

**ORDINANCE NO. 1149**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HOLLISTER AMENDING CHAPTER 5.42 “CANNABIS FACILITIES REGULATORY PERMIT” TO TITLE 5 “BUSINESS LICENSES AND REGULATIONS” OF THE HOLLISTER MUNICIPAL CODE AND ADMINISTRATIVE PROCEDURE FOR THE ISSUANCE OF CANNABIS FACILITIES REGULATORY PERMITS AND REGULATIONS FOR THE OPERATION OF CANNABIS FACILITIES AND MEDICAL CANNABIS DISPENSARIES**

**WHEREAS**, on November 5, 1996, California voters passed Proposition 215, the Compassionate Use Act, which decriminalized the cultivation and use of cannabis by seriously ill individuals upon a physician’s recommendation; and

**WHEREAS**, Proposition 215, which was codified as Section 11362.5 of the California Health and Safety Code was enacted to “ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of cannabis,” and to “ensure that patients and their primary caregivers who obtain and use cannabis for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction”; and

**WHEREAS**, on January 1, 2004, Senate Bill 420, the Medical Cannabis Program Act, became law and was codified in Sections 11362.7 to 11362.83 of the California Health and Safety Code; and

**WHEREAS**, the Medical Marijuana Program Act, among other things, requires the California Department of Public Health to establish and maintain a program for the voluntary registration of qualified medical cannabis patients and their primary caregivers through a statewide identification card system; and

**WHEREAS**, the Federal Controlled Substances Act, which was adopted in 1970, established a federal regulatory system designed to combat recreational drug abuse by making it a federal criminal offense to manufacture, distribute, dispense, or possess any controlled substance which includes cannabis; and

**WHEREAS**, the Department of Justice of the State of California in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (“2008 Attorney General Guidelines”) has opined that neither Proposition 215 nor the Medical Marijuana Program Act conflict with Federal Controlled Substances Act since “California did not ‘legalize’ medical cannabis, but instead exercised the State’s reserved powers to not punish certain cannabis offenses under state law when a physician has recommended its use to treat a serious medical condition”; and

**WHEREAS**, the federal government has issued guidelines for states and local governments that have enacted laws authorizing cannabis-related conduct, requiring them to “implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests,” and recognizes that where such strong and effective regulatory and enforcement systems are in place, conduct in compliance with those regulatory and enforcement systems is less likely to threaten federal priorities and thus less likely to require federal enforcement intervention; and

**WHEREAS**, in 2014, Congress enacted the following rider in an omnibus appropriations bill funding the government through September 30, 2015:

None of the funds made available in this Act to the Department of Justice may be used, with respect to the States of Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, and Wisconsin, to prevent such States from implementing their own State laws that authorize the use, distribution, possession, or cultivation of medical marijuana.

The rider was been reenacted for fiscal year 2016 and in *United States v. McIntosh* (9th Cir. 2016) 833 F.3d 1163, the U.S. Ninth Circuit Court of Appeals determined that the rider “prohibits [the U.S. Department of Justice] from spending funds from relevant appropriations acts for the prosecution of individuals who engaged in conduct permitted by the State Medical Marijuana Laws and who fully complied with such laws.”; and

**WHEREAS**, in *City of Riverside v. Inland Empire Patients Health & Wellness Ctr., Inc.* (2013) 56 Cal.4th 729, the California Supreme Court ruled unanimously that the Compassionate Use Act and the Medical Cannabis Program Act do not preempt local ordinances that completely and permanently ban medical cannabis facilities, but recognized that the local police power, which derives from California Constitution Art XI, Section 7, “includes broad authority to determine, for purposes of public health, safety, and welfare, the appropriate uses of land within a local jurisdiction's borders”; and

**WHEREAS**, on January 1, 2016, Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, collectively the Medical Cannabis Regulation and Safety Act (“MCRSA”), became law and are codified in appropriate sections of the California Business and Professions Code, Government Code, Health and Safety Code, Revenue and Taxation Code, Fish and Game Code, and Water Code; and

**WHEREAS**, MCRSA establishes a comprehensive medical cannabis regulatory structure, including, but not limited to, establishing a State licensing regulatory scheme for medical cannabis dispensary, distributor, transport, and manufacturing facilities; establishing uniform health and safety standards, testing standards, and security requirements at medical cannabis dispensaries and during transport of the product; establishing physician medical cannabis recommendation and professional conduct standards; establishing a track and trace program for medical cannabis from cultivation, to testing, and to dispensaries; and establishing pesticide and environmental protection standards; and

**WHEREAS**, MCRSA will phase out the current regulatory model of cannabis cooperatives and collectives, replacing it with a comprehensive State licensing and local licensing or permitting system; and

**WHEREAS**, when signing MCRSA into law, Governor Brown in his signing statement said the Legislation “establish[es] a long-overdue comprehensive regulatory framework for the production, transportation, and sale of medical marijuana.”

“While many of these new standards take effect in January 1, 2018, state agencies will begin working immediately with experts and stakeholders on crafting clear guidelines, so local government, law enforcement, businesses, patients and health providers can prepare and adapt to the new regulated system.”

“This new structure will make sure patients have access to medical marijuana, while ensuring a robust tracking system. This sends a clear and certain signal to our federal counterparts that California is implementing robust controls not only on paper, but in practice.”

**WHEREAS**, MCRSA was subsequently amended by Assembly Bill 26, Senate Bill 837, Assembly Bill 2516, and Assembly Bill 2679. Assembly Bill 2679 exempts collectives and cooperatives under the current regulatory model that manufacture medical cannabis products from criminal sanctions for manufacturing medical cannabis if the cooperative or collective meets specified requirements, including using specified manufacturing processes and possessing a valid local license, permit, or other authorization; and

**WHEREAS**, if medical cannabis facilities were permitted to be established or if existing business were permitted to act as medical cannabis facilities without appropriate regulation, such uses might place the City in jeopardy of being noncompliant with guidelines issued by the State Attorney General and the U.S. Department of Justice, and applicable State and federal law; and

**WHEREAS**, MCRSA expressly preserved local control over medical cannabis facilities and land uses; and

**WHEREAS**, such unregulated uses might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare; and

**WHEREAS**, the City Council desires to enact strong and effective regulations pertaining to medical cannabis facilities to ensure that qualified patients and their primary caregivers are afforded safe and convenient access to medical cannabis as is their right under the Compassionate Use Act, while at the same time ensuring that such uses do not conflict with the General Plan, are not inconsistent with surrounding uses, and are not detrimental to the public health, safety and welfare, and the operation of such facilities is in compliance with applicable State law and as such does not threaten federal drug enforcement priorities and, therefore, are not likely to require federal enforcement intervention;

**WHEREAS**, on November 8, 2016, the voters of the State of California approved Proposition 64, entitled the “Control, Regulate and Tax Adult Use of Marijuana Act” (the “AUMA”), which legalizes and regulates the adult use of non-medicinal marijuana in California; and

**WHEREAS**, on June 27, 2017, the Governor signed Senate Bill 94, which repealed MCRSA and included certain provisions from MCRSA regarding medicinal marijuana in AUMA; and

**WHEREAS**, Senate Bill 94 renamed the AUMA as the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

**WHEREAS**, Business and Professions Code section 26200, which is part of MAUCRSA, expressly recognizes the ability of cities to adopt and enforce ordinances to regulate cannabis businesses, including, but not limited to, local licensing requirements; and

**WHEREAS**, Article XI, Section 7 of the California Constitution provides a city to make and enforce within its limits all police, sanitary and other ordinances and regulations not in conflict with general laws.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HOLLISTER DOES ORDAIN AS FOLLOWS:**

**Section 1. EVIDENCE**

The City Council has considered all of the evidence submitted into the administrative record, which includes, but is not limited to, public comments, both written and oral, received and/or submitted at, or prior to the City Council’s consideration of this Ordinance.

**Section 2. AMENDING AND RESTATING CHAPTER 5.42 “CANNABIS FACILITIES REGULATORY PERMIT” TO TITLE 5 “BUSINESS TAXES, LICENSES AND REGULATIONS” OF THE HOLLISTER MUNICIPAL CODE**

Title 5 “Business Taxes, Licenses and Regulations” of the Hollister Municipal Code shall be amended to read in its entirety as follows:

**Chapter 5.42  
CANNABIS FACILITIES REGULATORY PERMIT**

**Sections:**

5.42.010	Purpose and Intent
5.42.015	Outdoor Cultivation Prohibited
5.42.020	Cannabis Facilities
5.42.030	Definitions
5.42.040	City Council Review and Approval
5.42.050	Regulatory Permit Required
5.42.060	Background Check
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5.42.090	Cannabis Use Permits/Development Agreement
5.42.100	Cessation of Operations
5.42.110	Change in Location; Updated Registration Form
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5.42.140	Additional Terms and Conditions
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5.42.160	Cultivation, Dispensary, and Manufacturing Locations
5.42.170	Dispensing of Medical Cannabis
5.42.180	Delivery of Medical Cannabis
5.42.190	Packaging of all Cannabis
5.42.200	Cannabis Facility Operations
5.42.210	Public Health and Safety
5.42.220	Records
5.42.230	Audit
5.42.240	Community Relations
5.42.250	Compliance
5.42.260	Inspection and Enforcement
5.42.265	Non-Medical Cannabis-Limited Personal Use Exception
5.42.270	Appeals
5.42.280	Violations
5.42.290	Implementation Procedures

**5.42.010 Purpose and Intent.**

A. If cannabis facilities were permitted to be established or if existing business were permitted to act as cannabis facilities without appropriate regulation, such uses might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare, or the operation of such facilities may be in conflict with applicable State law and regulations. The City Council desires to enact reasonable regulations pertaining to cannabis dispensary, cultivation, and manufacturing facilities to ensure that qualified patients and their primary caregivers are afforded safe and convenient access to cannabis, while at the same time ensuring that such uses do not conflict with the General Plan, are not inconsistent with surrounding uses, and are not detrimental to the public health, safety and welfare, and the operation of such facilities is in compliance with applicable State law and regulations.

B. Cannabis facilities shall be permitted, upon application and approval of a regulatory permit in accordance with the criteria and procedures set forth in this Code.

C. The criteria, procedures, standards, requirements, regulations, and provisions set forth in this Code shall be interpreted and applied consistent with all applicable State laws and regulations. To the extent any criteria, procedure, standard, requirement, regulation, or provision of this Code conflicts with or contradicts any applicable State law or regulation, or establishes a criteria, procedure, standard, requirement, or regulation that does not meet the minimum standards of any applicable State law or regulation, the requirements of the applicable State law or regulation shall take precedence.

D. Retail sales of cannabis shall be prohibited within the City of Hollister, with the exception of an approved and permitted medical dispensary to a qualified patient for his or her personal use. Any cannabis, cannabis products, or cannabis goods cultivated or manufactured for "Adult Use" in a City approved cannabis facility, shall be for export purposes only.

**5.42.015 Outdoor Cultivation Prohibited.**

A. It is unlawful to cultivate either medical or non-medical cannabis outdoors within the City of Hollister.

**5.42.020 Cannabis Facilities.**

A. A "cannabis facility" is any location in the City where (or from which) cannabis or cannabis products are cultivated, possessed, manufactured, processed, stored, tested, labeled, transported, delivered, distributed, or sold; however:

1. A qualified patient who possesses, stores, or transports cannabis or cannabis products exclusively for his or her personal use but who does not provide, donate, sell, or distribute cannabis or cannabis products to any other person is not acting as a cannabis facility and is exempt from the permitting requirements of this Chapter.

2. A cannabis facility shall not include the following uses, as long as the location of such uses is otherwise regulated by this code or applicable law:

a. A clinic licensed pursuant to Chapter 1, of Division 2, of the Health and Safety Code;

b. A healthcare facility licensed pursuant to Chapter 2, of Division 2, of the Health and Safety Code;

c. A facility licensed pursuant to Chapter 2, of Division 2, of the Health and Safety Code;

d. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01, of Division 2, of the Health and Safety Code;

e. A residential care facility for the elderly licensed pursuant to Chapter 3.2, of Division 2, of the Health and Safety Code;

f. A residential hospice; or

g. A home health agency licensed pursuant to Chapter 8, of Division 2, of the Health and Safety Code, as long as such use complies strictly with applicable law, including, but not limited to, Sections 11362.5 et seq. of the Health and Safety Code.

3. A cannabis facility shall not include a vehicle (i) originating from a cannabis dispensary licensed or permitted by a jurisdiction outside the City and (ii) engaged in the delivery of cannabis or cannabis products in compliance with the requirements contained in Section 5.42.180.

4. A cannabis facility shall not include a vehicle (i) originating from a cannabis facility permitted under this Chapter and (ii) engaged in the transportation of cannabis products to another cannabis facility permitted under this Chapter or to another cannabis facility licensed or permitted by a jurisdiction outside the City.

B. Cannabis facilities that may be permitted under this Chapter include “medical cannabis dispensaries”, “cannabis cultivation facilities”, “cannabis manufacturing facilities”, “cannabis testing facilities”, and “cannabis distribution facilities”.

C. A “medical cannabis dispensary” is a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale.

D. A “cannabis cultivation facility” is a facility where cannabis is planted, grown, harvested, cloned, dried, cured, graded, or trimmed (or any combination of those activities).

E. A “cannabis manufacturing facility” is a facility where cannabis or cannabis products are produced, prepared, propagated, or compounded, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

F. A “cannabis distribution facility” is a facility used to facilitate the procurement, sale, and transport of cannabis or cannabis products between cannabis facilities.

G. A “cannabis testing center” is a facility that offers or performs tests of cannabis or cannabis products.

H. An “applicant” is the person or persons applying for a permit to operate a cannabis facility issued pursuant to this Chapter and includes:

1. The person seeking a permit to operate a cannabis facility under this Chapter.

2. Any individual (or person) who has any ownership interest, financial interest (including a security interest, lien, or encumbrance) in the person seeking to operate a cannabis facility or its operation under this Chapter.

3. Any individual (or person) who has the power to direct, or cause to be directed, the management or control of the person seeking to operate a cannabis facility under this Chapter.

I. A “manager” means any individual to whom a cannabis facility has delegated discretionary powers to organize, direct, carry on, or control its operations.

#### **5.42.030 Definitions.**

Words and phrases not specifically defined in this Code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 (codified as Section 11362.5 of the Health and Safety Code);

B. The Medical Cannabis Program Act (codified as Sections 11362.7 through 11362.83 of the Health and Safety Code );

C. The California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (August 2008); and

D. The Medical Cannabis Regulation and Safety Act as enacted by Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, subsequently amended by Assembly Bill 26, Senate Bill 837, Assembly Bill 2516, and Assembly Bill 2679, and as may be amended from time to time.

**5.42.040 City Council Review and Approval.**

A. The issuance or renewal of a regulatory permit as required by this Chapter shall be subject to the prior review and approval by the City Council.

B. In addition to the requirements set forth in this Chapter, as a condition of issuance or renewal of a regulatory permit as required by this Chapter, the City Council may impose such additional terms and conditions on the issuance or renewal of the regulatory permit and the operation of the facility as the City Council deems appropriate.

C. The development agreement and operations plan required by this Chapter and the design and layout of a cannabis facility authorized under this Chapter, shall be subject to the review and approval of the City Council prior to the issuance or renewal of a regulatory permit under this Chapter.

D. If the City Manager or designee revokes a regulatory permit as allowed by this Chapter, as soon thereafter as is reasonable under the circumstances, the City Council shall be informed of such revocation and the City Council shall review and approve such revocation. If the City Council does not approve the revocation, the City Manager or designee shall reinstate such regulatory permit upon such additional terms and conditions as the City Council deems appropriate.

E. Any permit contemplated or required in herein Chapter, despite provisions in Section 17.02.060 to the contrary, will be entirely within jurisdiction of City Council.

**5.42.050 Regulatory Permit Required.**

A. It shall be unlawful for any person to operate a cannabis facility or Medical Dispensary without a regulatory permit from the City Council or designee under the terms and conditions set forth in this Chapter.

B. Each regulatory permit shall expire one year from its date of issuance. The date of issuance may be effective upon an applicant obtaining a certificate of occupancy in the event of new construction for a licensee under this Chapter, at the discretion of the City. Renewal of regulatory permits shall be as provided for in Section 5.42.120.

C. Regulatory permits are not transferrable and any attempt to assign or transfer such permits shall render the permit null and void.

D. The City may only permit two medical cannabis dispensaries. The number of cannabis facilities permitted in the City may be limited or restricted by resolution of the City Council.

E. If the number of each type of cannabis facility permitted in the City is limited, applications for the required regulatory permit may be submitted during those applications periods as may be designated from time to time by the City Council or designee. Each application submitted and deemed complete by the City during the application period will be evaluated for priority for processing based on certain criteria set forth in a point system approved by the City Council. It is permissible for the point system to provide additional point values to City residents. All applications so evaluated and scored will be ranked from the most to the least points. Applications for any available regulatory permit will be processed based on this ranking. Once all available regulatory permits have been issued, the remaining applicants will be placed on a wait list, ranked from the most to the least points.

F. The legal representative shall file an application for a regulatory permit with the City Manager or designee upon forms provided by the City and shall pay an “application fee” and a “processing fee” as required by this Chapter and as established by resolution adopted by the City Council as amended from time to time. A separate application shall be made for each type of cannabis facility, (i.e., dispensary, cultivation, manufacturing, testing, distributing and transporting facility,) for each license classification specified in Sections 19300.7 and 19332(g) of the Business and Professions Code; and for each location at which a cannabis facility will operate. An application for a regulatory permit for each type of cannabis facility or Medical Dispensary shall include, but shall not be limited to, the following information:

1. The legal name, and any other names, under which the cannabis facility will operate.
2. The address of the location and the on-site telephone number, if known, of the cannabis facility.
3. The following information for each applicant and manager of the cannabis facility:
  - a. Complete legal name and any alias(es), address, and telephone number;
  - b. Date and place of birth;
  - c. Copy of a valid California government issued photo identification card or license;

d. If required for Medical Dispensary, copy of the owner's and manager's medical cannabis identification card or copy of the attending physician's recommendation for each owner and manager;

e. A list of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the conviction(s) and, the circumstances thereof;

f. One set of fingerprints in a form acceptable to the Chief of Police;

g. A detailed explanation of the applicant's or the manager's involvement with any other cannabis facility (including cannabis facilities located outside of the City), including, but not limited to, the name and address of the cannabis facility; the capacity in which the applicant or the manager is or was involved with the cannabis facility; whether the cannabis facility is or was the subject of any criminal investigation or prosecution, civil investigation, administrative action or civil lawsuit; whether the applicant or the manager or the cannabis facility with which the applicant or the manager is or was associated has ever been denied, or is in the process of being denied registration, a permit, a license or any other authorization required to operate a cannabis facility in any other city, county, or state; and whether the applicant or the manager or the cannabis facility with which the applicant and the manager is or was associated has ever had a registration, license, permit or any other authorization required to operate a cannabis facility in any other city, county, or state, suspended or revoked, and the reasons therefore; and

h. A detailed explanation of the applicant's or the manager's involvement with any other retail business in the City, including, but not limited to, the name and address of such business; the type of business; the capacity in which the applicant or the manager is or was involved with the business; whether the business is or was the subject of any criminal investigation or prosecution, civil investigation, administrative action or civil lawsuit; whether an owner or manager of the business with which the applicant or the manager is or was associated has ever been denied, or is in the process of being denied registration, a permit, a license or any other authorization required to operate a business requiring licensing through the State in any other City, County, or State; and whether an applicant or a manager of the business with which the applicant or the manager is or was associated has ever had a registration, license, permit or any other authorization required to operate a business that requires a license in the State, or any other City, County, or State, suspended or revoked, and the reasons therefore.

4. An operations plan which shall be in conformance with the requirements of this Chapter and shall include, at a minimum:
  - a. A list of the names, addresses, telephone numbers, and responsibilities of each applicant and manager of the cannabis facility.
  - b. The hours and days of operation for the cannabis facility.
  - c. For medical cannabis dispensary applications only, whether the medical cannabis dispensary will engage in the delivery of medical cannabis or medical cannabis products and the extent of such delivery.
  - d. A site plan and floor plan of the facility denoting the layout of all areas of the cannabis facility, including, as applicable, storage, cultivation, reception/waiting, medical dispensing, manufacturing, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.
  - e. A security plan, including lighting, alarms, fencing, and video cameras, to ensure the safety of persons, and to protect the premises from theft, vandalism, and fire. The security plan shall address both interior and exterior areas of the facility and its premises.
  - f. The cannabis cultivation and manufacturing procedures to be utilized at the facility, including, as applicable, a description of how chemicals and fertilizers will be stored, handled, and used; extraction and infusion methods; the transportation process; inventory procedures; track and trace program and procedures; quality control procedures; and testing procedures.
  - g. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess cannabis or cannabis products.
  - h. Procedures for inventory control to prevent diversion of cannabis or cannabis products to non-medical use, employee screening, storage of medical cannabis, personnel policies, and recordkeeping procedures. All cannabis, cannabis goods and cannabis products shall be clearly identified with "A" for Adult Use or "M" for Medical.
  - i. An odor management plan detailing the reasonable steps that will be taken by facility to ensure that the odor of cannabis and other physical impacts on neighboring properties will be minimized.
  - j. Policies and procedures for adopting, monitoring, implementing, and enforcing all requirements of this Chapter.

5. The cannabis facility's seller's permit number or indication that the cannabis facility is currently applying for a seller's permit.
6. The name and address of the owner and lessor of the premises and a copy of the lease or other such proof of the legal right to occupy and use the premises and a statement from the owner or agent of the owner of the real property where the facility will be located demonstrating the landowner has acknowledged and consented to permit medical dispensary, cultivation, distribution, testing or manufacturing activities to be conducted on the property by the cannabis facility.
7. The name and account number of all savings accounts, checking accounts, investment accounts, and trusts associated with the operation of the cannabis facility.
8. A map with a minimum scale of 1"=75' showing streets names, lot boundaries, sensitive uses, and uses on properties adjacent to the cannabis facility.
9. Authorization for the City Manager or designee to seek verification of the information contained within the application, including, but not limited to, a criminal history investigation by the Chief of Police with the California Department of Justice and any other law enforcement agencies.
10. Until such time as the licensing regulations promulgated under the MAUCRSA are implemented and become operative, or are revised by State Legislature or electors, evidence that the organization, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and includes the plural as well as the singular number, all such entities agree to operate under such terms and conditions outlined in their operations plan as approved.
11. A statement in writing by the applicant that he or she will, to the extent allowed by law, give preference in employee hiring to residents of the City.
12. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is complete, true, and accurate.
13. Any such additional and further information as is deemed necessary by the City Manager or designee to administer this Section or to show that the cannabis facility and its ownership and operation is in compliance with the provisions of this Chapter.

**5.42.060 Background Check.**

Applicants for a regulatory permit for a cannabis facility and Medical Dispensary, every manager of a cannabis facility, and any employee or individual who participates in the dispensing, cultivation, processing, manufacturing, or transporting of cannabis or who participates in the daily operations of the cannabis facility shall be required to submit to a Fingerprint-Based Criminal History Records Check conducted by the City Police Department.

**5.42.070 Grounds for Denial.**

A. The City Council or designee may reject an application upon making any of the following findings:

1. Any applicant made one or more false or misleading statements or omissions on the registration application or during the application process;
2. If applicable, the applicant is not a primary caregiver or qualified patient or the legal representative of the cannabis facility;
3. The applicant fails to meet the requirements of this Chapter or any regulation adopted pursuant to this Chapter;
4. The cannabis facility or its location is in violation of any building, zoning, health, safety, or other provision of this code, or of any state or local law which substantially affects the public health, welfare, safety, or morals, or the facility or its location is not permitted in the proposed area, or the issuing or continuation of a regulatory permit would be contrary to the public health, welfare, safety, or morals;
5. Any applicant, manager, or employee of the cannabis facility is under eighteen (18) years of age;
6. Any applicant has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant is otherwise suitable to be issued a permit and granting the permit would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

- a. A felony conviction for the illegal possession for sale, manufacture, transportation, or cultivation of a controlled substance.
  - b. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
  - c. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
  - d. A felony conviction involving fraud, deceit, or embezzlement;
7. Any applicant or manager of the medical cannabis facility is a licensed physician making patient recommendations for medical cannabis;
  8. Any applicant or manager has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed operation of a medical cannabis facility or has had a license revoked under this Chapter in the three years immediately preceding the date the application is filed with the licensing authority.
  9. The applicant did not pay to the City the required application and processing fees as set forth in Section 5.42.080.

B. The City Council or designee may place reasonable conditions upon registration if grounds exist for denial of the registration and those grounds may be removed by the imposition of those conditions.

#### **5.42.080 Fees and Charges.**

- A. Prior to operating in the City, the cannabis facility shall timely and fully pay all fees associated with the registration and operation of the facility. The fees shall be as set forth in the schedule of fees and charges established by resolution of the City Council, including, but not limited to the following:
  - B. "Application fee" for accepting a registration application; due and payable in full at the time a registration application is submitted;
  - C. "Processing fee" for the cost to the City of processing a registration application and reviewing, investigating, and scoring each application in accordance with the point system to determine eligibility for issuance of a regulatory permit; due and payable in full at the time a registration application is submitted;
  - D. "Permit issuance fee" for the cost to the City for preparing a development agreement, City Council review and approval of the development agreement and the regulatory permit, and preparation and issuance of the regulatory permit as authorized by the City Council, due and payable in full, at the time the City issues a regulatory permit;

E. “Annual operating fee” for the cost to the City of administering and enforcing this Chapter, due and payable in four (4) equal quarterly installments commencing at the time the City issues a regulatory permit, and due thereafter every ninety (90) days;

F. “Amended registration fee” for the cost to the City of reviewing amendments or changes to the registration form previously filed on behalf of the cannabis facility; due and payable in full at the time amendments or changes to a registration form are submitted to the City;

G. “Regulatory permit renewal fee” for the cost to the City of processing an application to renew a regulatory permit; due and payable in full, at the time application is made to renew a regulatory permit; and

H. Any fees for inspection or investigation that are not included within the other fees associated with registration; due and payable in full, upon request of the City.

#### **5.42.090 Cannabis Use Permits/Development Agreement.**

Prior to operating in the City and as a condition of issuance of a regulatory permit, each cannabis facility shall enter into a development agreement with the City setting forth the terms and conditions under which the cannabis facility will operate that are in addition to the requirements of this Chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare.

#### **5.42.100 Cessation of Operations.**

In the event a medical cannabis dispensary receives a regulatory permit ceases to operate for any reason, the City Council or designee shall consider the next qualified applicant on the waiting list and, at the discretion of the City Council or designee, provide an opportunity for new applicants to be considered for a permit.

#### **5.42.110 Change in Location; Updated Registration Form.**

A. Any time the location specified in the regulatory permit is changed, the cannabis facility shall re-apply with the City Manager or designee. The process and the fees for re-application shall be the same as the process and fees set forth for registration in Sections 5.42.050 and 5.42.080.

B. Within fifteen calendar days of any other change in the information provided in the registration form or any change in status of compliance with the provisions of this Chapter, including any change in the cannabis facility’s ownership or management, the cannabis facility shall file an updated registration form with the City Manager or designee for review along with a registration amendment fee, as set forth in Section 5.42.080.

**5.42.120 Renewal or Revocation of Regulatory Permit.**

- A. No regulatory permit issued under this Chapter may be renewed unless:
1. A new registration form has been filed with the City Manager or designee as set forth in Section 5.42.050 a minimum of sixty (60) days prior to the expiration date of the regulatory permit;
  2. The annual renewal registration fee, as set forth in Section 5.42.080 of this Chapter, has been paid to the City; and
  3. The cannabis facility and its owners and managers all meet the requirements of this Chapter for registration.
- B. The City Council or designee may elect not to renew a regulatory permit issued under this Chapter if:
1. The cannabis facility and its applicants or managers have not complied at all times with all the requirements for registration as set forth in this Chapter;
  2. Any of the conditions or circumstances of Sections 5.42.070.A or 5.42.260.D, singularly or in combination, of this Chapter have occurred; or
  3. The City Council or designee is aware of any other facts or circumstances, which indicate that renewal of the regulatory permit will be detrimental to the health, safety, or welfare of the residents of the City.
- C. The City Council or designee may revoke a regulatory permit issued under this Chapter, upon such notice as deemed appropriate by the City Council or designee, if:
1. The cannabis facility and its applicants or managers have not complied at all times with all the requirements for registration as set forth in this Chapter;
  2. Any of the conditions or circumstances of Sections 5.42.070.A or 5.42.260.D, singularly or in combination, of this Chapter have occurred; or
  3. The City Council or designee is aware of any other facts or circumstances, which indicate that continued operation of the cannabis facility will be detrimental to the health, safety, or welfare of the residents of the City.

**5.42.130 Limitations on City's Liability.**

- A. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any regulatory permit pursuant to this Chapter or the operation of any cannabis facility or Medical Dispensary approved pursuant to this Chapter.

B. As a condition of approval of a regulatory permit as provided in this Chapter, the applicants of the cannabis facility shall:

1. Execute an agreement indemnifying the City from any claims, damages, injuries, or liabilities of any kind associated with the registration or operation of the medical cannabis Dispensary or Cannabis Facilities or the prosecution of the facilities, its applicants, managers, or employees, or its qualified patients or primary caregivers for violation of federal or State laws;
2. Maintain insurance in the amounts and of the types that are acceptable to the City Council or designee;
3. Name the City as an additionally insured on all City required insurance policies;
4. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a regulatory permit; and
5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a regulatory permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

**5.42.140 Additional Terms and Conditions.**

Based on the information set forth in the application, the City Council or designee may impose reasonable terms and conditions on the proposed operations of the cannabis facility in addition to those specified in this Chapter.

**5.42.150 Signage.**

Notwithstanding Chapter 17.20 of this Code, exterior signage for the facility shall be limited to one exterior building sign not to exceed fifteen square feet in area, and door and/or window signage not to exceed ten square feet in area; such signs shall not be directly illuminated. Signage shall otherwise be reviewed and approved by the City in accordance with Chapter 17.20.

**5.42.160 Cultivation, Medical Dispensary, Manufacturing, Distribution, Transportation, and Testing Locations.**

A. A medical cannabis dispensary may be located in the North Gateway, Airport Support, Industrial Business Park and Light Industrial zoning districts..

B. A cannabis cultivation facility may be located in the North Gateway, Industrial Business Park, Light Industrial, Airport Support and West Gateway zoning districts.

C. A cannabis manufacturing facility may be located in the North Gateway, Industrial Business Park, Light Industrial, Airport Support and West Gateway zoning districts.

D. A cannabis testing facility may be located in the North Gateway, Industrial Business Park, Light Industrial, Airport Support and West Gateway zoning districts.

E. A cannabis distribution facility may be located in the North Gateway, Industrial Business Park, Light Industrial, Airport Support and West Gateway zoning districts.

F. All cannabis facilities shall be setback a minimum of 600 feet from, a school, measured in a straight and direct horizontal line from the parcel boundary line of the cannabis facility to the parcel boundary line of the school. For the purposes of this Section, "school" means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

G. All cannabis facilities shall be additionally setback a minimum of 150 feet from a conforming residential use, a conforming religious institution or a licensed rehabilitation facility, measured in a straight and direct horizontal line from the closest exterior wall of the cannabis facility to the closest exterior wall of the conforming residential use or religious institution. For the purposes of this Section, "religious institution" means a building which is used primarily for religious assembly and related religious activities where members of the public congregate on a regular basis and the owner or occupant possesses a Certificate of Occupancy to operate said use. In the event that a residential use or a religious institution locates within 150 feet of a cannabis facility after the cannabis dispensary was originally permitted to operate pursuant to this Chapter, the cannabis facility shall be an allowable nonconforming use.

H. All cannabis cultivation shall be conducted only in the interior of an indoor structure and all cultivation operations including all cannabis plants at any stage of growth shall not be visible from the exterior of any structure, facility, or building containing the cultivation of cannabis. Greenhouse cultivation will not be considered visible, if reasonable steps are taken to screen, shield, darken, obscure, or rendered opaque to view the cannabis.

1. For the purposes of this Section, "indoor structure" means a building, greenhouse, or other structure (or space within a building, greenhouse, or other structure) that (i) has an improved and permanent foundation spanning the entire surface underlying the building, greenhouse, or other structure, (ii) has a complete roof enclosure supported by connecting hard sided walls extending from an improved and permanent foundation to the roof, (iii) is secure against unauthorized entry, (iv) provides complete visual screening, (v) complies with all odor control and other design standards required by this Chapter (including any

regulations adopted pursuant to this Chapter), (vi) is accessible only through one or more lockable doors, and (vii) is inaccessible to minors.

I. Designation of zoning districts does not give owner or lessor of real property any rights to operate under this Chapter, or provide that any permit applied for under this Chapter shall be allowed. The City shall consider the existing surrounding uses in analyzing impacts of facility, and can deny use in any zoning district if the City feels impacts on existing conforming uses are unreasonable. The Chapter herein is intended to allow for activities and uses that are unique and whose effect on the surrounding environment cannot be determined prior to being proposed for a particular location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing it to established development standards and individual aspects of application.

J. The permit for a cannabis facility shall apply to a single premise only. At the discretion of the City Council or designee, multiple buildings on the same or adjacent site may be considered on a single location.

#### **5.42.170 Dispensing of Medical Cannabis.**

A. Only medical cannabis dispensaries may engage in the retail sale or transfer of medical cannabis or medical cannabis products to qualified patients and primary caregivers for consumption.

B. Medical cannabis dispensaries may only sell or transfer medical cannabis or medical cannabis products to qualified patients and primary caregivers.

C. Medical cannabis sales, transfers, dispensing, or distribution to qualified patients and primary caregivers shall only occur inside the premises of the medical cannabis dispensary. The foregoing notwithstanding, a medical cannabis dispensary may engage in the delivery of medical cannabis or medical cannabis products as provided for in Section 5.42.180.

D. No cannabis sale, transfer, dispensing, or distribution of any kind shall be made to an individual under the age of eighteen (18), and no such individual shall be allowed in any cannabis facility, unless the individual is a qualified patient and accompanied by his or her licensed attending physician, parent, or documented legal guardian.

E. No medical cannabis provided to a primary caregiver may be provided by the primary caregiver to any person other than the primary caregiver's qualified patient for whose care the primary caregiver is responsible.

F. No medical cannabis or medical cannabis products shall be provided to any qualified patient or primary caregiver more than once per day.

**5.42.180 Delivery of Medical Cannabis.**

A. "Delivery" means the retail sale or transfer of medical cannabis or medical cannabis products to a qualified patient or primary caregiver using a motor vehicle other than a "motorcycle" as that term is defined in Division 1, of the Vehicle Code.

B. A permitted medical cannabis dispensary may engage in the delivery of medical cannabis or medical cannabis products subject to the requirements of Section 19340 of the Business and Professions Code and any regulations promulgated pursuant to this Chapter.

C. Any person engaging in the delivery of medical cannabis or medical cannabis products with a vehicle originating from outside the City shall:

1. Be licensed or permitted by the jurisdiction from which the vehicle originates;
2. Obtain a City Business license under Title 5 of this Code; and
3. Comply with the requirements of Section 19340 of the Business and Professions Code and any regulations promulgated pursuant to this Chapter.

D. The delivery of medical cannabis or medical cannabis products shall only be during the normal operating hours of the medical cannabis dispensary during which it is open to qualified patients and primary caregivers; or if a delivery only dispensary, the operating hours in permit or license.

E. A list of the names and cellular telephone contact numbers for all individuals delivering medical cannabis or medical cannabis products shall be provided to the City Police Department. Such list shall at all times be kept current and up to date.

**5.42.190 Packaging of All Cannabis.**

A. Prior to retail sale or transfer to qualified patients or primary caregivers, medical cannabis and medical cannabis products shall be packaged and labeled as required by Section 19347 of the Business and Professions Code and applicable requirements and regulations issued by the State pursuant thereto. In addition to those packaging and labeling requirements, all cannabis and cannabis products shall be packaged in an opaque childproof container which shall contain a label or be accompanied by a leaflet or insert that states:

1. The complete legal name of the qualified patient who will be using the medical cannabis or medical cannabis products;
2. The name, address, and telephone number of the medical cannabis dispensary;

3. The amount of medical cannabis or medical cannabis products in the container; and

4. The date the medical cannabis or medical cannabis products was provided to the qualifying patient or primary caregiver.

B. If edible medical cannabis products are present on site or offered for sale or transfer at a medical cannabis dispensary, the medical cannabis dispensary facility shall first secure any approval from the County of San Benito Health Department required for handling food products.

C. Edible products distributed or sold by any medical cannabis facility shall not be produced, manufactured, stored, or packaged in private homes.

D. All edible medical cannabis products shall be individually wrapped at the original point of preparation.

E. All other labeling and packaging requirements shall conform with the California Department of Public Health "Labeling and Packaging Requirements" Subchapter 5 of California Code of Regulations, Title 17

F. Division 1 Chapter 13. Manufactured Cannabis Safety as may be modified from time to time.

#### **5.42.200 Cannabis Facility Operations.**

A. Cash and in-kind contributions, reimbursements, and reasonable compensation for the growth, cultivation, and provision of cannabis shall be allowed; provided that they are in strict compliance with State law. All such cash and in-kind amounts and items shall be fully documented in accordance with Section 5.42.220.

B. Medical cannabis dispensaries may only be open to qualified patients and primary caregivers between the hours of 7:00 a.m. and 9:00 p.m. and may operate as many as seven days per week. Medical cannabis facilities shall not otherwise be open to the public.

C. The sale, dispensing, or consumption of alcoholic beverages on or about the cannabis facility or in the parking area for the facility is prohibited.

D. The consumption of cannabis or cannabis products shall only be allowed inside a private residence. Any consumption of cannabis or cannabis products on or about the cannabis facility or in the parking area for the facility is strictly prohibited.

E. Facility operator will report any loitering within one hundred feet of the premises. The loitering by persons outside the facility, either on the premises or within one hundred feet of the premises, is prohibited.

F. Qualified patients and primary caregivers purchasing or otherwise receiving medical cannabis from a medical cannabis dispensary shall sign an agreement with the facility that states that the person purchasing or otherwise receiving medical cannabis shall not sell, transfer, or otherwise distribute medical cannabis to any person other than a qualified patient or primary caregiver and shall not use medical cannabis for other than medicinal purposes.

G. The cannabis facility shall not sell, transfer, or otherwise distribute cannabis to any person violating any provision of this Chapter.

H. A copy of the regulatory permit issued by the City and any licenses or certifications issued by the State, and any conditions thereof, shall be posted on the premises in a prominent place, readily viewable by any member of the general public.

I. Consistent with the "Memorandum for all United States Attorneys," issued by the U. S. Department of Justice, from James M. Cole, Deputy Attorney General (known as the "Cole Memo"), the medical cannabis facility shall take all necessary and reasonable steps to prevent:

1. The distribution of cannabis to minors;
2. Revenue from the sale or distribution of cannabis from going to criminal enterprises, gangs and cartels;
3. The diversion of cannabis from California to any other state;
4. State-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
5. Violence and the use of firearms in the cultivation, manufacture, and distribution of cannabis;
6. Drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use;
7. Growing of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands; and
8. Preventing cannabis possession or use on federal property.

Any violation of this provision shall result in the immediate suspension of any permit authorized under this Chapter, and pending investigation and a hearing, shall result in revocation of the permit at the election of the City Manager or designee.

**5.42.210 Public Health and Safety.**

A. Each cannabis facility shall operate in a reasonable manner such that the effects on the health or safety of nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts cultivation, manufacture, medical dispensing, delivery, or transporting of cannabis or cannabis products are minimized.

B. The cultivation, manufacture, medical dispensing, delivery, and transporting of cannabis or cannabis products shall not create hazards due to the use or storage of materials, processes, products, chemicals, fertilizers, or wastes.

C. The interior and exterior of the cannabis facility, including driveways, sidewalks, parking strips, fire access roads and streets on or adjacent to the premises shall be kept in a clean and safe condition.

D. Exterior lighting on the premises and location shall ensure the safety of the public and the members and employees of the facility while not disturbing surrounding residential or commercial areas.

**5.42.220 Records.**

A. Cannabis facilities shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis products throughout the distribution chain until purchase by or distributed to a qualified patient or primary caregiver. The inventory control and reporting system shall comply with the track and trace program required by Section 19335 of the Business and Professions Code and regulations issued pursuant thereto.

B. Medical cannabis facilities shall have an electronic point of sale system that produces historical transactional data for review by the City Manager or designee for compliance and auditing purposes.

C. Each cannabis facility shall maintain at the premises all records and documents required by this Chapter and all the information and records listed below and as otherwise required by applicable State law or regulation:

1. The name, address, and telephone number(s) of the owner, landlord and/or lessee of the location;

2. The following information concerning each qualified patient or primary caregiver to whom medical cannabis is dispensed through a permitted medical cannabis dispensary:

a. Name, address, telephone number, and a confidential member number unique to that individual which is used solely for the log identified in Subsection C.9. below;

- b. A copy of a valid government issued photo identification card or license; and
  - c. A copy of the qualified patient's identification card or the attending physician's recommendation for the patient.
- 3. The name, address, and telephone number of each primary caregiver to whom medical cannabis is dispensed through a permitted medical cannabis dispensary, along with a copy of the written documentation provided by each qualified patient designating the caregiver as his or her primary caregiver;
- 4. The name, business address, and telephone number of each attending physician who provided a physician's recommendation to any qualified patient to whom medical cannabis is dispensed through a permitted medical cannabis dispensary;
- 5. The records of all qualified patients with a valid identification card and primary caregivers with a valid identification card may be maintained by the medical cannabis dispensary using only the identification card number issued by the State pursuant to Sections 11362.7 et seq. of the Health and Safety Code, in lieu of the information required by Subsections 5.42.220.C.2.a. through c., C.3, and C.4;
- 6. Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the medical cannabis dispensary or received by the City through its audit, inspection, and compliance enforcement activities authorized pursuant to this Chapter, are confidential and shall not be disclosed pursuant to the California Public Records Act except as necessary for authorized employees of the City to perform official duties pursuant to this Chapter or as otherwise required by law.
- 7. Up-to-date information for all savings accounts, checking accounts, investment accounts and trusts associated with the operation of the cannabis facility;
- 8. Complete and up-to-date records regarding the amount of cannabis cultivated, produced, manufactured, harvested, stored, or packaged at each cannabis facility;
- 9. Until such time as State regulations are implemented under the track and trace program required by Section 19335 of the Business and Professions Code, complete and up-to-date records regarding cannabis transfers throughout the distribution chain from cultivation, to manufacturing, to its dispensing location, including the date and time of the transfer; the name and address of the cultivation and manufacturing facility and the name and address of the supplier if different from the cultivation or manufacturing facility; the amount, form, type,

batch and lot number of cannabis transferred; the time of departure from the cultivation or manufacturing facility; the time of arrival at the dispensing location; the names of the employees transporting the product; and the name of the employee who received the product at the dispensing location;

10. Complete and up-to-date records documenting each transfer of medical cannabis from the medical cannabis dispensing location to qualified patients and primary caregivers including the amount provided, the form or product category in which the medical cannabis was provided, the date and time provided, the name of the employee making the transfer, the qualified patient or primary caregiver number to whom it was provided, and the amount of any related donation or other monetary transaction;

11. All receipts of the cannabis facility, including but not limited to all contributions and all expenditures incurred by the cannabis facility for the cultivation, manufacture, medical dispensing, transportation, and delivery of cannabis;

12. A copy of the annual audit reports required pursuant to Section 5.42.230;

13. Proof of completed registration with the City Manager or designee in conformance with this Chapter;

14. Records demonstrating compliance with State and federal rules and regulations regarding reporting and taxation of income received; and

15. All cannabis facilities shall perform an inventory on the first business day of each month and shall record the total quantity of each form of cannabis on the premises.

D. All records required by this Section shall be maintained by the cannabis facility for a period of seven years and shall be made available to the City Manager or designee and any City official charged with enforcing the provisions of this code upon request.

#### **5.42.230 Financial Statements.**

No later than sixty (60) days after licensees' close of business year (calendar or fiscal), each cannabis facility shall file with the City Manager a summary of its financial operations for the previous calendar year, completed in accordance with generally accepted auditing and accounting principles. The statement shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the statement shall be made available to the City Manager or designee in standard electronic format as designated by the City Manager or designee.

**5.42.240 Community Relations.**

A. Each cannabis facility shall provide the City Manager or designee with the name, telephone number, and email address of an on-site community relations or staff person or other representative to whom the City can provide notice if there are operating problems associated with the cannabis facility or refer members of the public who may have any concerns or complaints regarding the operation of the cannabis facility. Each cannabis facility shall also provide the above information to all businesses and residences located within a 1000-foot radius of the cannabis facility.

B. During the first year of operation of a cannabis facility authorized under this Chapter, the applicants, managers, and community relations representative from each such cannabis facility shall attend a monthly meeting with the City's Cannabis Committee and/or designee to discuss costs, benefits and other community issues arising as a result of implementation of the cannabis regulatory permit program authorized by this Chapter. After the first year of operation, the applicants, managers, and community relations representative from each such cannabis facility shall meet with the City's Cannabis Committee or designee when and as requested by the City Manager or designee.

**5.42.250 Compliance.**

A. All cannabis facilities shall pay any applicable sales, use, business or other tax, and all license, registration, or other fees pursuant to federal, State, and local law.

B. All cannabis facilities shall fully comply with all the provisions of the Compassionate Use Act of 1996, the Medicinal and Adult-USE Cannabis Regulation and Safety Act ( MAUCRSA) , any subsequently enacted State law or regulatory, licensing, or certification requirement, all applicable provisions of this code, and any specific, additional operating procedures and measures as may be imposed as conditions of approval of the regulatory permit.

C. Nothing in this Chapter shall be construed as authorizing any actions, which violate State or local law with regard to the cultivation, transportation, manufacture, provision, sale, transfer, or distribution of cannabis.

**5.42.260 Inspections and Enforcement.**

A. The City Manager, Police Chief, Finance Director, Fire Chief, Development Services Director, Code Enforcement Officer, or their designees shall have the right to enter all cannabis facilities unannounced during the facility's hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this Chapter, to inspect and copy records required to be maintained under this Chapter, or to inspect, view, and copy recordings made by security cameras, all without requirement of a search warrant, subpoena, or court order.

B. Nothing in this Chapter requires the disclosure of any private medical record or confidential information contained in such medical record.

C. Operation of a cannabis facility in non-compliance with any conditions of approval or the provisions of this Chapter shall constitute a violation of the Municipal Code and shall be enforced pursuant to the provisions of this code.

D. The City Council or designee may summarily suspend or revoke a cannabis regulatory permit, or disqualify an applicant from the registration process, or elect not to renew a regulatory permit if any of the following, singularly or in combination, occur:

1. The City Manager or designee determines that the cannabis facility has failed to comply with any requirement of this Chapter or any condition of approval or a circumstance or situation has been created that would have permitted the City Manager or designee to deny the regulatory permit under Section 5.42.060 or elect not to renew or revoke the regulatory permit under Section 5.42.120;
2. The cannabis facility has conducted itself or is being conducted in a manner that creates or results in a public nuisance;
3. The cannabis facility ceased operations for more than 90 calendar days, including during change of ownership proceedings;
4. Ownership is changed without the new owners applying for and securing a regulatory permit under this Chapter;
5. The cannabis facility relocates to a different location or premises; and
6. The cannabis facility fails to allow inspection and/or copying of the security recordings, the activity logs and records required under this Chapter, or the premise by authorized City officials.

#### **5.42.265 Non-Medical Use-Personal Use Exception**

A. In compliance with Proposition 64 (also known as the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”)), not more than six (6) living cannabis plants may be planted, cultivated, harvested, dried, or processed by a person over the age of twenty one (21) inside a private residence, or inside an accessory building to a private residence that is fully enclosed and secure, and located upon the same parcel as the private residence, as an incidental use to the primary private residential use, provided that cannabis in excess of 28.5 grams produced by plants kept for indoor personal cultivation under this Part must be stored in a locked space on the grounds of the private residence not visible from the public right-of-way.

**5.42.270 Appeals.**

Any decision regarding or pertaining to the regulatory permit process set forth in this Chapter, or any action taken by the City Manager or designee pursuant hereto, may be appealed to the City Council. Such appeal shall be taken by filing with the City Clerk, within ten (10) days after notice of the action or decision complained of has been issued, a written statement setting forth the grounds for the appeal. The City Clerk shall transmit the written statement to the City Council and at its next regular meeting the council shall set a time and place for a hearing on the appeal. Notice of the time and place of such hearing shall be mailed to the appellant. The decision of the City Council on such appeal shall be final and binding on all parties concerned.

**5.42.280 Violations.**

A. Any violation of any of the provisions of this Chapter is unlawful and a public nuisance.

B. Any violation of any of the provisions of this Chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

C. In lieu of issuing a misdemeanor citation, the City may issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars (\$1,000.00) for each violation of this Ordinance.

D. A separate offense occurs for each day any violation of this Chapter is continued and/or maintained.

E. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the City may pursue any proceedings or remedies otherwise provided by law.

**5.42.290 Implementation Procedures.**

A. The City Council or designee shall amend written regulations governing the implementation of the cannabis facility regulatory permit process authorized by this Chapter. Such written regulations shall be approved by the City Council before they shall become effective. The City Council may impose such conditions of approval as it deems appropriate.

B. Applications for a regulatory permit authorized by this Chapter shall not be accepted by the City Manager or designee, nor a regulatory permit issued, until the written implementing regulations required under this Section have been approved by the City Council for the type of cannabis facility permit for which application is sought.

C. The City Manager or designee may develop written regulations governing the conduct of the cannabis facilities and the delivery of cannabis or cannabis products. The City Council shall approve regulations for one or several types of permits and the regulations for each type of permit shall operate independently of and not be dependent on the approval of regulations for any other type of permit authorized by this Chapter.

**Section 3. SEVERABILITY**

The City Council declares that, should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

**Section 4. EXECUTION AND CERTIFICATION**

The City Clerk is directed to do all things necessary to cause the execution of this Ordinance immediately upon its adoption and shall thereafter certify to the passage of this Ordinance and cause the same to be published and posted according to law.

**Section 5. EFFECTIVE DATE**

Pursuant to Section 36937 of the California Government Code, this Ordinance shall take effect thirty (30) days after its final passage and adoption by the City Council.

**INTRODUCED** at a regular meeting of the City Council of the City of Hollister held on the 5th day of February, 2018.

**PASSED AND ADOPTED**, by the City Council of the City of Hollister at a regular meeting held this 20th day of February, 2018, by the following vote:

AYES: Council Member Gillio, Friend, Klauer and Vice Mayor Solorio Luna.

NOES: None.

ABSTAINED: None.

ABSENT: Mayor Velazquez.

/s/ Ignacio Velazquez, Mayor

ATTEST:

APPROVED AS TO FORM:

JRG, Attorneys at Law

/s/ Christine Black, MMC, City Clerk

/s/ E. Soren Diaz, City Attorney