

**ORDINANCE NO. .**  
**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,**  
**STATE OF CALIFORNIA**

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**AN ORDINANCE REPEALING CHAPTER 5.148, CONSISTING OF SECTION 5.148.010 TO SECTION 5.148.100, OF TITLE 5 OF THE SAN MATEO COUNTY ORDINANCE CODE AND REPLACING IT WITH A NEW CHAPTER 5.148, CONSISTING OF SECTION 5.148.010 TO SECTION 5.148.210, ESTABLISHING REGULATIONS OF COMMERCIAL CANNABIS IN THE UNINCORPORATED AREA OF THE COUNTY OF SAN MATEO**

**SECTION 1. RECITALS.**

The Board of Supervisors of the County of San Mateo hereby finds and declares as follows:

**WHEREAS**, in 1996, voters of the State of California approved Proposition 215 (codified as California Health and Safety Code Section 11362.5), the intent of which was to enable persons in need of cannabis for medical purposes to use cannabis without fear of criminal prosecution under limited, specified circumstances; and

**WHEREAS**, in 2004, the California Legislature enacted Senate Bill 420 (codified as California Health and Safety Code Sections 11362.7, *et seq.*) to clarify the scope of Proposition 215, and to provide qualifying patients and primary caregivers with a limited defense to certain specified California criminal statutes; and

**WHEREAS**, in 2009, the Board of Supervisors enacted current Chapter 5.148 of the San Mateo County Ordinance Code, "Regulation of Collective Cultivation and

Distribution of Medical Marijuana,” which, among other things, prohibited commercial activities involving cannabis, including, without limitation, advertising, sales, and profit related to cannabis; and

**WHEREAS**, on September 11, 2015, the California Legislature approved Assembly Bill 266, Assembly Bill 243, and Senate Bill 643, together constituting the “Medical Cannabis Regulation and Safety Act” (“MCRSA”), which established a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of medical cannabis for use by qualifying adults; and

**WHEREAS**, on November 8, 2016, the voters of the State of California enacted Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (the “AUMA”), which established a comprehensive system to legalize, control, and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical cannabis for use by adults 21 years and older, and to tax the commercial growth and retail sale of cannabis; and

**WHEREAS**, on June 17, 2017, the California Legislature approved Senate Bill 94 (“SB 94”), which unified MCRSA and the AUMA into a single regulatory system; and

**WHEREAS**, SB 94 permits local jurisdictions to enact and enforce “reasonable regulations” to regulate the commercial possession, planting, cultivation, harvesting, drying, or processing of cannabis plants, including the complete prohibition of such commercial activities; and

**WHEREAS**, SB 94 creates a licensing system whereby the State of California will issue licenses to businesses authorizing them to cultivate, distribute, transport, store, manufacture, process, and/or sell both medical and nonmedical cannabis and cannabis products, with such licenses to be issued beginning on January 1, 2018; and

**WHEREAS**, SB 94 mandates that California licensing authorities shall not approve an application for a State license if approval of the State license will violate the provisions of any local ordinance or regulation adopted in accordance with the requirements of SB 94; and

**WHEREAS**, SB 94 states that it shall not be interpreted to supersede or limit (1) “the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction” or (2) “existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements;” and

**WHEREAS**, under SB 94, however, the failure of a local jurisdiction to take any action regarding the regulation of commercial cannabis activities could result in the issuance of a State license by California licensing authorities; and

**WHEREAS**, (1) the Federal Controlled Substances Act, 21 U.S.C. §§ 801 *et seq.*, classifies cannabis/marijuana as a Schedule I Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision; and (2) the Federal Controlled Substances Act makes it unlawful, under federal law, for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense cannabis; and

**WHEREAS**, in a series of memoranda issued in October 2009, June 2011, and August 2013 (the “Ogden” and “Cole” memos), the U.S. Department of Justice provided guidance to federal prosecutors concerning cannabis enforcement under the Federal Controlled Substances Act and generally advised that it is not likely an efficient use of federal resources to prosecute those persons or entities in compliance with a strong and effective state regulatory system for the cultivation and distribution of medical cannabis; and

**WHEREAS**, the federal government has not sanctioned the cultivation, sale, or possession of non-medical cannabis in any way, nor is there any guarantee the federal government intends to continue the enforcement policy reflected in the Ogden and Cole memos; and

**WHEREAS**, on December 13, 2016, the Board of Supervisors unanimously enacted a temporary 45-day moratorium on (1) all commercial or industrial use involving cannabis (including, without limitation, manufacture, processing, laboratory testing,

labeling, storing, wholesale, distribution and retail) within the unincorporated area of the County and (2) outdoor planting, cultivation, harvesting, drying, or processing of cannabis plants for nonmedical use within the unincorporated area of the County, after determining that such a temporary moratorium was necessary and that the County required an opportunity to consider the various policy implications surrounding commercial cannabis activity in the County; and

**WHEREAS**, on January 24, 2017, the Board of Supervisors unanimously voted to extend the temporary moratorium until December 12, 2017; and

**WHEREAS**, San Mateo County has held multiple study sessions on the issue of commercial cannabis activity, formed working groups to study major policy issues surrounding commercial cannabis activity, and has solicited input from County stakeholders; and

**WHEREAS**, it is the purpose and intent of this Ordinance to implement California State law by providing a means for the reasonable regulation of cannabis cultivation in a manner that is consistent with State law and which addresses the needs and concerns of residents living within the unincorporated area of the County and the protection of the environment, water supply, public health, safety, and welfare; and

**WHEREAS**, on December 5, 2017, the Board of Supervisors voted to extend the existing temporary moratorium for another year until December 11, 2018 and enacted a new similar 45-day temporary moratorium relating specifically to commercial medical cannabis activity; and

**WHEREAS**, this Ordinance only allows mixed-light cannabis cultivation and nurseries and prohibits (with a sunset provision that contemplates future action) all other cannabis activities that can be prohibited consistent with California law, including personal and commercial outdoor cannabis cultivation, indoor commercial cannabis cultivation, and other commercial cannabis activities within the unincorporated area of the County, including, without limitation, manufacturing, testing, microbusinesses, and retail sales;

**NOW THEREFORE**, the Board of Supervisors of the County of San Mateo **ORDAINS** as follows:

**SECTION 2. CHAPTER 5.148 OF TITLE 5 OF THE SAN MATEO COUNTY ORDINANCE CODE, CONSISTING OF SECTIONS 5.148.010 THROUGH 5.148.100, IS HEREBY REPEALED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING:**

**5.148.010. Title.**

This Chapter shall be known as Regulations of Cannabis in the Unincorporated Area of San Mateo County.

**5.148.020. Definitions.**

For the purposes of this Chapter, the following words and phrases shall have the meanings set forth herein:

- a) **“Appealable Act”** means the denial of an Application under Section 5.148.080 of this Chapter, the denial of a request to renew a License under Section 5.148.090(c) of this Chapter, the suspension or revocation of a License under Section 5.148.170 of this Chapter, and/or any administrative remedy under Section 5.148.180 of this Chapter.
- b) **“Applicant”** means a Person who has applied for a License under this Chapter.
- c) **“Application”** means that form provided by the Department in accordance with this Chapter for the purpose of seeking a License.
- d) **“Cannabis”** means 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 Chapter, Cannabis does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.
- e) **“Cannabis Concentrate”** means Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A Cannabis Concentrate is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.
- f) **“Cannabis Licensing Appeal Board”** shall be comprised of three (3) members appointed by the County Manager.
- g) **“Cannabis Products”** has the same meaning as in California Health and Safety Code Section 11018.1.
- h) **“Canopy”** means all areas occupied by any portion of a Cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one Cultivation Site.

- i) **“Commercial Cannabis Activity”** includes Cultivation, Manufacturing, Distribution, Processing, Testing, transportation, delivery, or Retail Sale of Cannabis and Cannabis Products as provided for in this Chapter or under State rule, law, or regulation.
- j) **“County”** means the County of San Mateo.
- k) **“Cultivation”** means any activity involving the planting, growing, fertilizing, irrigating, and/or harvesting of Cannabis, and associated Processing of such Cannabis on the same Premises. For the purposes of this Chapter, Cultivation does not include stand-alone Processing of Cannabis and/or Cannabis Products on a separate Premises from where the planting, growing, fertilizing, irrigating, and/or harvesting of Cannabis occurs. For the purposes of this Chapter, Cultivation includes Nurseries, unless otherwise stated.
- l) **“Cultivation Area”** means the total aggregate area(s) of Cultivation on a single Cultivation Site as measured by the outermost perimeter of each separate and discrete area of Cultivation and includes, without limitation, the space between plants within the Cultivation Area, the exterior dimensions of greenhouses, and each room or area where Cannabis is grown.
- m) **“Cultivation Site”** means a location where Cannabis Cultivation occurs.
- n) **“Customer”** means a natural person 21 years of age or over or a natural person 18 years of age or older who possesses a physician’s recommendation.
- o) **“Department”** means the San Mateo County Planning and Building Department.
- p) **“Distribution”** means the procurement, sale, and transport of Cannabis and Cannabis products between Licensees.
- q) **“Indoor Cultivation”** means Cultivation indoors using exclusively artificial lighting.
- r) **“License”** means a license issued by the County for Commercial Cannabis Activity.
- s) **“Licensee”** means any Person issued a License by the County.



- t) **“Manufacturing”** means compounding, converting, producing, deriving, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, Cannabis or Cannabis Products.
- u) **“Microbusiness”** means a business as defined by California Business and Professions Code Section 26070 which engages in Cultivation on an area less than 10,000 square feet and engages in Distribution, Manufacturing, and Retail Sales.
- v) **“Mixed-Light Cultivation”** means Cultivation using light deprivation and/or any combination of natural and supplemental artificial lighting. Greenhouses and similar structures are included in this category. This category does not include hoop houses or other temporary structures.
- w) **“Nursery”** means for the purposes of this Chapter a Licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and Cultivation of Cannabis. All authorized Nursery activities must occur within a greenhouse or similar structure described above in Section 5.148.020(v).
- x) **“Outdoor Cultivation”** means Cultivation using no artificial lighting conducted in the ground, in containers outdoors, or in structures constructed of porous material(s).
- y) **“Owner”** means any of the following:
  1. A Person with an aggregate ownership interest of 20 percent or more in the Licensee or Applicant, unless the interest is solely a security, lien, or encumbrance.
  2. The chief executive officer of the Applicant.
  3. A member of the board of directors of the Applicant.
  4. A Person who is, or will be, participating in the direction, control, or management of the Licensee or Applicant. For the purposes of this Chapter, participating in the direction, control, or management includes, without limitation, the following functions: (i) hiring or separating employees; (ii) contracting for the purchase or sale of Cannabis or Cannabis Products; and (iii) making or participating in policy decisions regarding Commercial Cannabis Activities.

- z) **“Person”** includes any individual, firm, partnership, joint venture, association, corporation, limited liability company (LLC), estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- aa) **“Premises”** means the designated structure or structures and land specified in the Application that is owned, leased, or otherwise held under the control of an Applicant or Licensee where the Commercial Cannabis Activity will be or is conducted. The Premises shall be a contiguous area and shall only be occupied by one Licensee.
- bb) **“Processing”** means all activities associated with drying, curing, grading, trimming, storing, packaging, and labeling of Cannabis or Cannabis Products.
- cc) **“Retail Sale”** means any transaction whereby, for any consideration, Cannabis or Cannabis Products is sold to a Customer, and includes the Delivery of Cannabis or Cannabis Products.
- dd) **“State”** means the State of California.
- ee) **“State License”** means a license to conduct Commercial Cannabis Activity issued by the State.
- ff) **“Testing”** means the testing of Cannabis or Cannabis Products by an authorized laboratory, facility, entity, or Person.

#### **5.148.030. County Commercial Cannabis Activity License Required.**

- a) Any Person who intends to engage in a Commercial Cannabis Activity in the unincorporated area of the County shall obtain a License for each Premises in the unincorporated area where proposed Commercial Cannabis Activity is to occur.
- b) Notwithstanding the above, any License issued under this Chapter does not provide any protection or immunity for any person from State or federal laws, or from prosecution pursuant to any applicable State or federal laws.
- c) The fact that an Applicant possesses other types of State or County permits or licenses shall not exempt the Applicant from obtaining a License under this Chapter, nor shall the terms and conditions of any other such permit or license modify the requirements of a License granted under this Chapter.

#### **5.148.040. Specific Non-Commercial Cannabis Activities Allowed.**

- a) The following Persons are exempt from the requirements of this Chapter:
1. A qualified patient, as defined by California Health and Safety Code Section 11362.7, who engages in Cannabis Cultivation exclusively for personal medical use but who does not provide, donate, sell, or distribute cannabis to any other Person; and
  2. A primary caregiver, as defined by California Health and Safety Code Section 11362.7, who Cultivates Cannabis exclusively for the personal medical purposes of no more than five (5) specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with California Health and Safety Code Section 11362.765(c); and
  3. A Person 21 years of age or older who engages in Cannabis Cultivation exclusively for personal non-medical use inside a private residence or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure as authorized by California Health and Safety Code Section 11362.

#### **5.148.050. Prohibited Cannabis Activity.**

- a) Only Licenses for Mixed-Light Cultivation of Cannabis and Mixed-Light Nursery Cultivation of Cannabis will be issued by the County. The County shall only issue such Licenses for (1) lands designated as "Agriculture" by the County General Plan Land Use Map, and (2) other lands where commercial agricultural use has been conducted for the three years preceding the effective date of this Ordinance, as verified by the Agriculture Commissioner. No other Commercial Cannabis Activities for either medical or non-medical purposes, including, without limitation, Outdoor Cultivation, Indoor Cultivation, Manufacturing, Testing, Microbusinesses, stand-alone Processing on a separate Premises, or Retail Sales, are allowed in the unincorporated area of the County. In addition, no personal non-medical Outdoor Cultivation is allowed in the unincorporated area of the County.
- b) Notwithstanding the foregoing, the following Commercial Cannabis activities may occur in the unincorporated area of the County pursuant to a valid State License: transportation of Cannabis on public roads as expressly authorized under California Business and Professions Code Section 26080(b); and lawful delivery

of Cannabis to a Customer, however, no physical location for such delivery service shall be permitted within the unincorporated area of the County.

- c) The provisions of this Chapter supersede all temporary moratoria enacted by the Board of Supervisors related to cannabis or marijuana—including the moratorium relating to commercial cannabis activity enacted on December 13, 2016, and extended on January 24, 2017 and extended again on December 5, 2017, and the moratorium relating to commercial medical cannabis activity enacted on December 5, 2017—which temporary moratoria shall automatically expire upon the effective date of this Ordinance.
- d) The provisions of this Section 5.148.050 shall expire on December 31, 2018, unless expressly extended by the Board of Supervisors.

**5.148.060. Commercial Cannabis Activity License Application Requirements.**

- a) Each Application shall be filed with the Department on the form provided and in the manner required by the Department. The Department, the County Division of Environmental Health, and the County Department of Agriculture/Weights and Measures, shall be responsible for administering the Application process as set forth in this Chapter.
- b) In all cases, the Application shall contain, without limitation, the following information which Applicant shall certify under penalty of perjury is true and correct:
  - 1. The name of the Applicant. For Applicants who are individuals, the Applicant shall provide both the first and last name of the individual. For Applicants who are business entities, the Applicant shall provide the legal business name of the Applicant and, if applicable, the business trade name (“DBA”) of the Applicant. In either case, a single individual who shall act as the primary contact shall be identified by the Applicant.
  - 2. The Commercial Cannabis Activity type the Applicant is applying for, including whether the proposed License will involve medical and/or non-medical Commercial Cannabis Activity.
  - 3. A list of all State Licenses and any out-of-State or other local licenses, permits, or authorizations to conduct Commercial Cannabis Activity held by the Applicant, including the date the license was issued, the license number,

and the licensing authority that issued the license, permit, or other authorization.

4. Whether the Applicant has ever been denied the right to conduct Commercial Cannabis Activity by the Department, State, or any other Cannabis licensing authority, including other licensing authorities within the State or in other states. The Applicant shall provide the type of license applied for, the name of the licensing authority that denied the application, and the date of denial.
5. The physical address(es) of the Premises and the Parcel Number(s) assigned to the Premises by the Assessor. The address of record for the Applicant. The telephone number for the Premises. The website address of the Applicant's business, if applicable. The email address for the Applicant's business, if applicable. Contact information for the Applicant's designated primary contact Person including the name, title, address, phone number, and email address of the individual. Contact information for the designated agent for service of process including the name, title, address, phone number, and email address of this individual.
6. All Applicants who are business entities shall provide the business organizational structure of the Applicant, for example, partnership, limited liability company (LLC), or corporation. The business-formation documents, which may include but are not limited to articles of incorporation, operating agreements, partnership agreements, and fictitious business name statements. The Applicant shall also provide all documents filed with the State, which may include but are not limited to articles of incorporation, certificates of stock, articles of organization, certificates of limited partnership, and statements of partnership authority.
7. A list of every fictitious business name the Applicant is operating under including the address where the business is located.
8. The Applicant shall supply the following financial information related to the proposed Commercial Cannabis Activity:
  - i. A list of the Applicant's savings, checking, or other accounts maintained by a financial institution the Applicant intends to use in connection with the proposed Commercial Cannabis Activity. The Applicant shall provide for each account, the financial institution's name, the financial institution's address, account type, and account number;
  - ii. A list of loans made to the Applicant for its use in conducting the proposed

Commercial Cannabis Activity. For each loan, the Applicant shall provide the amount of the loan, the date of the loan, term(s) of the loan, security provided for the loan, and the name, address, and phone number of the lender;

- iii. A list of investments made to the Applicant for its use in conducting the proposed Commercial Cannabis Activity. For each investment, the Applicant shall provide the amount of the investment, the date of the investment, term(s) of the investment, and the name, address, and phone number of the investor; and
  - iv. A list of all gifts of any kind given to the Applicant for its use in conducting the proposed Commercial Cannabis Activity. For each gift the Applicant shall provide the value of the gift or description of the gift, and the name, address, and phone number of the provider of the gift.
9. A complete list of every Owner. Each individual named on this list shall submit the following information: the full name of the Owner; the Owner's title within the Applicant entity; the Owner's date of birth and place of birth; the Owner's social security number or individual taxpayer identification number; the Owner's home address; the Owner's telephone number. This may include a number for the Owner's home, business, or mobile telephone; the Owner's email address; the date the Owner acquired an ownership interest in the Applicant entity; the percentage of the ownership interest held in the Applicant entity by the Owner; if applicable, the number of shares in the Applicant entity that the Owner holds; whether the Owner has a financial interest in any other business in the State. For purposes of this section "financial interest" means an investment into a business, a loan provided to a business, or any other equity interest in a business; a copy of the Owner's government issued identification; acceptable forms of identification are a document issued by a federal, state, county, or municipal government that includes the name, date of birth, physical description, and picture of the person, such as a driver license; and a copy of the Owner's completed application for electronic fingerprint images submitted to the Department of Justice as required by California Business and Professions Code Section 26051.5(a) for a State License or, if the Owner has not completed such application, then the Owner shall submit fingerprints and other necessary information for a criminal background check to be conducted by the Department and/or a third-party authorized by the Department to perform background checks. All individual personal information provided by the Applicant, other than the name of the individual, will be protected from public disclosure unless otherwise required by law.

10. Evidence that the Applicant has the legal right to occupy and use the proposed Premises that complies with the requirements of the Department and the State. If the Applicant is not the landowner of the property upon which the Premises is located, the Applicant shall provide to the Department a document from the landowner that states that the Applicant has the right to occupy the property and acknowledging the Applicant may use the property for the Commercial Cannabis Activity for which the Applicant is applying. An Applicant shall also provide a copy of the rental agreement, as applicable. If the Applicant is the landowner of the property on which the Premises is located, the Applicant shall provide to the Department a copy of the title or deed to the property. The Applicant shall provide evidence that the proposed location meets all State and County land use and zoning requirements.
11. The Applicant shall submit to the Department with his or her Application a complete and detailed site plan of the proposed Premises, along with detailed plans showing the proposed location of all Cannabis related activities, employee parking areas, all proposed improvements, and any other information determined by the Department to be necessary for the review of the application. The plans must be to scale and must comply with all State rules, laws, and regulations regarding Premises diagrams. If the proposed Premises consist of only a portion of a property, the plans must be labeled indicating which part of the property is the proposed Premises and how the remaining property is/will be used. The Applicant must provide evidence that the Premises complies with all setback requirements set forth in this Chapter.
12. The Applicant must submit to a pre-inspection of the Premises during regular business hours prior to the issuance of a License. Pre-inspections may include, without limitation, access by employees or agents of the following: the Department; County Code Compliance; County Division of Environmental Health; the applicable Fire Protection Agency; the County Sheriff's Office; the County Department of Agriculture/Weights and Measures; and the County Health System.
13. Prior to Application processing, the Premises shall be free of any violations of State and local standards, including, without limitation, County building standards, County land use requirements, County zoning requirements, County health and safety standards, and applicable fire standards, unless Applicant submits a plan to resolve any such violations to the satisfaction of the County Community Development Director.

14. The Applicant must provide a detailed description and plan for hiring local residents and affirm that Applicant will comply with all applicable federal, state, and local wage and labor requirements.
15. The Applicant must submit a staffing plan for the proposed Commercial Cannabis Activity, an organizational chart that outlines the position and responsibilities of each employee, as well as the reporting or supervisory structure for each employee. The Applicant shall also provide written proof (i.e., California driver's license, California identification card, or certified copy of birth certificate) that all supervisors and employees are 21 years of age or older.
16. For an Applicant with 20 or more employees, the Applicant shall attest that the Applicant has entered into a labor peace agreement, as required by California Business and Professions Code Section 26051.5(a)(5). Such agreement shall ensure full access for labor representatives to the Premises during regular business hours as allowed by the State.
17. If the Applicant has not yet received a State License, the Applicant shall attest that the Applicant is currently applying for a State License and provide adequate documentation to the Department demonstrating such application is currently pending. If the Applicant has already received a State License, the Applicant shall provide a copy of such State License(s).
18. The Applicant shall provide a valid seller's permit number issued by the State and evidence that Applicant has complied with all other State registration requirements for tax purposes. If the Applicant has not yet received a seller's permit from the State, the Applicant shall attest that the Applicant is currently applying for a seller's permit and provide adequate documentation to the Department demonstrating such application is currently pending. However, a valid State seller's permit is required to receive a License.
19. The Applicant shall provide proof that Applicant has complied with all State insurance requirements and proof that the Applicant has obtained a surety bond in the amount of not less than \$35,000 payable to the Department to ensure payment for the costs of confiscation, storage, clean-up or abatement of any wastes, including regulatory oversight costs, and/or destruction of Cannabis when such costs are necessitated by a violation of this Chapter or other applicable federal, State, or local law. The surety bond shall be issued by a corporate surety licensed by the State, is in addition to any such bond required by the State, and must be maintained at all times a valid License exists and for an additional six months after a License has been revoked.



20. The Applicant shall submit a security plan for review and approval by the Department. The approved plan will be maintained by the Department and be made available to other County departments for the purposes of verification and inspections. At a minimum, the security plan will include: a description of the Applicant's video surveillance system, including camera placement and practices for the maintenance of video surveillance equipment; a description of how the Applicant will ensure that all access points to the Premises will be secured, including the use of security personnel; and a description of the Applicant's security alarm system. The installation of security apparatus shall comply with all relevant permitting requirements, and shall not be installed until such permits are obtained.
21. The Applicant shall provide a detailed improvement and operations plan that demonstrate compliance with the all requirements of this Chapter. The submitted plan shall, include, at a minimum, the following information as required by Sections 5.148.130 through 5.148.160 below:
- i. Proposed hours of operation;
  - ii. Proposed improvement plan, identifying all the changes and improvements that will be made to the Premises, including without limitation changes to: site ingress and access; electrical, water, wastewater, storm water, parking and other infrastructure/facilities;
  - iii. Employee parking and transportation plan;
  - iv. Fire prevention plan;
  - v. Lighting and security plan;
  - vi. Waste disposal plan;
  - vii. Water management plan, including the proposed water supply, proposed conservation measures, and waste water discharge measures;
  - viii. Access restriction procedures, including measures ensuring that minors will not have access to Cannabis;
  - ix. Record keeping policy;

- x. Track and trace measures;
- xi. Odor prevention and ventilation measures;
- xii. Energy usage plan;
- xiii. Size, height, colors, and design of any proposed signage at the Premises;
- xiv. A pest-management plan, if applicable; and
- xv. Such other information as the Community Development Director determines is necessary to ensure compliance with State law and this Chapter.

22. The Applicant shall execute an indemnification agreement in the form provided by the Department, which agreement shall indemnify the County.

23. The Applicant shall attest that no Owner is a licensed retailer of alcoholic beverages or tobacco products.

- c) Referral of application. The Department shall forward a copy of the Application to the following departments and agencies: the applicable Fire Protection Agency; the applicable water district(s); the County Sheriff's Office; the County Health System; and the County Assessor's Office.
- d) An Application shall not be deemed complete until all required Application fees have been paid, and all comments submitted to Department have been addressed to the satisfaction of the Community Development Director.

**5.148.070. Review, Approval, and Issuance of Commercial Cannabis Activity Licenses.**

- a) The Department, the County Division of Environmental Health, and the County Department of Agriculture/Weights and Measures shall review the Application and associated documents and shall require any additional information necessary to complete the Application. If the Department determines the Application is incomplete, the Department will provide notice to the Applicant, who shall have 30 days to complete all deficiencies. If the Applicant fails to

complete the deficiencies within the 30-day period, the Application shall be deemed abandoned. The Applicant may reapply at any time following an abandoned Application. The Department will not refund any fees for incomplete or abandoned Applications.

- b) Upon review of a complete Application, the Department shall grant the Application if the Applicant's proposed Commercial Cannabis Activities comply with the provisions of this Chapter and all additional requirements of State law and County Code.
- c) Each License shall be granted for a one-year period and shall expire one year after the date of its issuance.
- d) All Licenses shall include statements conveying the following information, displayed prominently on the License itself:
  - 1. A warning that Licensees, Owners, supervisors, employees, and any other Persons involved in Commercial Cannabis Activities may be subject to prosecution under State or federal laws; and
  - 2. An acknowledgment that, by accepting the License and engaging in a Commercial Cannabis Activity, the Licensee has released the County and its officers, insurers, sureties, servants, agents, supervisors, attorneys, employees, and representatives from and against any all liability, and will indemnify them, for any monetary damages related to or arising from issuance of the License, authorizing Licensee to engage in an authorized Commercial Cannabis Activity, enforcement of requirements or conditions related to the License, and/or revocation of the License.

**5.148.080. Grounds for Denial of an Application.**

- a) The Department shall deny an Application for a Commercial Cannabis License for any of the following reasons:
  - 1. The Applicant made a knowingly false statement of a material fact in the Application or knowingly omitted a material fact from the Application;
  - 2. The proposed Commercial Cannabis Activities do not fully comply with the requirements of this Chapter or any State law or regulation;

3. The Applicant failed to provide all information required in the Application and/or failed to allow a pre-inspection of the proposed Premises;
  4. The Applicant has outstanding taxes, fees, or fines owed to the Department or to the County;
  5. An Owner is subject to prosecution or has been convicted or sanctioned for an offense or violation set forth under California Business and Professions Code Section 26057(b)(4), (b)(6); or
  6. An Owner has been sanctioned by the State or any other licensing authority for unauthorized Commercial Cannabis Activities or has had a State License or any other license for Commercial Cannabis Activities suspended or revoked in the three (3) years immediately preceding the date the Application is filed.
- b) Notice of the decision to deny an Application specifying the reason(s) for the denial shall be provided in writing to the Applicant pursuant to the notice requirements of Section 5.148.200. The Applicant may appeal denial of its Application as set forth below in Section 5.148.190. No new Application(s) for a License on Premises where an Application has been denied shall be accepted for a period of six (6) months from the date of denial.

#### **5.148.090. License Renewal.**

- a) To renew a License, a completed License renewal Application and renewal fee shall be received by the Department no fewer than sixty (60) calendar days before the expiration of the License. In the event the License is not renewed prior to the expiration date, it shall be deemed revoked and the Licensee must cease all Commercial Cannabis Activity until such time that the Licensee is issued a new License from the Department. The Licensee and all Owners will be subject to enforcement actions set forth below in Section 5.148.180 for continuing operations after a License has expired without a renewal.
- b) The License renewal Application shall contain, at minimum, the following:
1. The name of the Licensee. For Licensees who are individuals, the Licensee shall provide both the first and last name of the individual. For Licensees who are business entities, the Licensee shall provide the legal business name of the Licensee. All renewal applications shall identify a primary point of contact.

2. The License number and expiration date;
  3. The Licensee's address of record and Premises address;
  4. An attestation that all information provided to the Department in the original Application is accurate and current or a detailed explanation of any changes or discrepancies. If any of the documentation and information supplied by the Applicant in the original Application has changed, the Applicant shall submit updated information and documentation with the renewal form and shall provide such other information as the Department may require.
- c) The Department shall deny any request for a License renewal for any of the following reasons:
1. The License renewal Application is filed fewer than sixty (60) calendar days before expiration of the License;
  2. The Licensee does not fully comply with the requirements of this Chapter or any State rule, law, or regulation;
  3. The Licensee has failed to provide all information required in the License renewal application and/or has failed to allow a requested inspection of the Premises;
  4. The Licensee has any outstanding taxes, fees, or fines owed to the Department or to the County;
  5. The License is suspended or revoked at the time of the request for License renewal;
  6. The Licensee is subject to prosecution or has been convicted or sanctioned for an offense or violation set forth under California Business and Professions Code Section 26057(b)(4), (b)(6); or
  7. The Licensee or an Owner has been sanctioned by the State or any other licensing authority for unauthorized Commercial Cannabis Activities or has had a State License or any other license, permit, or authorization for Commercial Cannabis Activity suspended or revoked between the time the original License was issued and the filing of the request for License renewal.

- d) If a request for a License renewal is denied, a new Application may be filed pursuant to this Chapter. However, no new Application(s) for a License on Premises where an Application to renew a License has been denied shall be accepted for a period of six (6) months from the date of denial.
- e) The License renewal application shall not be deemed complete until all renewal fees have been paid.
- f) Notice of the decision to deny a request for a License renewal specifying the reason(s) for the denial shall be provided in writing to the Licensee pursuant to the notice requirements of Section 5.148.200. The Licensee may appeal the denial of a request for a License renewal as set forth below in Section 5.148.190.

#### **5.148.100. License Nontransferable.**

- a) A License issued under this Chapter does not create any interest of value, is not transferable, and automatically terminates upon transfer of ownership of the License. Any change in the Owners requires a renewal Application pursuant to Section 5.148.090. Except in cases of death or incapacity of a Licensee as set forth below in Paragraph c), if the License is not renewed prior to transfer of ownership, it shall be deemed revoked and the Licensee must cease all Commercial Cannabis Activity until such time that the Licensee is issued a new License from the Department. The Licensee and all Owners will be subject to enforcement actions set forth below in Section 5.148.180 for continuing operations after a License has expired without a renewal.
- b) A License is issued to and covers only the Licensee with respect to the Premises identified on the License. The License does not run with the land and a Licensee shall not sublet any portion of the Premises.
- c) In the event of the death, incapacity, receivership, assignment for the benefit of creditors of a Licensee, or other event rendering a licensee incapable of performing the duties associated with the License, the Licensee's successor-in-interest (e.g., appointed guardian, executor, administrator, receiver, trustee, or assignee) shall notify the Department in writing within 10 business days of receiving legal authority to act on behalf of the Licensee and provide documentation (1) demonstrating that the Licensee is incapable of performing the duties associated with the License, such as a death certificate or a court order finding the Licensee lacks capacity, and (2) proving the successor-in-interest has legal authority to act on behalf of the Licensee, such as a court order

or trust agreement. To continue operating under the License, the successor-in-interest shall submit a renewal Application pursuant to Section 5.148.090 within 30 days of receiving legal authority to act on behalf of the Licensee. If the successor-in-interest fails to either notify the Department within 10 days or submit a renewal Application within 30 days, as set forth above, the License shall be deemed revoked and the Licensee must cease all Commercial Cannabis Activity until such time that the Licensee is issued a new License from the Department. The Licensee, all Owners, and the successor-in-interest will be subject to enforcement actions set forth below in Section 5.148.180 for continuing operations after a License has expired without a renewal.

#### **5.148.110. Fees.**

- a) The filing of an initial Application and/or an Application for renewal of a License shall be accompanied by payment of such fees as the Board of Supervisors may establish to recover the cost of administration and enforcement of this Chapter. Such fees are non-refundable. Applicants and Licensees are responsible for the costs of inspections, investigations, and any other activity required pursuant to this Chapter. All fees and costs specified by this Chapter shall be established by resolution of the Board of Supervisors and may be amended from time to time.
- b) In the event that the required fees are not established by the Board of Supervisors on or before January 1, 2018, Applications may be submitted on January 2, 2018 without such fees, and payment of such fees shall be due within 24 hours of either the effective date of this Ordinance or the date such fees are established by the Board of Supervisors, whichever occurs later. Applications are not considered filed, and Licenses will not be issued, until all required fees have been paid.

#### **5.148.120. Taxes.**

All Licensees shall comply with any County-imposed Commercial Cannabis Activity taxes that may be enacted.

#### **5.148.130. General Operational Requirements.**

- a) Material Alterations to Premises. A Licensee shall not make a physical change, alteration, or modification of the Premises without the prior written approval of the

Department. If a Premises is to be changed, modified, or altered, the Licensee is responsible for filing a request for Premises modification with the Department and securing all necessary permits. Alterations or modifications requiring approval include, without limitation: (i) the removal, creation, or relocation of a common entryway, doorway, passage, or a means of public entry or exit, when such common entryway, doorway, or passage alters or changes limited-access areas within the Premises; (ii) the removal, creation, addition, or relocation of the Cultivation Site or Cultivation Area; and/or (iii) the addition or alteration of a water supply. The requirement of this Section is in addition to compliance with any other applicable State or local rule, law, or regulation pertaining to approval of building modifications, zoning, and land use requirements. In the event that the proposed Cultivation Site requires one or more discretionary permits (e.g., coastal development permit for construction of a greenhouse in the coastal zone), said permits must be secured prior to the issuance of the License.

- b) Compliance with Law. A Licensee, its employees, agents, and officers must obey all applicable County and State rules, laws, and regulations.
- c) Weights and Measures. All scales used for Commercial Cannabis Activities shall be the type evaluated and approved by the State Department of Food and Agriculture and sealed by the County Department of Agriculture/Weights and Measures. All sealed packages shall conform to State labeling laws.
- d) Surveillance.
  - 1. At a minimum, the Premises shall have a complete digital video surveillance system in accordance with the approved security plan with a minimum camera resolution of 1280 × 1024 pixels. The surveillance-system storage device or the cameras shall be transmission control protocol (TCP)/capable of being accessed through the internet. The video surveillance system shall be capable, at all times and in all lighting conditions, of effectively recording images. The video surveillance system must have the capabilities to produce a color still photograph from any camera image, live or recorded, of the Premises. Cameras must be immobile and in a permanent location.
  - 2. Cameras shall be placed in a location that allows the camera to clearly record activity occurring within 20 feet of all points of entry and exit on the Premises, and allows for the clear and certain identification of any Person and activities in all areas required to be filmed. Areas that shall be recorded on the video surveillance system include, without limitation, the following: limited access areas; areas where Cannabis or Cannabis Products are weighed, packed, stored, quarantined, loaded and unloaded for transportation, prepared, or



moved within the premises; areas where Cannabis is destroyed; security rooms; areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area; and entrances and exits to the Premises, which shall be recorded from both indoor and outdoor vantage points.

3. Cameras shall record continuously 24 hours per day and at a minimum of 20 frames per second. The physical media or storage device on which surveillance recordings are stored must be secured in a manner to protect the recording from tampering or theft. All video surveillance equipment shall have sufficient battery backup to support a minimum of four (4) hours of recording in the event of a power outage. Licensee must notify the Department of any loss of video surveillance capabilities that extend beyond four (4) hours. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the Licensee of any prolonged surveillance interruption and/or the complete failure of the surveillance system.
  4. Surveillance recordings shall be kept for a minimum of 90 days. Recordings are subject to inspection by and copies of recordings shall be provided, upon request, to employees or agents of the following: the Department; County Code Compliance; County Division of Environmental Health; the applicable Fire Protection Agency; the County Sheriff's Office; the County Department of Agriculture/Weights and Measures; and the County Health System. All records applicable to the surveillance system shall be maintained on the Premises. At a minimum, Licensees shall maintain a map of the camera locations, direction of coverage, camera numbers, surveillance equipment maintenance activity log, user authorization list, and operating instructions for the surveillance equipment.
  5. Recorded images shall clearly and accurately display the time and date. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory (PDT/PST Time zone)
- e) Alarm System. A Licensee shall maintain an alarm system in accordance with the approved security plan as required by the Department and the State. A Licensee shall also ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system. All information related to the alarm system, monitoring, and alarm activity shall be made available upon request to employees or agents of the following: the Department; County Code Compliance; County Environmental

Health Services; the applicable Fire Protection Agency; the County Sheriff's Office; the County Department of Agriculture/Weights and Measures; and the County Health System.

- f) Odor Control and Ventilation. All premises shall be equipped with odor control filtration and ventilation system(s) based on current industry-specific best control technologies and best management practices. No operable windows or exhaust vents shall be located on any building façade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses or zones. This Section shall not apply to operation of exclusively Type 4 – Nursery licenses.
- g) No Public View. A Licensee shall ensure that no Cannabis or Cannabis Products can be seen by persons on adjacent properties or from the public right-of-way.
- h) Signage. A Licensee is required to meet all on-site and off-site sign requirements and advertising requirements of the State and the County. Signs shall be limited to on-site wall and projecting signs. No monument, illuminated, architectural canopy, pole, marquee, roof, temporary, digital, window, or off-site signs are permitted.
- i) Inspections. Premises shall be subject to inspections by County and State agencies, including, without limitation, the Department, County Code Compliance, County Division of Environmental Health, the applicable Fire Protection Agency, the County Sheriff's Office, the County Department of Agriculture/Weights and Measures, and the County Health System. Agents or employees of such agencies shall have unrestricted access to the Premises, including, without limitation, all rooms, buildings, structures, facilities, and limited access areas, for the purpose of conducting inspections during regular business hours. If a Licensee refuses an inspection or interferes with an authorized County department conducting an inspection, the Department may temporarily suspend the Licensee's License and order the immediate cessation of all Commercial Cannabis Activities on the Premises. For purposes of appeal, a suspension will be treated as a revocation and shall be governed by Section 5.148.170(b).
- j) Display of License. The current License, State License, and an emergency contact phone number shall be prominently displayed on the Premises where it can be viewed by State agencies, County departments, or other local agencies.
- k) No Consumption on Premises. No use or consumption of Cannabis, except for use or consumption for medicinal purposes as authorized by law, or the sale or

consumption of alcohol shall be allowed on the Premises. No employee or agent of the Licensee shall solicit or accept any Cannabis or alcohol products from any customer or vendor while on the Premises.

- l) Limited-Access Areas. Limited-access areas include, without limitation, the following: storage area(s) for Cannabis and Cannabis Products; storage area(s) for pesticides and other agricultural chemicals; holding area(s) for Cannabis scheduled for destruction; Cannabis packaging area(s); Cannabis composting and refuse area(s); and security room(s) and area(s) where surveillance-system storage devices are located. A Licensee shall only permit authorized individuals to enter limited-access areas. Authorized individuals include individuals employed by the Licensee, as well as any outside vendors, contractors, or other individuals who have a *bona fide* business reason for entering the limited-access area. An individual who is not an authorized individual for purposes of entering limited-access areas shall not enter limited-access areas at any time for any reason. An individual in limited-access areas who is not employed by the Licensee shall be escorted by individuals employed by the Licensee at all times within limited-access areas. An individual who enters limited-access areas shall be at least 21 years of age. The Licensee shall maintain a log of all authorized individuals who are not employees that enter limited-access areas. These logs shall be made available to the Department upon request.
  
- m) Monitoring Premises. The Licensee shall be responsible for monitoring conduct on the Premises and within the parking areas under Licensee's control to assure behavior does not adversely affect or detract from the quality of life for adjoining residents, property owners, and businesses. The Licensee shall properly manage the Premises to discourage illegal, criminal, or nuisance activity on the Premises and any parking areas. Loitering is prohibited on or around the Premises or the area under control of the Licensee. The Premises and all associated parking, including the adjacent area under the control of the Licensee and any sidewalk or alley, shall be maintained in an attractive condition and shall be kept free of obstruction, trash, litter, and debris at all times.
  
- n) Parking Requirements. Adequate on-site parking and delivery drop off and pick up zones shall be provided. The number of parking spaces shall be equal or greater to the maximum number of employees that will be on the premises at any one time. Alternatively, the Applicant/Licensee can provide a plan for transporting employees to and from the site. The location of all parking areas and delivery drop off and pick up zones shall be within existing areas of the site that have been used for these or other similar purposes, unless all necessary permits required to establish new parking areas and/or delivery drop off and pick up locations have been secured.

- o) Packaging and Labeling. Prior to sale or delivery, all Cannabis or Cannabis Products shall be packaged and labeled in a manner consistent with all State requirements.
- p) Notification to Department. A Licensee shall provide the Department with notice in writing, either by mail (to 455 County Center 2nd Floor, Redwood City, CA 94063) or electronic mail (to [plngbldg@smcgov.org](mailto:plngbldg@smcgov.org)) to the attention of the Community Development Director, within 24 hours of the following:
  - 1. A criminal conviction rendered against the Licensee;
  - 2. A civil penalty or judgment rendered against the Licensee;
  - 3. Notice of revocation of a State License or other local authorization to conduct Commercial Cannabis Activities;
  - 4. The Licensee becomes aware of, or has reason to suspect, a diversion, theft, loss, or any other criminal activity involving its Commercial Cannabis Activities.

#### **5.148.140. Record Retention.**

- a) A Licensee shall keep and maintain the following records for at least seven (7) years:
  - 1. Financial records including, without limitation, bank statements, sales invoices, receipts, tax records, and all records required by the State Board of Equalization, other State agencies, the Department, or other County departments;
  - 2. Personnel records, including each employee's full name, social security, or individual tax payer identification number, date of beginning employment, and date of termination of employment if applicable;
  - 3. Training records, including, without limitation, the content of the training provided and the names of the employees that received the training;
  - 4. Contracts with other Licensees;
  - 5. Limited-access area logs and copies of current versions of any applicable plans required under this Chapter, including, without limitation, security plan,

waste disposal plan, water management plan, water conservation plan, access restriction procedures, record keeping policy, odor and ventilation measures, energy usage plan, fire prevention plan, parking plan, and pest management plan; and

6. State License and permits, licenses, and other local licenses, permits, or authorizations to conduct Commercial Cannabis Activity.
- b) A Licensee shall provide all books and records for review by the Department or its designee upon request. Records shall be kept in a manner that allows the Department, or its designee, to review the records in either hard copy or electronic form, whichever the Department requests. A Licensee may contract with a third party to provide custodial or management services of the records; however, such a contract shall not relieve the Licensee of its responsibilities under this Chapter.

#### **5.148.150. Track and Trace Program.**

- a) A Licensee must have an established account in a State-approved track and trace system prior to engaging in any Commercial Cannabis Activities. A Licensee may use any track and trace program approved by State agencies and shall comply with all State laws, rules, and regulations relating to track and trace, including, without limitation, system unique identifier (UID) requirements, user requirements, reporting requirements, and inventory requirements.
- b) The Licensee is responsible for the accuracy and completeness of all data and information entered into the track and trace system. Data entered into the track and trace system must be accurate. Inaccuracies, if not corrected, may result in enforcement action against the Licensee.
- c) The Licensee shall designate at least one track and trace system administrator who shall complete initial training prior to accessing the system and participate in ongoing training as required by the Department, the State, and/or their respective agents/designees. The designated administrator must maintain an accurate and complete list of any other track and trace system administrators and users and update the list immediately when changes occur.
- d) It is a violation of this Chapter for any Person to intentionally misrepresent or falsify information entered into the track and trace system. The Licensee shall monitor all notifications from the track and trace system and resolve all the issues included in the notification in the time frame specified in the notification. A

Licensee shall not dismiss a notification from the track and trace system until the Licensee resolves the issues identified in the notification.

#### **5.148.160. Cultivation Requirements.**

- a) Cultivation Types Allowed. The following State License types, as defined by California Business and Professions Code Section 26061, will be permitted in the unincorporated County, subject to issuance of a Commercial Cannabis License: Type 1B – Cultivation, Specialty Mixed-Light, Small; Type 2B – Cultivation, Specialty Mixed-Light, Small; Type 3B – Cultivation, Mixed-Light, Medium; and Type 4 – Cultivation, Nursery. No other State Licenses for Cultivation, including Indoor Cultivation (i.e., State License Type 1A – Cultivation, Specialty Indoor, Small; Type 2A – Cultivation, Indoor Small; Type 3A – Cultivation, Indoor, Medium; Type 5A – Cultivation, Indoor, Large), Outdoor Cultivation (i.e., State License Type 1 – Cultivation, Specialty Outdoor, Small; Type 2 – Cultivation, Outdoor, Small; Type 3 – Cultivation, Outdoor, Medium; Type 5 – Cultivation, Outdoor, Large) or Microbusinesses (State License Type 12), shall be allowed in the unincorporated area. Nursery licenses shall only be issued for Mixed-Light growth.
- b) Number of Licenses. The Department will not restrict the total number of Licenses an Owner is authorized to hold at any point in time, provided the Owner's total authorized Canopy, as indicated in the Licenses, does not exceed a maximum of 66,000 square feet on a single parcel or across multiple parcels and meets all State and County requirements. Multiple Cultivation Licenses may be located on the same parcel if each Premises has a unique entrance and immovable physical barriers between uniquely Licensed Premises. All Licensees must meet all applicable State and County land use and zoning requirements. Licensees are prohibited from commingling Cannabis from other Premises.
- c) Square Footage Limitations. The total combined square footage of the Cultivation Area shall not exceed the maximum size thresholds as established by the applicable State License set forth in California Business and Professions Code Section 26061.
- d) Property Setbacks. All structures associated with Cultivation shall be setback a minimum of 100 feet from property lines, a minimum of 300 feet from residences and businesses on surrounding properties. The 300-foot setback from residences and businesses shall be measured from the nearest exterior wall of the residence/business to the nearest exterior wall of the structure associated with Cultivation. All Premises shall also be setback a minimum of 1,000 feet

from any properties designated for residential use by the San Mateo County General Plan or any local general plan adopted prior to January 1, 2018 and any school providing education to K-12 grades, licensed day care center, youth center or playground as defined by California Health and Safety Code Section 11353.1, and alcohol or drug treatment facility as defined by California Health and Safety Code Section 11834.02 in existence at the time the License is issued. The 1,000-foot distance shall be measured in a straight line from the closest property line of the protected site to the closest property line of the parcel with the Cultivation.

- e) Building Requirements. All structures used for Cultivation shall comply with all applicable State or local building regulations, zoning, and land use requirements. Cultivation uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers, or patients shall meet State or local requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.
- f) Agricultural Production Protection. Cultivation shall not displace any non-Cannabis commercial agricultural production existing as of June 1, 2017. However, a Licensee may offset a proposed Cultivation Site by relocating existing agricultural production to another area of the property where the Premises is located on a 1:1 ratio, provided such relocation does not conflict with any applicable policy or regulation. If the proposed Cultivation Site is located on a parcel under a Land Conservation Act (Williamson Act) contract, the Licensee must comply with all San Mateo County Land Conservation Act Uniform Rules and Procedures before engaging in Commercial Cannabis Activities. A plan for compliance with this Section shall be proposed at the Application stage.
- g) Fire Code Requirements. A Licensee shall prepare and implement a fire prevention plan, which shall include, at minimum, emergency vehicle access and turn-around at the Cultivation Site, vegetation management, and fire break maintenance around all structures. A plan for compliance with this Section shall be proposed at the Application stage.
- h) Lighting. All lighting shall be fully shielded, downward casting, and not spill over onto other structures, other properties or the night sky. All operations shall be fully contained so that little to no light escapes. Between sunset and sunrise, light shall not escape at a level that is visible from neighboring properties or the public right of way, and, to the extent feasible, from a fixed location 250 feet in all directions from the structure where the Cultivation is being conducted.

- i) Security and Fencing. All Cultivation Sites shall be screened from public view by native, fire resistant vegetation, and vehicle access fenced with locking gates. Fencing shall be consistent with the surrounding area and shall not diminish the visual quality of the Premises or surrounding area. Razor wire, chain link, and similar fencing is not permitted. Security measures shall be designed to ensure emergency access in compliance with fire safety standards. All structures used for Cultivation shall have locking doors to prevent free access. If a Licensee hires or contracts for security personnel to provide security services, such security personnel shall comply with all State requirements relating to proprietary/private security services as currently set forth in Chapters 11.4 and 11.5 of Division 3 of the California Business and Professions Code. A plan for compliance with this Section and the surveillance, alarm, and monitoring requirements set forth above in Section 5.148.130 shall be proposed at the Application stage. Security plans will be confidential to the extent authorized by law.
- j) Runoff and Storm Water. Runoff containing sediment or other waste or by-products, including, without limitation, fertilizers and pesticides, shall not be allowed to drain to the storm drain system, waterways, or adjacent lands, and shall comply with all applicable State and federal regulations. A plan for compliance with this Section shall be proposed at the Application stage.
- k) Wastewater Discharge. Licensees shall submit verification of compliance with the Waste Discharge Requirements of the applicable Regional Water Quality Control Board, or waiver thereof. Excess irrigation water or effluent from Cultivation activities leaving the Cultivation Site shall be directed to a sanitary sewer (with permission from sewer authority), wastewater treatment and distribution system, irrigation, greywater or bio-retention treatment system. If discharging to a wastewater treatment and distribution system, a system capacity evaluation by a California-licensed civil engineer shall be included in the wastewater management plan. All domestic wastewater shall be disposed of in a permanent sanitary sewer or on-site wastewater treatment system (OWTS) with demonstrated adequate capacity and in compliance with County Ordinance Code Chapter 4.84. A plan for compliance with this Section shall be proposed at the Application stage. The plan must, at minimum, identify the amount of wastewater, excess irrigation, and domestic wastewater anticipated, as well as treatment and disposal facilities.
- l) Pest Prevention. All Cannabis and Cannabis Products shall be kept commercially clean in respect to established pests of general distribution so that exposure to such pests is under effective control. Licensees shall comply with all applicable State and federal pesticide laws and regulations, including, without



limitation, those enforced by the State Department of Food and Agriculture and State Department of Pesticide Regulation. A plan for compliance with this Section shall be proposed at the Application stage. The plan must, at minimum, include the product name and active ingredient(s) of all pesticides to be applied to Cannabis during any stage of plant growth and integrated pest management protocols, including chemical, biological, and cultural methods the Licensee anticipates using to control or prevent the introduction of pests on the Cultivation Site.

- m) Energy Usage. All electrical power, including, without limitation, for illumination, heating, cooling, and ventilation, shall be provided by on-grid power with 100% renewable energy source or on-site zero net energy renewable source such that annual consumed energy is less than or equal to the on-site renewable generated energy. The use of generators is prohibited, except for portable temporary use in emergencies only. A plan for compliance with this Section shall be proposed at the Application stage.
- n) Noise Limits. Noise generated at the Premises shall comply with the County's Noise Control requirements set forth Ordinance Code Chapter 4.88.
- o) Occupational Safety. Licensees shall comply with all applicable federal, State, and local laws and regulations governing California Agricultural Employers, which may include: federal and State wage and hour laws, CAL/OSHA, OSHA, and the California Agricultural Labor Relations Act.
- p) Hazardous Materials. Licensees who utilize hazardous materials shall comply with all applicable County and State hazardous materials requirements. Use of a Carbon Dioxide (CO<sub>2</sub>) gas enrichment system requires a safety plan approved by the applicable Fire Protection Agency, and visible posting of the approved plan at Cultivation Site. All employees shall be trained on the safety plan on an annual basis.
- q) Waste Management. All Cannabis waste must be properly stored and secured to prevent access by the public. All garbage and refuse on the Cultivation Site shall be accumulated or stored in nonabsorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on the Cultivation Site shall not be accumulated or stored for more than seven (7) calendar days, and shall be properly disposed of before the end of the seventh (7<sup>th</sup>) day. All non-Cannabis waste, including, without limitation, refuse, garbage, green waste, and recyclables, must be disposed of in accordance with County and State codes,

laws and regulations. A plan for compliance with this Section shall be proposed at the Application stage. The plan must address the storing, handling, and disposing of all waste by-products of Cultivation and, at minimum, characterize the anticipated amount and types of waste generated, identify the designated holding area(s) for Cannabis waste, and describe the operational measures that are proposed to manage, track/identify, and dispose of Cannabis waste in compliance with County and State standards.

- r) Water Usage. Licensees must identify a water supply source adequate to meet all Cultivation uses on a sustainable basis for the Premises, provide the Department with proposed conservation measures, demonstrate that Licensee is in compliance with all statutes, regulations, and requirements of the State Department of Food and Agriculture and State Water Resources Control Board, Division of Water Rights, and allow the Department and/or other County departments access to the Premises to monitor water usage. Domestic water sources must be from a source permitted by the County. A plan for compliance with this Section shall be proposed at the Application stage. Applicants are encouraged to work with the San Mateo County Resource Conservation District for help in plan development.

#### **5.148.170. Revocation of License.**

- a) Any of the following shall be grounds for revocation of a License:
1. Failure to comply with the terms and conditions of the License.
  2. Any act or omission that violates the requirements of this Chapter, the County Code, or State rule, law, or regulation.
  3. Any act or omission that results in the denial, revocation, or suspension of the Licensee's State License.
  4. The License was granted on the basis of false material information, written or oral, provided knowingly or negligently by the Licensee.
  5. Conduct of Commercial Cannabis Activities in a manner that constitutes a nuisance, where the Licensee has failed to comply with reasonable conditions to abate the nuisance.

6. Violation of the County's "Three Strikes" Penalty set forth below in Section 5.148.180.

- b) Notice of the revocation of a License shall be provided in writing to the Licensee pursuant to the notice requirements of Section 5.148.200. The revocation is subject to appeal as set forth below in Section 5.148.190. However, while an appeal of a revocation is pending, the Licensee shall not engage in any Commercial Cannabis Activities.

**5.148.180. Enforcement and Penalties.**

- a) In addition to the authority of the Department to revoke or suspend any License pursuant to Section 5.148.170 above, the Department may also elect to pursue one or more of the administrative remedies set forth in this Section. Any activity in violation of this Chapter is hereby deemed a *per se* nuisance. It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of this Chapter is committed, continued, or allowed.
- b) Notwithstanding the amount of administrative penalties set forth in Section 1.40.080 of this Code, civil penalties for violation of this Chapter shall be assessed as follows:
1. A Person engaged in Commercial Cannabis Activities without a License shall be subject to a civil penalty up to three times (3x) the amount of the License fee.
  2. A Licensee who violates this Chapter shall be subject to fines as follows:
    - i. One thousand dollars (\$1,000.00) for the first violation of this Chapter;
    - ii. Three thousand dollars (\$3,000.00) for the second violation of this Chapter within a two-year period;
    - iii. Five thousand dollars (\$5,000.00) for the third violation of this Chapter within a two-year period.
- c) If a Licensee violates this Chapter more than three times within a two-year period that Licensee's License is hereby automatically revoked, and no Commercial Cannabis Activities shall be allowed on the Licensee's Premises for a minimum

period of three (3) years. In addition, the Owner shall be subject to a “black-out period” during which the Owner may not apply for or renew any License for any Premises. The black-out period shall continue for a minimum of three (3) years. The Owner must also pay any outstanding fines or fees before applying for a License.

- d) The above fines/penalties may also be collected against the record owner(s) of the parcel on which Commercial Cannabis Activities are conducted, if such record owner(s) is(/are) different than the Licensee or Owner. In addition, any act, omission, or failure of an agent, officer, representative, or other Person acting for or employed by a Licensee, within the scope of his or her employment or office, shall in every case be deemed the act, omission, or failure of the Licensee.
- e) The administrative remedies in this Chapter are in addition to and do not supersede or limit any and all other remedies provided by law. The remedies provided in this Chapter are cumulative and not exclusive.

#### **5.148.190. Appeal to Cannabis Licensing Appeal Board.**

- a) All appeals of an Appealable Act shall be heard by the Cannabis Licensing Appeal Board.
- b) Any Applicant, Licensee, or other Person (i.e., a Person engaging in Commercial Cannabis Activity without a License) who receives notice of an Appealable Act shall have fifteen (15) calendar days from the service of the notice to submit a written request for a hearing before Cannabis Licensing Appeal Board. Failure to timely submit the written request for a hearing shall be deemed a waiver of the right to challenge the Appealable Act and a failure to exhaust administrative remedies. If the hearing is not timely requested, the Appealable Act shall be deemed final.
- c) Upon receipt of a timely written request for a hearing, and payment of the applicable appeal fee, the Cannabis Licensing Appeal Board shall set a date for a hearing to be held within sixty (60) days of receipt of the request, unless an immediate threat to the public health, safety, and welfare necessitates an earlier hearing date. Notice of the hearing, including the time, date, and location of the hearing, shall be served in accordance with the requirements set forth in Section 5.148.200 of this Chapter.
- d) The Cannabis Licensing Appeal Board is authorized to conduct hearings, issue

subpoenas, receive evidence, administer oaths, rule on questions of law and the admissibility evidence, prepare a record of the proceedings, and render decisions on any Appealable Act.

1. In any proceeding before the Cannabis Licensing Appeal Board, oral testimony offered as evidence shall be taken only on oath or affirmation, and the Cannabis Licensing Appeal Board, or designee, shall have the power to administer oaths and affirmations and to certify to official acts.
  2. All parties to hearings before the Cannabis Licensing Appeal Board shall have the opportunity to testify, introduce exhibits, call and examine witnesses, and cross examine opposing witnesses on any matter relevant to the issues. Hearings shall be informal, and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be admitted for any purpose, but shall not be sufficient, in itself, to support a finding unless it would be admissible over objection in civil actions. The rules of privilege and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant or repetitious evidence shall be excluded.
  3. The Cannabis Licensing Appeal Board may postpone the hearing date upon good cause shown, continue the hearing during the course of the hearing, and make such other procedural orders and rulings as it deems appropriate during the course of the hearing.
- e) Within thirty (30) calendar days after the close of the final hearing, the Cannabis Licensing Appeal Board shall issue a written decision, including a statement of the basis for the decision. The decision by the Cannabis Licensing Appeal Board is a final action that is not subject to any further administrative remedy.
  - f) All costs of an appeal shall be borne by the appellant. Such costs shall be established by resolution of the Board of Supervisors and may be amended from time to time.

**5.148.200. Notice Requirements.**

Wherever this Chapter requires notice to an Applicant, Licensee, and/or other Person, such notice shall be given in writing and shall be delivered either by personal delivery or by certified U.S. mail, postage prepaid, return receipt requested. Service by mail shall be deemed complete at the time of deposit in the United States Mail receptacle. In addition, any such notice may be posted at the physical address of the Premises on the date of the mailing of notice.

**5.148.210. Severability.**

If any provision of this Chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Chapter shall not be invalidated.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall be effective 30 days from the date of its passage.

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