipal Code is hereby repealed in its entirety and shall read as follows:

30-5.15 – ~~Medical Marijuana Dispensaries and Cultivation~~[RESERVED.]

Section 2: Chapter VI (BUSINESSES, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code is hereby amended to add a new Article XVI, CANNABIS BUSINESSES, to read as follows:

ARTICLE XVI – CANNABIS BUSINESSES

6-59.1 – Findings.

In enacting this section, the City Council finds as follows:

- a. The Federal Controlled Substances Act (21 U.S.C. Section 841 et seq.) makes it unlawful to manufacture, distribute, dispense or possess cannabis, and accordingly, cannabis activities are illegal under federal law;
- b. In 2013, Deputy Attorney General James Cole issued a memorandum updating previous guidance on all federal enforcement activity relating to cannabis in light of state ballot initiatives that decriminalized the substance under state law; specifically, the guidance instructed all federal prosecutors to review each matter on a case-by-case basis to consider, on the one hand, whether such state-enacted laws threaten certain federal enforcement priorities or interests relating to cannabis articulated therein (e.g., preventing distribution of cannabis to minors), and on the other hand, whether a state has enacted and implemented a strong and effective regulatory and

enforcement system and has demonstrated the willingness to enforce its laws and regulations, which may allay the threat to those federal enforcement priorities or interests;

- c. In 2014, Congress first passed legislation (Rohrabacher-Farr Amendment) to defund enforcement of the Federal Controlled Substances Act in states where such enforcement activities would prevent states from implementing their own state laws that authorize the use, distribution, possession or cultivation of medical cannabis;
- d. The voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq., “The Compassionate Use Act of 1996”); the intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to obtain and use it without fear of State criminal prosecution;
- e. On October 9, 2015, Governor Jerry Brown approved a series of bills commonly referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), effective on January 1, 2016, which establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of medical cannabis, also known as marijuana; and which recognizes the authority of local jurisdictions to either impose additional restrictions or prohibit certain activities related to the cultivation, manufacture, transportation, storage, distribution, delivery, and sale of medical cannabis;
- f. The voters of the State of California approved Proposition 64, known as the “Control, Regulate and Tax Adult Use of Marijuana Act” (“AUMA”), which establishes a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution, and sale of recreational cannabis, also known as marijuana; and which recognizes the authority of local jurisdictions to either impose additional restrictions or prohibit certain activities related to the cultivation, manufacture, transportation, storage, distribution, delivery, and sale of recreational cannabis;
- g. On June 27, 2017, Governor Jerry Brown signed Senate Bill 94 (Medicinal and Adult-Use Cannabis Regulation and Safety Act, or “MAUCRSA”), which repealed MCRSA and merged many of its provisions into AUMA to form a single comprehensive regulatory system with the express purpose of preventing cannabis access to minors, protecting public safety, public health, and the environment, maintaining local control while providing for a single regulatory-licensing structure for medicinal and adult-use cannabis where compliance with local requirements can be demonstrated;
- h. MAUCRSA preserves local control by specifically authorizing local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses such as requiring a local license, permit, or other authorization to engage in commercial cannabis activity within the local jurisdiction, in addition to adopting and enforcing local ordinances governing zoning, land use, fire, and building, business licensure,

second-hand smoke, and even enacting a complete prohibition on the establishment or operation of one or more types of business licenses issued by the State;

- i. Under MAUCRSA, as early as January 1, 2018, the State of California (currently, the California Bureau of Cannabis Control) will issue licenses for businesses to engage in cultivation, manufacturing, testing, distribution, and retail sale of cannabis and cannabis products;
- j. The City Council of the City of Alameda has recognized, and continues to recognize, the potential adverse impacts on the health, safety, and welfare of its residents and business from secondary effects associated with Commercial Cannabis Activity, which may include offensive odors, trespassing, theft, violent encounters between cultivators and persons attempting to steal plants, fire hazards, increased crime in and about the dispensary, robberies of customers, negative impacts on nearby businesses, nuisance problems, and increased DUI incidents;
- k. MAUCRSA sets forth a comprehensive regulatory framework for Cannabis and Cannabis products from seed to ingestion by a consumer, which includes uniform health and safety standards designed to implement quality control, a labeling and a track-and-trace program, and other consumer protections, which mitigates against some of the potential adverse impacts identified by the City Council in the past;
- l. An effective regulatory system governing Cannabis in the City of Alameda, as provided in this and other chapters, will address potential adverse impacts to the public health, welfare, and safety, thereby allowing Commercial Cannabis Activity and other use of Cannabis and Cannabis Products consistent with federal law as applicable to the State of California and State law.
- m. After studying various alternatives for the regulation of Cannabis Businesses, considering input from residents and stakeholders, and holding several public meetings the City Council of the City of Alameda finds and determines that there is a need to adopt health, safety, and welfare regulations to avoid or mitigate any adverse impacts on the community which may arise from permitting and regulating Commercial Cannabis Activity within the City of Alameda.

6-59.2 – Purpose and Intent.

It is the purpose and intent of this Article for the City Council to:

- a. Exercise its police powers derived from Section 7 of Article XI of the California Constitution and state law to promote the health, safety, and general welfare of the residents and businesses of the City of Alameda by regulating Cannabis within the City's jurisdictional limits, unless preempted by federal or state law.
- b. Establish a local permitting system that complements the strong and effective regulatory system adopted by the State legislature under MAUCRSA by imposing additional local controls, while addressing certain federal enforcement priorities, in

a manner that does not create a positive conflict with federal law under the Controlled Substances Act (21 U.S.C. § 903).

6-59.3 – Definitions.

As used in this section, the following definitions shall apply:

- a. “AUMA” refers to the California state law entitled “Control, Regulate and Tax Adult Use of Marijuana Act of 2016”, also known as Proposition 64, and any regulations promulgated thereunder.
- b. “Cannabis” means any and all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Section, “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.”
- c. “Cannabis Business” means a business or enterprise engaged in Commercial Cannabis Activity.
- d. “Cannabis Business Owner” means any of the following:
 - 1. Each person having an ownership interest in the Cannabis Business other than a security interest, lien, or encumbrance on property that will be used by the Cannabis Business.
 - 2. If the Cannabis Business is a publicly traded company, the chief executive officer or any person with an aggregate ownership interest of twenty percent (20%) or more; or, for non-publicly traded companies, any individual having an ownership interest as defined by State law, including any implementing regulations.
 - 3. Each person who participates in the direction, control, or management of, or has a financial interest in, the Cannabis Business.
 - 4. Any person with community property rights of an ownership interest is considered a person with ownership interest.
- e. “Cannabis Product” means Cannabis that has undergone a process whereby the Cannabis has been transformed into a concentrate, including, but not limited to, concentrated Cannabis, or an edible, topical, or other Cannabis-containing product.

- f. "Chief of Police" shall mean the Chief of Police of the City of Alameda Police Department or the Chief's designee.
- g. "Commercial Cannabis Activity" includes the possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, research and development, delivery, sale, or provision of Cannabis or Cannabis products for commercial purposes, whether for profit or not.
- h. "Community Development Department" shall mean the Director of Community Development Department of the City of Alameda (or successor department), or his or her designee.
- i. "Concentrated cannabis" means the separated resin, whether crude or purified, obtained from Cannabis.
- j. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or processing of Cannabis.
- k. "Day care center" means any licensed child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.
- l. "Delivery" means the commercial transfer of Cannabis or Cannabis Products to a customer by any means. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of Cannabis or Cannabis Products.
- m. "Dispensary/Retailer" means any person who offers for sale, or gives away samples of, Cannabis, Cannabis Products, or paraphernalia related to the use or ingestion of Cannabis or Cannabis Products, either individually or in any combination for retail sale, including an establishment that delivers Cannabis or Cannabis Products, as part of selling or giving samples away. A dispensary/retailer shall have a licensed premises which is a physical location from which Commercial Cannabis Activities are conducted.
- n. "Distribution" means the procurement, sale, and transport of Cannabis or Cannabis Products between entities licensed pursuant to the Medicinal and Adult-Use of Cannabis Regulation and Safety Act and any subsequent State of California legislation or regulation regarding the same.
- o. "Edible cannabis product" means a Cannabis Product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food,

as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

- p. “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured Cannabis, or Cannabis Products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages Cannabis or Cannabis Products or labels or relabels its container, that holds a valid State license pursuant to the Medicinal and Adult-Use of Cannabis Regulation and Safety Act.
- q. “Medicinal cannabis” or “medicinal cannabis product” means Cannabis or a Cannabis Product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation or other authorization permitted by State law.
- r. “MAUCRSA” refers to the California state law entitled the Medicinal and Adult-Use Cannabis Regulation and Safety Act and the regulations promulgated by thereunder.
- s. “MCRSA” refers to the California state law entitled Medicinal Cannabis Regulation and Safety Act and regulations promulgated thereunder, approved by the Legislature and signed by Governor Jerry Brown in 2016..
- t. “Permit” refers to any one of the regulatory permits described in subsection c of section 6-59.4 of this Article that affords the Permittee the privilege of conducting the activity allowed under the regulatory permit.
- u. “Permittee” refers to any Cannabis Business Owner who has been issued, or otherwise named on, a Permit, regardless of whether or not it has been voluntarily surrendered or relinquished.
- v. “Person” shall mean and include a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.
- w. “Primary caregiver” shall have the same meaning as set forth in section 11362.7 of the California Health and Safety Code, as that section now appears, or may hereafter be amended or renumbered.
- x. “Qualified patient” shall have the same meaning as a patient that uses or ingests medicinal Cannabis as that term is defined in section 11362.7 of the California Health and Safety Code and who is entitled to the protections of California Health and Safety Code section 11362.5.

6-59.4 Permit Requirement; Exemptions from Permit Requirement

- a. Permit Required. It is unlawful for any person to operate a Cannabis Business within the City without first being issued the required permits, including without limitation, a regulatory permit under this Article and a use permit under Chapter XXX (Development Regulations) of the Alameda Municipal Code. The Permit issued under this Article is specific to the location where the Cannabis Business is permitted to operate and shall not run with the land. Multiple operating locations for the same Cannabis Business will require separate Permits.
- b. Number of Cannabis Business Permits Allowed.
 1. No more than one (1) Dispensary/Retailer Permit(s) for medicinal Cannabis or medicinal Cannabis Product may be issued at any given time in each of the following districts: (a) Park Street between San Jose Avenue and the Park Street Bridge; and (b) Webster Street Community Commercial District south of Atlantic Avenue.
 2. No more than _____ (___) Manufacturer Permit(s) may be issued at any given time
 3. No more than _____ (___) Testing Laboratory Permit(s) may be issued at any given time.
 4. The City Council may, by resolution, direct the City Manager to establish or modify any of the foregoing limits on the number of permit types that may be issued within the City and a process for allocating the limited number of permits for Commercial Cannabis Activity.
- c. Permit Types. Any person may apply for any of the following:
 1. Manufacturer Permit 1: A Manufacturer Permit 1 is required for all activities for which State law requires a “Type 6,” or similar license, for the manufacture of Cannabis Products using nonvolatile or no solvents.
 2. Manufacturer Permit 2: A Manufacturer Permit 2 is required for all activities for which State law requires a “Type 7,” or similar license, for the manufacture of Cannabis Products using volatile solvents.
 3. Testing Laboratory Permit: A Testing Laboratory Permit is required for all activities for which State law requires a “Type 8,” or similar license, for the testing of Cannabis or Cannabis Products as a condition of sale pursuant to a State-issued license.
 4. Dispensary/Retailer Permit: A Dispensary/Retailer Permit is required for all activities for which State law requires a “Type 10,” or similar license, for the sale of Cannabis or Cannabis Products.

5. Distributor Permit: A Distributor Permit is required for all activities for which State law requires a "Type 11," or similar license, for the distribution of Cannabis or Cannabis Products.
 6. Delivery Permit: A Delivery Permit is required for licensed dispensaries, retailers, microbusinesses, or nonprofits allowed under Business and Professions Code section 26070.5, located outside of the City to deliver to any Person located within the City.
- d. Determination of Permit Type. As the State develops additional licenses for Commercial Cannabis Activities, the Community Development Department has the discretion to issue any of the above-referenced permits to the extent the additional license or sub-license activities are similar to that of any of the permits provided for in this Article.
 - e. Permitted Land Use. No permit shall be issued if the Commercial Cannabis Activity is not a permitted land use in the City, as set forth in Section 30-10 (Cannabis) of Chapter XXX of the Alameda Municipal Code.
 - f. Exemptions from the Permit Requirement. The following activities are allowed and do not require a Permit under this Article, provided the activity does not constitute Commercial Cannabis Activity and complies with applicable laws:
 1. Possessing, processing, transporting, purchasing, obtaining or giving away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of Cannabis not in the form of concentrated Cannabis.
 2. Possessing, processing, transporting, purchasing, obtaining or giving away to persons 21 years of age or older without any compensation whatsoever, not more than the limit on Cannabis in the form of concentrated Cannabis under State law, including amounts of Cannabis or concentrated Cannabis contained in Cannabis Products.
 3. Possessing, planting, cultivating, harvesting, drying or processing of not more than six living Cannabis plants, provided such activity complies with the Alameda Municipal Code, pursuant to section 30-10.2 (PERSONAL CULTIVATION OF CANNABIS), and is not used in any Commercial Cannabis Activity, which would require a Permit.
 4. The smoking of Cannabis and Cannabis Products, provided smoking complies with state law and any local ordinance, including sections 24-11 (SMOKING PROHIBITIONS IN PLACES OF EMPLOYMENT AND UNENCLOSED PUBLIC PLACES) and 24-12 (SMOKING PROHIBITIONS IN HOUSING) of Chapter XXIV (PUBLIC HEALTH) of the Alameda Municipal Code.

5. The ingestion of Cannabis or Cannabis Products in compliance with applicable law.
6. Primary caregiver, who is not subject to licensing requirements of the MAUCRSA, engaged in the delivery of Cannabis or Cannabis Product to a Qualified Patient.
- g. Excepted as provided herein, all other Commercial Cannabis Activities are prohibited.

6-59.5 Permit Applications.

All applications, including renewal or amended applications, must be completed in full. Incompleteness may be grounds for denial as set forth in section 6-59.6 of this Article. The form and content of the application for a Permit (or renewal of) as required by this Article shall be specified by the Community Development Department, in consultation with the Chief of Police, and shall include the following minimum information, as applicable to the Permit type:

a. Proposed Property.

1. The address and Assessor's Parcel Number(s) of the location for the proposed Commercial Cannabis Activity; and the name and contact information for the property owner(s) where the proposed Commercial Cannabis Activity will be located.
2. A site plan with fully dimensioned interior and exterior floor plans. For dispensary/retailer permittees, the site plan must show that there are separate rooms or partitioned areas within the property for the receipt of supplies and for the distribution of Cannabis to recreational users, qualified patients, and/or primary caregivers.
3. Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front, rear and side(s) of the property.
4. Photographs depicting the entire existing interior of buildings on the property.
5. If the property is being rented or leased or is being purchased under contract, a copy of such lease or contract.
6. If the site is being rented or leased, written proof that the property owner, and landlord if applicable, were given notice that the property will be used as a Cannabis Business, and that the property owner, and landlord if applicable, agree(s) to said operations. If the Cannabis Business is to be a subtenant, then "landlord" shall mean the primary tenant.

7. Once a license is issued, any material or substantial physical modification of the licensed or permitted premises shall require a City-approved amendment to the Permit as set forth in section 6-59.9 of this Article.
- b. Ownership and Management. An explanation of the legal form of business ownership, for example, sole proprietor, partnership, California Corporation, etc., and any reasonably requested documentation to validate such legal form of business.
- c. Background Investigation of Owners. Each Cannabis Business Owner shall submit:
 1. The name, address, telephone number, title, and primary responsibility(ies);
 2. A fully legible copy of one valid government-issued form of identification, such as a driver's license; and
 3. A summary of criminal history (e.g., "LiveScan") not more than 2 weeks prior to the date of the application for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests to be considered as set forth in this Article.
 4. Any new Cannabis Business Owner must submit the foregoing information to the Chief of Police five (5) days prior to their employment or becoming a Cannabis Business Owner.
 5. The Chief of Police shall have the discretion to require any information, including the foregoing, from any Cannabis Business Owner, or any employee, independent contractor, volunteer, or other agent of a Cannabis Business Owner to conduct an additional or supplemental background investigation (financial or criminal history) for the purpose of preventing a threat to public health, safety, and welfare or otherwise to protect the interests set forth below in section 6-59.6 of this Article.
- d. Information Regarding Cannabis Business/Applicant.
 1. Written confirmation as to whether the Cannabis Business, or a business engaged in Commercial Cannabis Activity with one or more owners or key employees in common with the applicant, previously operated in the City or any other city, county, or state under a similar license/permit, and whether the business applicant ever had such a license/permit revoked or suspended and the reason(s) therefore.
 2. The name and address of the Cannabis Business's current Agent for Service of Process. Cannabis Business Permittee has a continuing duty to update this information. Sending notices and other documents to the Agent for Service of Process on file with the City, even if outdated, shall not render such service defective.

- e. State License Type and Compliance. A description of the specific state Cannabis License(s) that the applicant either has applied for, obtained, or plans to obtain. The applicant shall describe how it will meet the state licensing requirements, and provide supporting documentation as required by the Community Development Department.
- f. Other Local Licenses. A description of the specific Cannabis license or permits that the applicant either has applied for, obtained, or plans to obtain from other local jurisdictions.
- g. Seller's Permit. A copy of a valid seller's permit from the California Board of Equalization, Department of Tax and Fee Administration, or successor agency.
- h. Description of Operations. A description of the nature of the proposed Commercial Cannabis Activity within the proposed facilities, proposed hours of operation, product type, average production amounts (including each product produced by type, amount, process, and rate), source(s) of Cannabis, equipment, and delivery or distribution services.
- i. Security Plan. A description and documentation of how the applicant will secure the premises 24 hours per day, 7 days per week. The security plan shall comply with general conditions set forth in subsection (p) of section 6-59.10 of this Article.
- j. Tracking System. A description of how the Cannabis Business will track inventory of Cannabis or Cannabis Products from seed to sale in accordance with State law.
- k. Plan for Unsold Cannabis or Waste. A plan for the disposal of any unsold Cannabis, Cannabis Product, or related waste as set forth below in subsection v of section 6-59.10 of this Article.
- l. Insurance. Certificate of insurance demonstrating ability to comply with the insurance requirements as required for the applicable permit in a form acceptable to the City Attorney's Office set forth in subsections dd. and ee. of section 6-59.10 of this Article.
- m. Labor Peace Agreement. For an applicant with ten (10) or more employees, the applicant must provide either a statement that the applicant will enter into, or provide a copy of a fully executed labor peace agreement as part of the application.
- n. Compliance Statement. A copy of the Cannabis Business's operating conditions, containing a statement dated and signed by each Cannabis Business Owner, under penalty of perjury, that they have read, understand and shall ensure compliance with all operating conditions.
- o. Signature of Applicant and Property Owner. The application shall be signed by each Cannabis Business Owner under the penalty of perjury, certifying that the

information submitted, including all supporting documents, is to the best of the applicant's knowledge and belief, true, accurate and complete, and by the property owner for purposes of certifying that s/he has reviewed the application, and approves the use of the property for the purposes stated in the application.

- p. Confidentiality. The information required by this Section shall be confidential, and shall not be subject to public inspection or disclosure except as may be required by federal, state or local law. Disclosure of information pursuant to this Section shall not be deemed a waiver of confidentiality by the applicant or any individual named in the application. The City shall incur no liability for the inadvertent or negligent disclosure of such information.
- q. Other Information. Any other reasonably requested information relevant to the City's review and approval of any permit application, including denials, transfers, change of ownership, modifications, renewals, revocations, and suspensions.

6-59.6 Review of Applications; Appeal of Denials and Suspensions

- a. Review of Application. The Community Development Department shall review the applications to determine compliance with this Article. Upon written notice that an application is incomplete, the applicant may submit additional information as requested by the Community Development Department. Failure to submit requested information within 60 days shall be deemed an abandonment of the application and no further action will be taken by the Community Development Department. The Community Development Department shall also consider the application in light of the results from any investigation into the application as deemed necessary by Community Development Department, in consultation with the Chief of Police.
- b. Denial of Application. If the Community Development Department denies an application, the applicant shall be notified in writing, which shall include the reasons for the denial. Notification of denial shall be delivered by first class mail to the applicant, unless the applicant consents to a different mode of service, including without limitation, electronic service. No permit shall be issued unless a successful appeal of the denial is made within the requisite time frame.
- c. Appeal of Denial.
 - 1. Within 10 days after the Community Development Department serves notification of denial, an applicant may appeal the denial by notifying the City Clerk in writing of the appeal, the reasons for the appeal, and paying any applicable fees.
 - 2. The City Clerk shall set a hearing on the appeal and shall fix a date and time certain, within 30 days after the receipt of the applicant's appeal, unless the City and the applicant agree to a longer time, to consider the appeal. The City Clerk shall provide notice of the date, time and place of hearing, at least 7 days prior to the date of the hearing.

3. The City Manager shall randomly assign a Hearing Officer to hear the appeal, determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and the Community Development Department shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue their respective positions. The proceeding shall be informal, and the strict rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.
 4. The Hearing Officer shall issue a written decision within a reasonable amount of time after the close of the hearing. The decision of the Hearing Officer shall be final.
- d. Grounds for Denial, Revocation or Suspension of Permit. The granting of a Permit or a renewal thereof may be denied and an existing Permit revoked or suspended if any of the following conditions exist:
1. The Permittee, or any employee, independent contractor, volunteer, or other agent having actual or apparent authority to act on behalf of a Cannabis Business, has knowingly made a false statement, omission, or negligent failure to notify the City of information required by this Article in the application or in other documents furnished to the City.
 2. A Cannabis Business Owner has been convicted of an offense that is substantially related to the qualifications, functions, or duties of a Cannabis Business Owner for which the application is made, which includes but is not limited to:
 - i. A violent felony conviction, as specified in Penal Code section 667.5(c).
 - ii. A serious felony conviction, as specified in Penal Code section 1192.7.
 - iii. A felony conviction involving fraud, deceit or embezzlement.
 - iv. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
 - v. A felony conviction for drug trafficking with an enhancement pursuant to Health and Safety Code section 11370.4 or 11379.8.
 - vi. Except as provided in subsections iv. and v. above, an application for a permit shall not be denied if the sole ground for denial is based upon a prior conviction of either section 11350 or section 11357 of the California Health and Safety Code. An application for a permit also shall not be denied if the State would be prohibited from denying a license pursuant to either section

26057(b)(5) or section 26059 of the California Business and Professions Code.

3. Conviction of any controlled substance felony subsequent to permit issuance shall be grounds for revocation of a permit or denial of the renewal of a permit.
4. The Permittee has been sanctioned by any licensing or permitting authority, including any enforcement action taken by any other city or county, for unauthorized Commercial Cannabis Activity, including without limitation, denial, suspension, or revocation of a business license, operating permit, land use entitlement, or similar privilege to conduct Commercial Cannabis Activity.
5. The granting or renewing of the Permit would perpetuate or encourage any of the following:
 - i. Distribution of Cannabis or Cannabis Products to minors;
 - ii. Generation of revenue from the sale of Cannabis or Cannabis Products to fund criminal enterprises, gangs, or cartels;
 - iii. Diversion of Cannabis or Cannabis Products to jurisdictions outside of the State where Cannabis and Cannabis Products are unlawful under state or local law;
 - iv. Trafficking of other illegal drugs or facilitation of other illegal activity;
 - v. Violence and the use of firearms in the cultivation and distribution of Cannabis and Cannabis products;
 - vi. Drugged driving or exacerbation of other adverse public health consequences associated with Cannabis;
 - vii. The use of public lands in the cultivation of Cannabis; or
 - viii. The use of federal property for Commercial Cannabis Activity.
6. For any other reason that would allow the State to deny a license under the MAUCRSA.
7. Failure to pay required fees, taxes, or other monies owed to the City outside of the 30-day grace period.
8. Violation of any provision of the AUMA or MAUCRSA, this Article, or any other permits issued by the City for the Commercial Cannabis Activity, such as a use permit.

9. Any later discovered act or conduct which would have been considered a ground for denial of the Permit in the first instance.
 10. Failure to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, criminal activity, crowd control problems occurring inside of or outside the premises, traffic control problems, creation (or assist in the creation) of a public or private nuisance, or obstruction of the operation of another business.
 11. Violation or failure to comply with the terms and conditions of the permit.
 12. The application is speculative, made by a third party with no immediate plans for commencing operations, or is incomplete and not cured within sixty (60) days after written notification of the deficiency was mailed.
- e. Suspension and Revocation.

1. Summary Suspension. If the Chief of Police or Community Development Department deems continuation of the operation of the Cannabis Business by the Permittee, or any employee, independent contractor, volunteer, or other agent of a Cannabis Business Owner having actual or apparent authority to operate the Cannabis Business, will cause an imminent threat to the health, safety or welfare of the public, the Chief of Police or Community Development Department may immediately and summarily suspend the Permit and all rights and privileges thereunder for a period not to exceed 30 days.

i. The summary suspension shall take effect immediately upon service of a written notice of suspension by the Chief of Police or Community Development Department upon the Permittee via personal delivery to any employee at the site address of the Cannabis Business. Notice given shall include the following information:

- a) The effective date and time period of the summary suspension;
- b) The grounds and reasons upon which the summary suspension is based;
- c) That the Permittee who wishes to challenge the summary suspension may request a hearing before a Hearing Officer;
- d) The method for requesting a hearing before the Hearing Officer; and
- e) The notice of summary suspension shall become final unless the Chief of Police or Community Development Department receives a written request for a hearing from the Permittee as set forth below.

ii. If Permittee wishes to challenge the summary suspension, the Permittee must file a written request with the Chief of Police or Community

Development Department for a hearing within three (3) business days after service of the notice of summary suspension. If the Chief of Police or Community Development Department does not receive a request for a hearing from the Permittee within this time period, the notice of summary suspension shall become final.

- iii. The Office of the Chief of Police or Community Development Department must respond to the Permittee's request for a hearing by holding a hearing to affirm, modify, or overrule the summary suspension within five (5) business days of the Permittee's request for a hearing, unless the City and the Permittee agree to an extension of the time within which a hearing can be held.
 - iv. The Chief of Police or Community Development Department may recommend permanent revocation as set forth below on the basis of facts supporting summary suspension.
2. Permanent Revocation. The Chief of Police or Community Development Department shall give notice to the Permittee of his or her intent to permanently revoke a Permit in the same manner as notice of denial and provide the City Clerk with a copy of the notice.
- i. The hearing for the revocation of the Permit shall be set and conducted in the same manner as an appeal of denial.
 - ii. The decision of the Hearing Officer shall be final.

6-59.7 Permit Issuance

- a. Before issuing any Permit, the Community Development Department shall determine that all of the following requirements have been met:
 - 1. The application is complete and all applicable City taxes, fees, or monies owed have been paid.
 - 2. All land use entitlements have been approved and all conditions of approval have been met or in good standing.
 - 3. There are no outstanding notices of nuisance or other unresolved code compliance issue at the site of the Commercial Cannabis Activity.

6-59.8 Permit Term

- a. Term. The Permit shall be valid for one (1) year from the date of issuance. Once a Permit expires, it shall terminate and there is no grace period.
- b. Renewal Application. A Permit renewal application and any applicable fees must be submitted at least sixty (60) days before the expiration of the Permit. Failure to

submit a renewal application prior to the expiration date of the permit will result in the automatic expiration of the Permit on the expiration date. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a Permit under this Article. A Permittee may appeal expiration of a Permit as described in this Section in the same manner as appealing a denial in subsection c (Appeal of Denial) of section 6-59.6 above.

6-59.9 Transfer of or Modifications to the Permit

- a. City Approval Required. A Permit is non-transferable to another location. No transfer to another person or modifications to the Permit, including changes to the permitted facility, may be made except in accordance this section.
- b. Change of Ownership. A change in ownership constitutes a transfer of or modification to the Permit and as such shall require an application. A request for change in Permit ownership shall be submitted to the Community Development Department, in accordance with subsection f below. Requests submitted less than sixty (60) days before the transfer will be processed only at the City's discretion and may be subject to an expedited processing fee. A new Cannabis Business Owner(s) shall meet all requirements for applicants of an initial Permit. The request shall include the following information:
 - 1. Identifying information for the new Cannabis Business Owner(s) and management as required in an initial Permit application;
 - 2. A written certification by the new Cannabis Business Owner as required in an initial Permit application;
 - 3. The specific date on which the transfer is to occur; and
 - 4. Acknowledgement of full responsibility for complying with the existing Permit.
- c. Change in Security Plan. A request to modify the security plan shall be submitted to the Community Development Department, with a copy to the Chief of Police, on a City form at least sixty (60) days prior to the anticipated change, together with the applicable fee.
- d. Change of Contact Information. A request for change in Cannabis Business contact information shall be submitted to the Community Development Department, with a copy to the Chief of Police, on a City form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- e. Change in Trade Name. A request for change in Cannabis Business trade or business name shall be submitted to the Community Development Department, with

a copy to the Chief of Police, on a City form at least thirty (30) days prior to the anticipated change, together with the applicable fee.

- f. Application. A permit transfer or modification application and any applicable fees must be submitted at least sixty (60) days before the transfer or modification of the Permit. Failure to timely submit a transfer or modification application will result in the automatic expiration of the Permit. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a Permit under this Article.

6-59.10 General Conditions for All Cannabis Businesses

- a. Compliance with State and Local Law. The applicant shall fully comply with all State laws and local laws for Cannabis, including the Alameda Municipal Code and all uncodified resolutions and ordinances adopted by the City Council.
- b. Compliance with Laws Regarding Edible Cannabis Products. Cannabis Businesses that manufacture, prepare, dispense, and/or sell food, including Cannabis-infused foods and/or edible Cannabis Products, must comply with and are subject to the provisions of all relevant State and local laws and County regulations regarding the preparation, distribution, labeling, and sale of such items.
- c. Maintain Licensure. At such time that the State has begun to issue licenses and at all times thereafter, the Permittee shall hold a valid State license for the equivalent State license type. All Permittees must maintain their state license and any other applicable licenses and permits required by the State, County, and City, including, for example, an Alameda business license.
- d. Duty to Notify. All Applicants or Permittees have a continuing duty to immediately notify the Community Development Department of any proposed or considered change of ownership, changes to an application, or discrepancies between any information provided to the City related to Alameda Municipal Code or other local regulations governing Cannabis Businesses, and the actual facts, conditions, or circumstances concerning an applicant's or Permittee's Cannabis Business or the proposed or permitted facility. A failure to promptly notify the City may be grounds for denial or revocation. Additionally, all applicants or permittees must notify the City prior to applying for any new permits issued by the State of California.
- e. Operational Radius.
 - i. No Cannabis Business shall locate within a 1,000-foot radius of a public or private school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the Permit is first issued. The distance shall be measured in a straight line from the door of the closest facility to the closest door of the other facility. For the purposes of this section, "school" means any public or private school providing instruction

in kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes. All other sensitive uses identified in this subsection are defined under the California Child Health Care Act, codified in the California Health and Safety Code.

- f. On-site Use or Consumption. There shall be no on-site use or consumption of Cannabis or Cannabis Products on the premises under the Permittee's control, including without limitation the facility and parking areas.
- g. Job Opportunities for Alameda Residents. All Cannabis Businesses shall provide maximum feasible opportunities for City of Alameda residents to apply for jobs through outreach, advertising, and contacts with local job centers. The City encourages "local hires" whenever possible, consistent with applicable law.
- h. Employee Age Requirement. Permittees shall employ only persons at least 21 years of age at any permitted facility within the City of Alameda.
- i. On-site Community Relations Staff. Permittees shall post on the premises for public view the current name, phone number, secondary phone number and e-mail address of an on-site community relations staff person to whom notice of any operating problems associated with the Cannabis Business site may be reported. This information shall be updated as necessary to keep it current.
- j. On-site Operations Manager. Permittees shall have an on-site manager at each permitted facility within the City who is responsible for overall operation at all times that employees are conducting operations, and shall provide the City with contact information for all such persons, including telephone number and email address. Permittees shall also provide the City with the name and contact information including phone number of at least one manager that can be reached 24-hours a day.
- k. Nuisance Abatement. Permittees shall take all reasonable steps to discourage and correct conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding a permitted facility. Such conditions include, but are not limited to: smoking; creating or permitting a noise disturbance or odor issue; loitering; littering; and graffiti. If the City receives any nuisance complaints, the Permittee shall work with the Building Official and other relevant City departments, including the Police and Fire departments, to correct and address such concerns. Unresolved or repeated nuisance complaints may be basis for suspension or revocation of the Permit or denial of Permit renewal. Graffiti must be removed from property and parking lots under the control of the Permittee within 72 hours of discovery or notification by the City.
- l. Air Quality, Odor Control, and Ventilation. All Commercial Cannabis Activity shall be operated so as not to cause offensive odors perceptible to the average person at or beyond any property line of the lot containing the premises where Commercial

Cannabis Activity is being conducted. Facilities containing Commercial Cannabis Activity shall be equipped with odor control, filtration, and ventilation system(s) to control odors, humidity, and mold so that odor generated inside the property is not detected outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the Cannabis Business Permittee. All components of the Commercial Cannabis Activity shall comply with the requirements of the Bay Area Air Quality Management District. An odor detected no more than fifteen (15) minutes in one (1) day is acceptable.

- m. Hours of Operation. All permitted facilities shall be closed to the general public and any delivery and pick-up of any amount of cash or Cannabis Product shall be prohibited between the hours of 9:00 p.m. and 7:00 a.m. With the exception of activities authorized pursuant to a Dispensary/Retailer Permit, no direct sales of Cannabis or Cannabis Product to the general public may occur upon the premises.
- n. Business Conducted Within Building. No manufacturing, production, distribution, storage, display, or wholesale of Cannabis and Cannabis-infused products shall be visible from the exterior of the building where the Commercial Cannabis Activity is being conducted.
- o. Lighting. All exterior lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky.
- p. Off-Street Parking. All sites where Commercial Cannabis Activity is permitted shall at a minimum comply with the Parking Regulations in section 30-7 of Chapter XXX of the Alameda Municipal Code. Cannabis Manufacturing uses shall be subject to the same parking requirement as a Manufacturing, Major use under Section 30-7.6 and Cannabis Retail uses shall be subject to the same parking requirement as a General Retail use.
- q. Fire Alarm System. The Cannabis Business must have a fire alarm system approved by the Fire Chief.
- r. Security Measures. Consistent with the approved security plan required under section 6-59.5, all Cannabis Businesses shall at a minimum provide and maintain the following security measures and all records or data, regardless of its form, related to such measures:
 - 1. Operational Security Measures. The Security Plan shall address the following to ensure operational security:
 - i. Preventing individuals from remaining on the premises if they are not engaged in an activity expressly related to the operations of the Cannabis Activity;
 - ii. Establishing limited access areas accessible only to authorized personnel including security measures to both deter and prevent unauthorized

- entrance into areas containing Cannabis or Cannabis products and theft or diversion of Cannabis or Cannabis Products;
- iii. Storing all finished Cannabis and Cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes or immediate sale, if applicable;
 - iv. Providing tamper proof and tamper evident packaging for finished Cannabis product;
 - v. Preventing offsite nuisance impacts to adjoining or nearby properties as required by the Permit as set forth in subsection i of section 6-59.10 of this Article; and
 - vi. Securing cash that remains on the premises.
2. Alarm System. A commercial burglar alarm system with video surveillance approved by the Chief of Police, which is capable of providing the Police Department with secure, internet-based access to unaltered surveillance footage or data of all controlled access areas, security rooms, points of ingress/egress, all point of sale (POS) areas, and other areas deemed reasonably necessary by the Chief of Police.
3. Security Guard. At all times while a Cannabis Business that is a Dispensary/Retail Permittee is open, it shall provide at least one security guard who is registered with Bureau of Security and Investigative Services, possesses a valid and current security guard registration card on their person while on-duty, and is dressed in a manner approved by the Chief of Police. Security guards are permitted, but not mandated, to carry firearms. The security guard and/or Cannabis Business personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume Cannabis on the property or in the parking lot. The foregoing requirements may be imposed upon other Permittees at the discretion of either the Chief of Police or the Community Development Department as part of that Permittee's Security Plan, or if required by State law.
4. The Chief of Police shall have the authority to require additional reasonable security measures to further protect the public health, safety, and welfare, and to adopt implementing regulations and departmental guidelines related to all aspects of security measures required of Permittees, including specific technical requirements of security measures, inspections to ensure compliance, and access to records and electronic media. Failure to maintain effective security measures at all times is a violation of this Section and cause for permit revocation or suspension. All outdoor lighting used for security purposes shall be shielded and downward facing.

- s. Security Breach. A Cannabis Business shall notify the Police Department within 24 hours after discovering any of the following:
 - 1. Diversion, theft, loss, or any criminal activity by the Permittee, or any employee, independent contractor, volunteer, or other agent of the Permittee, involving the Cannabis or Cannabis Product.
 - 2. The loss or unauthorized alteration of records related to Cannabis or Cannabis Product, registered Qualifying Patients, Primary Caregivers, or employees or agents.
 - 3. Significant discrepancies identified in inventory.
 - 4. Any other material breach of security.
- t. Building and Fire Standards. The Chief Building Official may require additional specific standards to meet the California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.
- u. Generators. The use of generators is prohibited, except for temporary use in the event of a power outage or emergency.
- v. Water Usage or Discharge. The Cannabis Business must conform to all State and local regulations regarding water usage. Discharges of any kind into a public or private sewage or storm drainage system, watercourse, body of water or into the ground, must be in compliance with provisions of Chapter XVII of the Alameda Municipal Code, the East Bay Municipal Utility District Wastewater Control Ordinance (Ordinance No. 355-11, as amended by subsequent ordinances from time to time), and applicable Federal and State regulations.
- w. Use of Pesticides. No pesticides, insecticides or rodenticides that are prohibited by applicable law for fertilization or production of edible produce may be used on any Cannabis cultivated, produced, or distributed by a Cannabis Business. A Cannabis Business shall comply with all applicable law regarding use of pesticides, insecticides, or rodenticides.
- x. Separation of Employee Areas. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from the storage areas for Cannabis or Cannabis Products.
- y. Disposal of Unsold Cannabis, Cannabis Product, or Related Waste. All unsold Cannabis, Cannabis Product, and related waste that is to be disposed of must be made unusable and unrecognizable prior to removal from the business and must be in compliance with all applicable laws. The purpose of this condition is to protect any portion thereof from being possessed or ingested by any person or animal and to ensure it may not be utilized for unlawful purposes and complies with all state, local, and federal laws.

- z. Testing. All Cannabis Businesses shall cause to be tested all of their Cannabis and Cannabis Products by a licensed testing laboratory for various metrics in accordance with applicable State law and regulations adopted by the California Bureau of Cannabis Control (or successor agency), including without limitation, chemical profiles and contaminants/contaminant thresholds. All Cannabis Businesses shall maintain a copy of the certificate of analysis or similar documentation on the premises evidencing compliance with State law and regulations regarding testing.
- aa. Labeling and Packages. Labels and packages of Cannabis and Cannabis products shall meet all state and federal labeling and packaging requirements. Until such regulations are adopted by the federal and/or state authorities, as a condition of Permit issuance, the Community Development Department, in consultation with the Chief of Police, may impose labeling and packaging requirements to protect the public safety, health and welfare.
- bb. Consent to Inspection. City, including City personnel from Police, Community Development, Public Works, and Fire departments, County, and State representatives may enter and inspect the property of every Cannabis Business during hours of operation, or at any other reasonable time, to ensure compliance and enforcement of the provisions of this Article and the inspection of records related to the business or otherwise required by State law, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful and cause for immediate suspension or revocation of the permit for any property owner, landlord, lessee, Cannabis Business, and/or its owner, agent, employee to refuse to allow, impede, obstruct or interfere with an inspection.
- cc. Maintenance of Records. Records of Commercial Cannabis Activity must be maintained in accordance with State and local law, be maintained in order to show compliance with this Article, and be made available to the City upon request. Failure to provide such records is grounds for revocation of any Permit. Records maintained must include, but are not limited to the following.
1. All Permittees must maintain:
 - i. Proof of a valid use permit issued in conformance with the Alameda Municipal Code.
 - ii. The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the property.
 - iii. The full name, address, and telephone number(s) of each person engaged in the management of the Cannabis Business and the exact nature of the participation in the management of the Cannabis Business.
 - iv. For a minimum of three (3) years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-

kind contributions) as well as records of all operational expenditures and costs incurred by the Permittee in accordance with generally accepted accounting practices and standards typically applicable to business records, which shall be made available to the City during business hours for inspection upon reasonable notice by the Community Development Department or Chief of Police.

- v. Any and all records required by or related to this Article, the Alameda Municipal Code, or any conditions attached to any Permit or land use entitlement issued for Commercial Cannabis Activity or otherwise associated with the property.
- 2. A Dispensary/Retailer Permittee that operates as a medicinal Cannabis cooperative or collective for qualified patients, shall maintain all records as required by State law.
 - 3. A Manufacturer Permittee shall maintain the following records on the property:
 - i. Evidence of: (a) verification that all Cannabis Products manufactured and packaged at the location are manufactured, packaged, and labeled in compliance with all applicable state and local laws; and (b) laboratory testing as required by State and local laws.
 - ii. A list of any Cannabis Business operating under a Dispensary/Retailer Permit located in the City of Alameda that the Manufacturer Permittee has provided, or intends to provide its product to. The list shall include the name of the Dispensary/Retailer Permittee, its address, the date the Cannabis Products were distributed, and the type and amount of the product that was distributed.
 - 4. A Manufacturer Permittee who produces edible Cannabis Products shall maintain the following records on the property:
 - i. Proof of inspection and all required approvals required by the Alameda County Environmental Health Department and the County Health Officer for food manufacturers, packagers, and/or distributors.
 - ii. Producers of edible Cannabis Products that are tested for contaminants shall maintain a written or computerized log documenting:
 - a) The source of the Cannabis used in each batch of product;
 - b) The contaminant testing date; and
 - c) The testing facility for the Cannabis.
- dd. Insurance. Maintain at all times Commercial General Liability insurance on an occurrence basis for bodily injury, including death, of one or more persons, property

damage and personal injury with per-occurrence limits set by the City Attorney's Office. The Commercial General Liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall include an Additional Insured Endorsement naming the City, its officials and employees as additional insured.

- ee. Project Costs. The applicant shall pay for any analysis and review by City staff or a consultant related environmental clearance for the project under applicable State and federal law, and pay for all related costs, including costs incurred by the City, associated with project review under CEQA.
- ff. Worker's Compensation Insurance; Employer's Liability Insurance. Applicant or Permittee shall, at Applicant/Permittee's expense, maintain in full force and effect during duration of the Permit, worker's compensation insurance with not less than the minimum limits required by law, and employer's liability insurance with a minimum limit of coverage set by the City Attorney's Office.
- gg. Indemnity. By accepting the permit, each Permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law, the City, its officers, agents and employees from and against any all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with permittee's operations, except such liability caused by the active negligence, sole negligence or willful misconduct of City, its officers, agents and employees.
- hh. Waiver of Sovereign Immunity. All tribal government applicants and licensees applying for, or renewing an existing license, are required to execute and include a waiver of tribal sovereign immunity when submitting their initial or renewal application.
- ii. Destruction Bond. Any Cannabis Business must provide proof of a bond of at least five thousand dollars (\$5,000) and up to an amount permitted by applicable law to cover the costs of destruction of Cannabis or Cannabis Products if necessitated by a violation of applicable law, including this Article.
- jj. Notification of Enforcement Action. Notify the Community Development Department, with a copy to the Chief of Police, within three days of any notices of violation or other corrective action ordered by a state or other local licensing authority, and provide copies of the relevant documents.
- kk. Commencement of Operations or Abandonment. The Permittee's Cannabis Business must open at the approved premises and commence operations within one year of being issued a Permit under this Article or the date the conditional use permit for the Commercial Cannabis Activity vests, whichever is later, as required by section 6-59.12 of this Article. Additionally, after operations have lawfully commenced, the Cannabis Business must not remain inoperative for a period of more than six

months, unless upon showing of good cause. Failure to meet this condition is grounds for revocation of any Permit or land use entitlements.

6-59.11 Conditions for Specific Permits

- a. Delivery/Distribution Permittees. A Cannabis Business operating within the City under either a Dispensary-Retailer or Distributor Permit which delivers or distributes Cannabis shall be subject to the following conditions:
1. Delivery or distribution of Cannabis may be made only from a Dispensary-Retailer or Distributor issued a permit by the City and the State in compliance with this ordinance and State law.
 2. Maintain at all times all licenses and permits as required by California state law and the laws of the local jurisdiction in which the Permittee is located, and provide immediate notification to the Chief of Police if any license or permit is suspended or revoked.
 3. Any person who delivers or distributes Cannabis to a customer or licensee must have in his/her possession a copy of the appropriate Permit, which shall be made available upon request to law enforcement. A manifest with all information required in this section must accompany any person who delivers or distributes Cannabis to a customer or licensee at all times during the process and hours of delivery or distribution.
 4. The person delivering or distributing, in addition to their vehicle or other mode of delivery/distribution, shall not advertise any activity related to Cannabis nor shall it advertise the name of the Permittee. Any delivery or distribution vehicle or other mode of transport must be made in compliance with State and local law as it may be amended, including use of a dedicated GPS device for identifying the location of the vehicle or other method of transport (cell phones and tablets are not sufficient).
 5. Delivery or distribution of the Cannabis shall be directly to the residence or business address of the customer or licensee in the State of California; delivery or distribution to any other location is prohibited. Delivery or distribution vehicles shall not leave the State of California while in possession of Cannabis or Cannabis Products for sale, delivery, or distribution.
 6. Delivery or distribution of Cannabis shall occur only between the hours of 7:00 a.m. and 9:00 p.m. Any deliveries started but not completed before 9 p.m. shall return to the permitted facility and be completed the next business day.
 7. No Permittee shall deliver or distribute (nor cause to be delivered or distributed) Cannabis in excess of the limits established by the California Bureau of Cannabis Control (or successor agency) during the course of delivering or distributing Cannabis; until the California Bureau of Cannabis Control (or successor agency)

establishes the limit, the limit shall be no more than \$3,000 of Cannabis or Cannabis Product.

8. Submit and regularly update the following information concerning delivery or distribution:
 - i. Listing of all vehicles and devices to be used for delivery or distribution of Cannabis or Cannabis Products within the City, which includes the vehicle's make, model, year, license plate number, and vehicle identification number.
 - ii. Copies of applicable authorizing state and local licenses and permits issued to Cannabis Business allowing it to engage in Commercial Cannabis Activity.
9. All orders to be delivered or distributed shall be packaged bearing the names of the customer or licensee. A customer or licensee requesting delivery or distribution shall maintain a physical or electronic copy of the request and shall make it available upon request by the State, licensing authority, and law enforcement officers, which shall include the following information:
 - i. Name and address of the licensed Dispensary-Retailer or Distributor Permittee.
 - ii. The name of the employee who delivered or distributed the order.
 - iii. The date and time the request was made.
 - iv. The complete address where delivery or distribution occurred.
 - v. A detailed description of the Cannabis or Cannabis Product(s) requested for delivery or distribution, including the weight or volume, or any accurate measure of the amount of Cannabis or Cannabis product ordered.
 - vi. The date and time of delivery or distribution was made, and the signature of the person who received the delivery or distribution.
- b. Dispensary-Retailer Permittees. In addition to the standards applicable to all Cannabis Businesses, the following apply to Cannabis Businesses with a Dispensary-Retailer Permit:
 1. Displays/Inventory. Display of Cannabis Products shall be limited to only an amount necessary to provide a visual sample for customers. All Cannabis Products available for sale or Cannabis must be securely locked and stored. No Cannabis Product shall be visible from the exterior of the business.
 2. Check Cashing Prohibited. No Dispensary/Retailer Permittee may engage in check cashing activities at any time.

3. Physician recommendations. No recommendations from a physician for medicinal Cannabis shall be issued on-site.
4. Minimum Operational Hours. Any Cannabis Business facility operating under a Dispensary/Retailer permit must be open to the public a minimum of 40 hours per week.
5. Underage Entrants. No one under the age of 21 shall be allowed to enter any Cannabis Business facility unless, as permitted under State law, the person is a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.
6. Shipments. Shipments of Cannabis or Cannabis Products shall only be accepted during the regular business hours of the receiving Cannabis Business. Shipments of Cannabis or Cannabis Products from the Cannabis Business shall only be made during the regular business hours of the shipping Cannabis Business.
7. Alcohol/Tobacco. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol or tobacco by patrons.
8. Signage/Trade Dress.
 - i. All signage for Commercial Cannabis Activity shall be subject to the sign regulations in section 30-6 of Chapter XXX of the Alameda Municipal Code.
 - ii. Any and all signage, packaging, and facilities shall not be “attractive,” as it is defined by the State, to minors, and shall not be visible from the exterior.
 - iii. Mandatory Signage. A sign must be posted in a conspicuous location inside the Cannabis Business and advise that:
 - a) The use of Cannabis may impair a person’s ability to drive a motor vehicle or operate heavy machinery;
 - b) Loitering in a public place in a manner and under circumstances manifesting the purpose and with the intent to commit an offense specified in Chapter 6 (commencing with section 11350) and Chapter 6.5 (commencing with section 11400 of the Health and Safety Code is prohibited;
 - c) Loitering on private property without visible or lawful business with the owner or occupant is prohibited by California Penal Code Section 647(h); and

- d) This Cannabis Dispensary/Retailer establishment is permitted in accordance with the Municipal Code, and State law, including the MAUCRSA, and Bureau of Cannabis Control regulations.
9. Safety of Products. The Dispensary/Retailer Permittee must ensure that the Cannabis and Cannabis Products it offers for sale are manufactured, packaged, tested, and labeled in compliance with all applicable state and local laws. No Dispensary/Retailer Permittee may obtain or distribute Cannabis Products from any Cannabis Business unless such business has a valid permit or license issued by the Bureau of Cannabis Control and a California city or county.
- c. Manufacturing Permittees. In addition to the standards applicable to all Cannabis Businesses, the following apply to Cannabis Businesses with a Manufacturing Permit:
 1. All manufacturing activities that will be conducted by the Permittee must be included on the application. No additional manufacturing activity not already included in the application can be conducted without a City-approved amendment to any applicable Permit providing for such additional activity.
 2. The premises shall not contain an exhibition or Cannabis Product sales area or allow for retail distribution of Cannabis Products at that location.
 3. Preparation, Packaging, and Labeling of Edibles. The preparation, packaging, and labeling of edible Cannabis Products shall comply with applicable federal, state, and local law, including without limitation applicable regulations promulgated by the County of Alameda.
 - d. Distributor Permittees. In addition to the standards applicable to all Cannabis Businesses, the following apply to Cannabis Businesses with a Distributor Permit:
 1. A Distributor Permittee shall ensure that all Cannabis Product batches are stored separately and distinctly from others on the distributor's premises.
 2. A distributor shall ensure a label with the following information is physically attached to each container of each batch:
 - i. The manufacturer or cultivator's name and license number;
 - ii. The date of entry into the distributor's storage area;
 - iii. The unique identifiers and batch number associated with the batch;
 - iv. A description of the Cannabis Products with enough detail to easily identify the batch; and
 - v. The weight of or quantity of units in the batch.

3. A Distributor Permittee shall store harvest batches and edible Cannabis Products that require refrigeration consistent with State and local law.
 4. A Distributor Permittee shall store Cannabis or Cannabis Products in a building designed to permit control of temperature and humidity and shall prevent the entry of environmental contaminants such as smoke and dust. The area in which Cannabis or Cannabis Products are stored shall not be exposed to direct sunlight. A Distributor Permittee may not store Cannabis or Cannabis Products outdoors.
 5. Any facilities of the Distributor Permittee shall not contain an exhibition or Cannabis Product sales area or allow for retail distribution of Cannabis or Cannabis Products at that location.
- e. Prohibited Activity. Cannabis may not be smoked, ingested, or possessed in a manner that violates State law (Health & Safety Code sections 11362.3 and 11362.79).

6-59.12 Failure to Commence Operations/Abandonment

- a. The purpose of this Section is to prevent the reservation of land for future use by a Permittee that has no good faith intent to commence the proposed use, and after lawful use has commenced, to encourage productive use of land within the City.
- b. If a Cannabis Business that has not opened at the approved location and commenced operations within one (1) year of being issued a permit under this Article or the date the use permit for the Commercial Cannabis Activity vests, whichever is later, or at any other time, after operations have lawfully commenced, the Cannabis Business remains inoperative for a period of more than 90 days, the Permit shall be deemed expired and void.
- c. The City shall provide written notice to the Cannabis Business that the Permit has expired and is void. A Cannabis Business may appeal the Permit expiration in the same manner as appealing a denial in subsection c (Appeal of Denial) of section 6-59.6 of this Article.
- d. Upon a factual showing of good cause by the Cannabis Business for its failure to commence or continue operations within the required time, the Hearing Officer may grant a one-time only extension, not to exceed 60 days, based upon a factual finding of good cause for the extension. The determination of good cause to support the one-time extension shall be final.
- e. "Good cause" includes, but is not limited to, termination of the Cannabis Business' lease by the property owner; a change in federal, state or local law that now prohibits use of the previously approved location as a Cannabis Business; foreclosure or sale of the approved location resulting in the Cannabis business' inability to enter into a new lease; damage to or deterioration to the building that prevents the safe use and/or occupation of the structure until all required repairs are made in conformity

with a Notice and Order issued to the property owner by the City's Building Official pursuant to the California Code of Regulations and the Uniform Code for Abatement of Dangerous Buildings. However, if the Cannabis Business was responsible for the condition, including any non-permitted construction or alteration of the structure, or non-permitted electrical, mechanical or plumbing, "good cause" shall not be found.

6-59.13 Fees.

Applicants and Permittees shall pay all applicable fees as set forth in the City's Master Fee Schedule adopted by resolution. Applicants and Permittees also shall pay the amount as prescribed by the Department of Justice of the State of California for the processing of applicant's fingerprints. None of the above fees shall be prorated, or refunded in the event of permit denial, suspension or revocation.

6-59.14 Regulations and Enforcement

- a. Any action required by either the Community Development Department or Chief of Police under this Section may be fulfilled by designees.
- b. The Community Development Department or Chief of Police is authorized to coordinate implementation and enforcement of this Article and may promulgate appropriate regulations or guidelines for such purposes.

6-59.15 Penalties

- a. Each and every violation of this Section shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Alameda Municipal Code, unless specifically provided for herein, including without limitation punishment as a misdemeanor.
- b. As a nuisance per se, any violation of this Article shall be subject to injunctive relief, revocation of the business' Cannabis Business permit, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the Cannabis Business and persons related or associated with the Cannabis Business.
- c. A person engaging in Cannabis Business without a Permit required by this Article shall be subject to civil penalties of up to three times the amount of the Permit fee for each violation, and the State or local authority, or court may order the destruction of Cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of Cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this Section.

- d. Any person violating any other provision of this Article (or any provision of the Alameda Municipal Code related to Cannabis), including refusing access to inspect the premises under subsection z of section 6-59.10 of this Article or knowingly or intentionally misrepresenting any material fact in procuring such the required permits (i.e., regulatory permit and use permit), shall be deemed guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 for each day or portion thereof of the violation or by imprisonment for not more than 12 months, or by both such fine and imprisonment.

Section 3: A new Section 30-10 (Cannabis) to Chapter XXX of the Alameda Municipal Code is hereby added and shall read as follows:

30-10 – CANNABIS.

30-10.1 – Commercial Cannabis Uses.

a. Findings.

This Section establishes regulations governing the commercial manufacture, distribution, delivery, and sale of Cannabis and Cannabis Products. The purpose of these regulations is to provide criteria to approve of Cannabis Businesses engaged in such uses. The City of Alameda finds it necessary to establish such requirements and criteria in the interest of the public health, safety and welfare to regulate all Cannabis-related uses.

b. Definitions.

The applicable definitions in section 6-59 (Cannabis Businesses) of the Alameda Municipal Code are incorporated by this reference, unless otherwise defined herein. The following are the permitted Commercial Cannabis land uses within the City of Alameda. Any Commercial Cannabis land use not expressly provided for in this section 30-10.1 is deemed prohibited.

1. "Cannabis Retail" means the sale, delivery, or provision of medicinal Cannabis or Cannabis Product to customers or members by any person, business, or organization.
2. "Cannabis Industry" means the possession, manufacture, distribution, processing, storing, laboratory testing, labeling, or transportation of Cannabis or Cannabis Products, or some combination of the foregoing in accordance with State law, by any person, business, or organization for commercial purposes, whether for profit or not. This use also includes the production, preparation, or compounding of Cannabis or Cannabis Products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages Cannabis or Cannabis Products or labels or relabels its container by any person, business, or organization..

3. "Cannabis Product" means Cannabis that has undergone a process whereby the Cannabis has been transformed into a concentrate, including, but not limited to, concentrated Cannabis, or an edible, topical, or other Cannabis-containing product.
4. "Commercial Cannabis Activity" means the possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, sale, delivery, or provision of Cannabis or Cannabis Products for commercial purposes, whether for profit or not.

c. Applicability.

This Section shall apply to the establishment of all land uses related to Cannabis and Cannabis Products.

d. Home Occupations.

It is unlawful to engage in Commercial Cannabis Activity as defined in subsection f of section 6-59.3 of the Alameda Municipal Code as a home occupation as defined in section 30-2b of this Chapter.

e. Use Permit.

1. Use Permit Requirement. It is unlawful to engage in Commercial Cannabis Activity, as such use classifications are described in Article XVI of Chapter VI of the Alameda Municipal Code, without first obtaining a use permit.
2. Administrative Approval. Use Permits to engage in Commercial Cannabis Activity may be approved by the Zoning Administrator where the Administrator determines that the criteria of subsection 30-21.3b, pursuant to Section 30.21.4 of the Alameda Municipal Code, are satisfied.

f. Permitted Locations.

1. No commercial Cannabis Activity shall be permitted on city-owned land or federal property.
2. Cannabis Cultivation, as defined in the Alameda Municipal Code, is prohibited in any location in the City of Alameda:
3. Cannabis Industry, to the extent permitted by the Alameda Municipal Code, may be permitted with a Use Permit at the following locations:
 - i. Alameda Point Adaptive Reuse District,
 - ii. Alameda Point Enterprise E-1 through E-3 Districts,
 - iii. Harbor Bay Business Park, and

- iv. Marina Village Business Park
- 4. Cannabis Retail, to the extent permitted by the Alameda Municipal Code, may be permitted with a Use Permit at the following locations:
 - i. Lots adjacent to Park Street between San Jose Avenue and the Park Street Bridge, and
 - ii. Lots adjacent to Webster Street south of Atlantic Avenue.
- g. Special Findings to Approve a Cannabis Use Permit.** In addition to the findings for use permits more generally set forth in section 30-21.3 (Use Permits), to approve a use permit for Commercial Cannabis Activity, the City must make the following findings:
 - 1. The proposed Cannabis Business is not located within the applicable operational radius.
 - 2. The operation of the proposed Cannabis Business will not be detrimental to the public health, safety, or general welfare; and
 - 3. Appropriate measures have been proposed to address nuisance impacts, including odor, noise, exhaust, and waste, related to operation of the Cannabis Business; and
 - 4. The operation of the Cannabis Business will not place a burden on the provision of public services, including police, fire, and building, disproportionate to other similar uses.
- h. Conditions of Approval.**
 - 1. All Cannabis Businesses shall comply with the general conditions set forth in section 6-59.10 and all applicable specific conditions set forth in section 6-59.11 of Article XVI of Chapter VI of the Alameda Municipal Code.
 - 2. In approving a use permit for Commercial Cannabis Activity, the City may also designate such additional conditions as it deems necessary to fulfill the purposes of this Section and Article XVI of Chapter VI of the Alameda Municipal Code and may require reasonable guarantees and evidence that such conditions are being, or will be, complied with.
- i. Vesting of Use Permit.**

Notwithstanding Section 30-21.9 (Termination Due to Inaction) of Chapter XXX (Development Regulations) of the Alameda Municipal Code, a use permit, if granted, for Commercial Cannabis Activity shall terminate one (1) year from the date of its granting, unless actual construction or alteration, or actual commencement of the authorized activities, has begun under valid permits within such period, including without limitation the granting of a regulatory permit pursuant to Article XVI (CANNABIS BUSINESSES) of

Chapter VI (BUSINESS, OCCUPATIONS, AND INDUSTRIES) of the Alameda Municipal Code. An applicant may seek a one-time one-year extension to the use permit, but may only do so no earlier than 60 days prior to expiration of the initial one-year term.

j. Revocation or Modification.

A use permit approved under this Section may be revoked or modified at any time following a public hearing in accordance with section 30-21.3 of this Chapter.

30-10.2 – PERSONAL CULTIVATION OF CANNABIS

a. Purpose

The purpose of this Section is to regulate the cultivation of Cannabis for lawful medicinal or adult-use incident to the residential use of the primary residential dwelling.

b. Authority

The primary responsibility for enforcement of the provisions of this Section shall be vested in the Community Development Department and the Chief of Police.

c. Definitions

For the purpose of this Section, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section have the meanings given to them in this section:

1. "Accessory structure" shall have the same meaning as set forth in section 30-5.7 of this Chapter.
2. "Cannabis cultivation area," means the maximum dimensions allowed for the growing of Cannabis. For indoor cultivation areas, the Cannabis cultivation area shall be measured by the interior dimensions of the room or structure.
3. "Cultivate" or "cultivation" means any activity involving the planting, growing, harvesting, drying, curing, trimming, or processing of Cannabis.
4. "Primary caregiver" shall have the same definition as set forth in California Health and Safety Code section 11362.7, as may be amended.
5. "Primary residential dwelling" shall mean the primary residential dwelling of the primary caregiver, qualified patient, or adult 21 years of age or older who is eligible to cultivate Cannabis for medicinal or adult use in compliance with this Section.
6. "Qualified patient" shall have the same definition as set forth in California Health and Safety Code section 11362.7, as may be amended.

d. Personal Cultivation of Cannabis

1. A qualified patient or primary caregiver shall be allowed to cultivate and process Cannabis for medicinal use within his/her primary residential dwelling in compliance with the standards established by subsection e of this Section and subject to the following limitations:
 - i. No more than six (6) mature or twelve (12) immature Cannabis plants per qualified patient, or other amount if permitted by and consistent with State law, for medicinal use may be cultivated at any primary residential dwelling. Notwithstanding the foregoing, where multiple qualified patients reside in a residence, or a caregiver cultivates for multiple qualified patients, no more than a total of 25 plants may be cultivated at any primary residential dwelling.
 - ii. A copy of documentation of qualified patient status and/or primary caregiver status consistent with the provisions of California Health and Safety Code section 11362.7 et seq. shall be maintained at the primary residential dwelling, including clear and adequate documentation, where applicable, evidencing that the qualified patient or primary caregiver may possess an amount of Cannabis in excess of the limits set forth in the preceding paragraph (i), consistent with the patient's needs.
 - iii. A qualified patient or primary caregiver shall not participate in medicinal Cannabis cultivation in any other property within the City.
2. An adult person 21 years of age or older shall be allowed to cultivate and process Cannabis for personal use within his/her primary residential dwelling in compliance with the standards established by subsection e of this Section and subject to the following limitation:
 - i. Not more than six (6) living plants at any one time may be planted, cultivated, harvested, dried, or processed for adult use within the adult person's primary residential dwelling.
3. Cannabis cultivation is prohibited in the common areas of a multi-unit residential development and in common areas of any commercial or industrial development.

e. Standards for Personal Cultivation of Cannabis

1. To the extent that the City is required to allow the cultivation of Cannabis for personal use and consumption under State law, the standards set forth in this Section shall apply. Nothing in this Section shall be interpreted to permit cultivation of Cannabis for commercial purposes.
 - i. Allowed Cultivation Areas. Cannabis may be cultivated in the interior only of the primary residential dwelling, subject to the following limitations:

- a) Cultivation of Cannabis plants for personal use must be in full compliance with all the applicable provisions of California law.
- b) Cultivation must occur in one Cannabis cultivation area. The cultivation area shall not exceed one hundred (100) square feet.
- c) The Cannabis cultivation and processing area shall be in compliance with the California Building Code, California Fire Code, and other locally adopted life/safety codes, including requirements for electrical and mechanical ventilation systems.
- d) Interior cultivation and processing areas are restricted to one room of a primary residential dwelling, or within a self-contained outside accessory structure that is secured, locked, and fully enclosed. The accessory structure shall comply with all requirements under section 30-5.7.f (Accessory Buildings), and shall not be constructed or covered with plastic or cloth. If located in a garage, the cultivation or processing use shall not result in a reduction of required off-street parking for the residence, as required under section 30-7.3 of this Chapter. The primary residential dwelling shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for personal Cannabis cultivation or processing.
- e) Cannabis cultivation and the establishment or use of the cultivation and processing areas cannot cause nonconformity under the Alameda Municipal Code.

ii. Lighting and Electricity Restrictions.

- a) Any Cannabis cultivation lighting shall not exceed 1,200 watts unless specifically approved in writing by the Chief Building Official (or designee).
 - b) All electrical equipment used in the cultivation or processing of Cannabis (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation or processing of Cannabis is prohibited.
- iii. Only Cannabis cultivated at the primary residential dwelling in conformance with this Section shall be allowed to be processed at the primary residential dwelling.
- iv. Any use of a compressed flammable gas or gas products (CO₂, butane, etc.) as a solvent or other volatile solvent in the extraction of THC or other cannabinoids, or Cannabis cultivation or processing for personal use is prohibited.
- v. There shall be no exterior evidence, including but not limited to odor, view, or other indication of Cannabis cultivation or processing on the property that is

perceptible to a person with normal unaided vision standing at the property lines of the subject lot.

- vi. For the convenience of the qualified patient, primary caregiver, or adult person 21 years of age or older, to promote building safety, to assist in the enforcement of this Section, and to avoid unnecessary confiscation and destruction of Cannabis plants and unnecessary law enforcement investigations, persons cultivating Cannabis pursuant to this Section may notify the City regarding the cultivation site. The names and addresses of persons providing such notice, or of cultivation sites permitted under these regulations shall not be considered a public record under the California Public Records Act or the City of Alameda's Sunshine Ordinance.
- vii. The Cannabis cultivation and processing area shall not adversely affect the health or safety of the nearby residents in any manner, including but not limited to by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes.
- viii. The Cannabis cultivation or processing for personal use shall not adversely affect the health or safety of the occupants of the primary residential dwelling or users of the accessory building in which it is cultivated or processed, or occupants or users of nearby properties in any manner, including but not limited to creation of mold or mildew.

f. Public Nuisance

It is declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises within the City of Alameda to cause or allow such premises to be used for the outdoor or indoor cultivation of Cannabis plants, or processing thereof as described herein, or to process, cultivate or allow the cultivation of Cannabis plants in any manner that conflicts with the limitations imposed in this Section.

g. Enforcement

- 1. Any person who violates any provisions of this Section shall be guilty of a misdemeanor, subject to a penalty of imprisonment in the county jail for a period of time not to exceed six months, or by a fine not to exceed \$500.00, or both, for each violation. Notwithstanding the classification of a violation of this Section as a misdemeanor, at the time an action is commenced to enforce the provisions of this Section, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction.
- 2. Any person convicted of an infraction under this Section shall be punished by:
 - i. A fine not exceeding \$150.00 for a first violation; and

- ii. A fine not exceeding \$250.00 for each additional violation of this Section within one year.

Section 4: Section 24-11 (SMOKING PROHIBITIONS IN PLACES OF EMPLOYMENT AND UNENCLOSED PUBLIC PLACES) of the Alameda Municipal Code is hereby amended to read as follows:

24-11.1 – Definitions.

Cannabis shall have the same meaning as that term is defined in section 6-59.4 of the Alameda Municipal Code.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, hookah, or pipe, or any other lighted or heated tobacco or Cannabis intended for inhalation, in any manner or in any form, including what is commonly referred to as electronic or e-cigarettes, or any device or product that delivers nicotine (or other substances in tobacco) or Cannabis. Smoking shall also include any nicotine-containing product, such as flavored tobacco, or any Cannabis-containing product unless in accordance with State and local law, or any paraphernalia of any device or product that delivers nicotine (or other substances in tobacco) or Cannabis, including cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic smoking device batteries, electronic smoking device chargers, and any other item specifically designed for the preparation, charging, or use of any device or product that delivers nicotine (or other substances in tobacco) or Cannabis.

Section 5: Section 24-12 (SMOKING PROHIBITIONS IN HOUSING) of Chapter XXIV (PUBLIC HEALTH) of the Alameda Municipal Code is hereby amended to read as follows:

24-12.1 – Definitions.

Cannabis shall have the same meaning as that term is defined in section 6-59.4 of the Alameda Municipal Code.

Smoking means possessing a lighted tobacco or Cannabis product or lighted tobacco or Cannabis paraphernalia, including but not limited to, a lighted pipe, lighted hookah pipe, lighted cigar, or lighted cigarette, including what is commonly referred to as electronic or e-cigarettes, or any device or product that delivers nicotine or Cannabis. Smoking shall also include any nicotine-containing product, such as flavored tobacco, or any Cannabis-containing product unless in accordance with State and local law, or any paraphernalia of any device or product that delivers nicotine (or other substances in tobacco) or Cannabis, including cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic smoking device batteries, electronic smoking device chargers, and any other item specifically designed for the preparation, charging, or use of any device or product that delivers nicotine (or other substances in tobacco) or Cannabis.

Section 6: CEQA DETERMINATION

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Business and Professions Code section 26055(h) as discretionary review and approval, which shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code, shall be required in order to engage in commercial cannabis activity within the City of Alameda under such Ordinance. Adoption of this Ordinance is additionally exempt from CEQA pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment.

Section 7: SEVERABILITY

If any provision of this Ordinance is held by a court of competent jurisdiction to be invalid, this invalidity shall not affect other provisions of this Ordinance that can be given effect without the invalid provision and therefore the provisions of this Ordinance are severable. The City Council declares that it would have enacted each section, subsection, paragraph, subparagraph and sentence notwithstanding the invalidity of any other section, subsection, paragraph, subparagraph or sentence.

Section 8: EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

* * * * *

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the ____ day of _____, 2017, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2017.

Lara Weisiger, City Clerk
City of Alameda

Approved as to form:

Janet C. Kern, City Attorney
City of Alameda