

**Extension of Urgency Ordinance to Establish Temporary Cannabis Regulations
In the City of Sebastopol**

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1. Findings.

WHEREAS, in 1996, voters adopted Proposition 215, entitled the Compassionate Use Act Of 1996 (“CUA”), which allowed for the use of cannabis for medicinal purposes by qualified patients and for caregivers to provide medical cannabis and receive reimbursement for their costs; and

WHEREAS, Health and Safety Code section 11362.7 et seq., the Medical Marijuana Program Act (“MMPA”), was adopted by the state legislature and offers some clarification on the scope of the CUA, and section 11362.83, and specifically authorizes cities and other governing bodies to adopt and enforce rules and regulations related to medical marijuana; and

WHEREAS, the Medical Marijuana Regulation and Safety Act (“MCRSA,” (Business and Professions Code section 19300 et seq.)) was adopted by the Legislature in 2015, and regulates the commercial activity of medical marijuana, and assigns certain state agencies with regulatory tasks regarding commercial medical marijuana, including product labeling and environmental regulation; and

WHEREAS, MCRSA created a comprehensive framework for the regulation of medical cannabis and replaced the collective/cooperative model with a dual commercial licensing scheme at the local and state levels; and

WHEREAS, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA” or “Proposition 64”) to legalize the recreational use of marijuana in California for individuals 21 years of age and older was approved by the voters and became effective November 9, 2016; and

WHEREAS, the California Legislature passed Senate Bill 94 in June 2017, which was signed by the Governor and went into effect immediately, and which repealed MCRSA entirely and merged certain portions of that law with AUMA to create a more comprehensive regulatory structure for both medical and recreational marijuana; and

WHEREAS, the new comprehensive regulatory system created by Senate Bill 94, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, MAUCRSA also authorizes the personal cultivation of up to six (6) cannabis plants in a private residence for nonmedical purposes by individuals 21 years of age and older; and

WHEREAS, pursuant to MAUCRSA, the City can enact reasonable regulations for the personal cultivation of nonmedical cannabis that occurs inside a residence or accessory structure, and may at its option, prohibit outdoor nonmedical cannabis cultivation until such time as the California Attorney General determines that the nonmedical use of cannabis is lawful in California under federal law; and

WHEREAS, it is the City’s intention that nothing in this ordinance shall be deemed to conflict with Federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 841, to otherwise permit any activity that is lawfully and constitutionally prohibited under that Act; and

WHEREAS, the City has previously enacted Municipal Code allowances for medical cannabis dispensaries and collectives, and for personal growing by qualified patients and caregivers, and wishes to update those allowances pursuant to changes in State law; and

WHEREAS, it is the City’s intention that nothing in this Ordinance shall be construed to

- (1) allow persons to engage in conduct that endangers others or causes a public nuisance; or
- (2) allow any activity relating to the cultivation, processing, distribution, or consumption of cannabis that is otherwise illegal; and

WHEREAS, this Ordinance is compatible with the general objectives of the General Plan and any applicable specific plan, in that cannabis uses would be appropriately regulated in both residential and non-residential districts, and would be treated similarly to other comparable permitted and conditionally permitted uses, and will be subject to strict review and conditions; and

WHEREAS, this Ordinance is compatible with the public convenience, general welfare and good land use practice, in that cannabis uses address medical and non-medical needs that have been expressed by the voters of the State of California, and will be subject to rigorous review and conditions; and

WHEREAS, this Ordinance will not be detrimental to the public health, safety and general welfare, in that uses will be subject to careful review, that because of the small area and population of Sebastopol, lack of experience with this use, and potential for adverse effects,

some uses would be limited in number, be appropriately controlled, and uses would be subject to strict operating requirements, limiting potential negative effects; and

WHEREAS, this Ordinance will not adversely affect the orderly development of property, in that there would be appropriate controls on cannabis uses, there would be limits on the number of retail cannabis uses, and uses would be subject to a careful review process, and strict operating requirements would be imposed; and

WHEREAS, to address concerns regarding pricing, service, innovation, variety and quality, the Council finds that a limit on single ownership of retail cannabis establishments within the City of Sebastopol is appropriate; and

WHEREAS, the California Environmental Quality Act ("CEQA"), together with the State CEQA Guidelines and City environmental regulations, require that certain projects be reviewed for environmental impacts and that environmental documents be prepared that address potential environmental impacts; and

WHEREAS, the CUA, MMPA, and MAUCRSA do not prevent a city from using its constitutional authority to enact nuisance, health and safety, and land use regulations regarding cannabis cultivation, dispensaries or other commercial cannabis uses; and

WHEREAS, the City Council desires to regulate authorized commercial cannabis businesses operating in the City of Sebastopol in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan; and

WHEREAS, the City of Sebastopol Cannabis Urgency Ordinance contains standards for authorized commercial cannabis uses that provides the development, operating, and permit standards for all commercial cannabis uses to ensure neighborhood compatibility, minimize potential environmental impacts, mitigate potential nuisances, provide safe access to cannabis and provide opportunities for economic development; and

WHEREAS, the City of Sebastopol, in response to changing State law and regulations, has been diligently working on updating its cannabis regulations; and

WHEREAS, on September 5, 2017 the City Council adopted a Resolution of Intention, directing the Planning Commission to develop recommended Cannabis ordinance provisions to reflect changes in State law; and

WHEREAS, on September 26, 2017 the Planning Commission conducted a preliminary discussion of Cannabis ordinance update issues, including providing opportunity for public input, and provided preliminary direction for formulation of ordinance provisions; and

WHEREAS, on November 12, 2017, a preliminary draft of a comprehensive Cannabis ordinance was transmitted to the Planning Commission to provide an early opportunity for Commission and public review; and

WHEREAS, on November 28, 2017, the Planning Commission held a properly noticed public hearing on the draft ordinance, at which time all interested parties had the opportunity to be heard; and

WHEREAS, in addition to making progress on formulation of permanent regulations, the Planning Commission was concerned about issues of local pre-emption, and potential adverse effects on medical cannabis patients related to new State regulations activating on January 1, 2018, and given these concerns, the Commission made a recommendation to the City Council to consider adoption of an urgency ordinance to ensure that appropriate cannabis regulations were in place as of January 1, 2018; and

WHEREAS, while the City has made significant progress in formulation of permanent regulations, additional Planning Commission and City Council review is needed, and the City anticipates that it will be a number of months before the permanent ordinance is adopted and in effect, so temporary regulations are needed; and

WHEREAS, while the State is moving forward with regulations to address the numerous new cannabis business categories, the State has recently amended cannabis laws, and has been slow releasing official regulations, which has left many local municipalities uncertain on how to proceed with their own local regulations and has constrained time available to review and respond to State regulations with appropriate local regulations; and

WHEREAS, there is a concern about local pre-exemption. The California League of Cities has advised cities to enact appropriate local laws as soon as reasonably feasible. If a City or local jurisdiction has no ordinance enacted addressing the potential cannabis licensed activity, it is possible that the state can issue a license for a business in said jurisdiction, which may or may not be in accord with the desires of local jurisdictions. This is a significant concern in that Sebastopol wishes to tailor cannabis regulations to fit the local community; and

WHEREAS, on November 16, 2017, California's three state cannabis licensing authorities (the Department of Food and Agriculture's CalCannabis Cultivation Licensing program, the Department of Consumer Affairs' Bureau of Cannabis Control, and the Department of Public Health's Manufactured Cannabis Safety Branch) publicly noticed proposed emergency regulations for commercial medicinal and adult-use cannabis. These proposed emergency regulation packages show that the State considers the implementation of regulations for January 2018 to be an urgent issue; and

WHEREAS, an urgency ordinance provide the opportunity to ensure that appropriate regulations are in place, but also allows the City to gain experience with these uses and based on that experience, ensure that the permanent ordinance has appropriate provisions that may vary from the urgency ordinance; and

WHEREAS, the Environmental Coordinator has determined that the urgency Ordinance is categorically exempt from the California Environmental Quality Act (CEQA), Class 5, Minor Alterations in Land Use Limitations exemption, in that it is a temporary ordinance and as such will be of limited effect; it does not change existing land use categories in the General Plan, nor does it change existing Zoning Map classification, and would not change density allowances on any property in the City; and further that it is exempt under CEQA Guidelines Section 15061 (b)(3) in that it represents an evolution and modification of local allowances pursuant to State law, with some uses mandated by the State, and others which already could occur in existing commercial and industrially-zoned properties, and as such would not foreseeably have any significant effect on the environment; and

WHEREAS, the City Council considered the CEQA determination and all above-referenced reports, recommendations, and testimony before acting on the initial urgency ordinance; and

WHEREAS, on December 19, 2017, the City Council, after considering a staff report and public testimony, adopted Ordinance No. 1106, creating standards for personal cannabis growing, and allowing the City's two existing medical cannabis dispensaries to conduct 'adult use' retail sales; and

WHEREAS, pursuant to State law, Ordinance No. 1106 was valid for a period of 45 days, however the permanent comprehensive cannabis ordinance will take additional time to formulate and adopt, so it is appropriate that an extension of the urgency ordinance be enacted; and

WHEREAS, in extending the ordinance, it is appropriate that it be updated to reflect the specific allowances established in Ordinance No. 1106, and that unnecessary provisions pertaining to types of businesses not permitted in the Ordinance be removed; and

WHEREAS, the City of Sebastopol is the lead agency on this urgency ordinance, and the City Council is the final decision-making body for this ordinance; and

WHEREAS, the City Council, on January 16, 2018, held a public hearing on the proposed extension of the urgency ordinance, at which time all interested parties had the opportunity to be heard; and

NOW, THEREFORE, BE IT RESOLVED that these statements are true and correct, and the City Council does hereby enact the following provisions.

2. Purpose.

This Ordinance provides the location and operating standards for Personal Cannabis Cultivation and for authorized cannabis retail businesses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.

3. Application of Regulations.

The provisions of this Urgency Ordinance pertaining to "adult use" cannabis shall become effective on January 1, 2018.

4. Definitions.

"Accessory building" shall have the same meaning as set forth in Municipal Code Chapter 17.08.

"Adult Use" means a person over the age of 21 with a valid state ID, who is qualified to purchase cannabis from an established cannabis business.

"Ancillary" means a use that is related but subordinate to the primary or dominant use on the site.

“Applicant” means a person who is required to file an application for a permit under this Ordinance, including individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a dispensary.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code, and amended by the California Control, Regulate and Tax Adult Use of Marijuana Initiative, and as defined by other applicable state law. “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code. Cannabis is classified as an agricultural product separately from other agricultural crops.

“Cannabis” or “Cannabis Product” means cannabis or a cannabis product, respectfully, intended to be sold for either medical or adult use.

“Cannabis Business” means an entity engaged in the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of medical or adult use cannabis, and medical or adult use cannabis products for commercial purposes.

“Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of either medical or adult use cannabis.

“Cannabis Cultivation Area” means the maximum dimensions allowed for the growing of cannabis. For purposes of this Ordinance, the allowable cultivation area shall apply to the outward edge of the vegetative canopy.

“Cannabis Delivery” means the commercial transfer of medical cannabis or medical cannabis products to a primary caregiver or qualified patient; or the commercial transfer of adult use cannabis or adult use cannabis products to a person over the age of 21, with valid ID. “Delivery” also includes the use of any technology platform owned and controlled by a Cannabis Business Operator that enables qualified patients, primary caregivers, or adult use customers to arrange for or facilitate the commercial transfer by a permitted Cannabis Retailer of which the City has two classifications: Medical Dispensary Retail, and Adult Use Dispensary Retail.

“Cannabis Operator” or “Operator” means the person or entity that is engaged in the conduct of any commercial medical cannabis, or adult cannabis use.

“Cannabis Retail.” There are two levels of Cannabis retail permitted in the City:

- (1) Type 1: Medical Dispensary, Cannabis Retail means a facility where medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis or medical cannabis products as part of a retail sale.
- (2) Type 2: Adult Use Dispensary, Cannabis Retail means a facility where cannabis or cannabis Products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale for adult use.

“City” means the City of Sebastopol.

“Edible Cannabis Product” means a cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

“Greenhouse” means a permanent enclosed structure for the propagation and growing of plants, constructed with a translucent roof and/or walls.

“Marijuana” See “Cannabis”.

“Person with an identification card” shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as they may be amended from time to time.

“Physician” shall include licensed medical doctors (M.D.) and doctors of osteopathic medicine (D.O.) as defined in the California Business and Professions Code.

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as may be amended.

“Qualified patient” shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., and as they may be amended from time to time.

“School” means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code. This definition includes an elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a junior college and any other college or university.

5. Limitations on Use.

A. Compliance with City Code. Personal Cannabis Cultivation and Cannabis Businesses shall only be allowed in compliance with this Ordinance and all applicable regulations set forth in the City Code, including but not limited to, all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.

B. Compliance with State laws and regulations. All Cannabis Businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over Cannabis and/or Cannabis Businesses. All Cannabis Businesses shall comply with the rules and regulations for Cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.

C. Compliance with local and regional laws and regulations. All Cannabis Businesses shall comply with all applicable Sonoma County and other local and regional agency regulations, including, but not limited to, regulations issued by the Regional Water Quality Control Board, the Sonoma County Agricultural Commission, and the Sonoma County Department of Public Health.

D. Cannabis Businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance.

6. Personal Cannabis Cultivation.

Personal Cannabis Cultivation for medical or adult use shall be permitted only in compliance with the provisions of Zoning Districts and Allowable Uses and shall be subject to the following standards and limitations.

A. Medical Cannabis Maximum Limitation.

1. Personal Cultivation: The personal cultivation of medical cannabis is limited to no more than one hundred (100) square feet per residence regardless of the number of residents.
2. Primary Care Giver Cultivation: A primary caregiver, as defined in state law, may cultivate medical cannabis exclusively for the personal medical use of no more than five specified qualified patients, with the area of cultivation not to exceed one hundred square feet per patient, up to a total of five hundred (500) square feet per residence.
 - i. Of the maximum 500 square feet of cultivation permitted, up to 200 square feet may be outdoors, with cultivation area in excess of 200 square feet to be located indoors, and complying with the operational requirements set forth below in subset E.

B. Adult Use Cannabis Maximum Limitation. The personal cultivation of adult use cannabis is limited to no more than six (6) mature plants per residence, regardless of the number of residents, and may be grown outdoors or indoors. Any such cultivation shall meet the operational requirements set forth in subset E.

C. Residency requirement. Cultivation of cannabis for personal use may occur only on parcels with an existing legal residence occupied by a full-time resident responsible for the cultivation.

D. Outdoor cultivation. Cannabis plants shall not be located in a front yard, and shall not be located in a street side yard, unless fully screened from public view by a wall or fence complying with height and other requirements of the Municipal Code.

E. The following operating requirements are applicable to personal cannabis cultivation:

1. Visibility. No visible markers or evidence indicating that cannabis is being cultivated on the site shall be visible from the public right of way at street level, or from school property.

2. Security. Cannabis cultivation areas and structures used for cultivation shall have security measures sufficient to prevent access by children or other unauthorized persons.

3. Prohibition of Volatile Solvents. The manufacture of cannabis products for personal non-commercial consumption shall be limited to processes that are solvent-free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug and Cosmetic Act. The use of volatile solvents to manufacture cannabis products for personal consumption is prohibited.

4. All structures used for Personal Cannabis Cultivation (including accessory structures, greenhouses, and garages) must be legally constructed with all applicable Building and Fire permits (including grading, building, electrical, mechanical and plumbing) and shall adhere to the development standards within the base zone.

5. Odor Control. All structures used for cultivation shall be equipped with odor control filtration and ventilation systems such that the odors of cannabis cannot be readily detected from outside of the structure.

6. Lighting. Interior and exterior lighting shall utilize best management practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties and the following standards:

i. Exterior lighting systems shall be provided for security purposes in a manner sufficient to provide illumination and clear visibility to all outdoor areas of the premises, including all points of ingress and egress. Exterior lighting shall be stationary, fully shielded, directed away from adjacent properties and public rights of way, and of an intensity compatible with the neighborhood. All exterior lighting shall be Building Code compliant.

ii. Interior light systems shall be fully shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.

7. Noise. Use of air conditioning and ventilation equipment shall comply with Municipal Code Chapter 8.25 (Noise). The use of generators is prohibited, except as short-term temporary emergency back-up systems.

8. All personal cannabis cultivation shall comply with the Best Management Practices for Cannabis Cultivation issued by the Sonoma County Agricultural Commission for management of waste, water, erosion control and management of fertilizers and pesticides.

9. If the cultivation occurs in a dwelling unit, the dwelling unit shall be occupied as a residence and retain at all times legal and functioning cooking, sleeping and sanitation facilities.

10. If the cultivation occurs in a dwelling unit or other enclosed structure, a portable fire extinguisher that complies with regulations and standards adopted by the California State Fire Marshall shall be kept in the area of cultivation.

7. Cannabis Businesses.

Cannabis Businesses shall be permitted only in compliance with the provisions of Zoning Districts and Allowable Uses (Municipal Code Chapter 17.25) and shall be subject to the following standards and limitations.

A. Land use. For purposes of this Ordinance, Cannabis Businesses shall include the following land use classifications, which are further defined in in the Definitions section of this ordinance:

1. Cannabis – Cannabis Retail (Dispensary)

B. Where allowed. Cannabis Businesses shall be located in compliance with the requirements of Zoning Districts and Allowable Uses (Municipal Code Chapter 17.25) and as designated on Tables 1 and 2 attached to this ordinance. With regard to required setbacks of a cannabis business to another land use, the City asserts its right to establish different radius requirements than what is provided by Business and Professions Code Section 26054 (b).

C. Land use permit requirements. The uses that are subject to the standards in this Ordinance shall not be established or maintained except as authorized by the land use permit required by this Ordinance.

D. Development standards. The standards for specific uses in this Ordinance supplement and are required in addition to those in the Municipal Code. In the event of any conflict between the requirements of this Ordinance and those of other provisions of the Municipal Code, the requirements of this Ordinance shall control.

8. General Operating Requirements.

The following general operating requirements are applicable to all Cannabis Businesses. In addition, requirements specific to each Cannabis Business subtype are separately set forth in this Ordinance.

A. Dual licensing. The City recognizes that state law requires dual licensing at the state and local level for all Cannabis Businesses. Cannabis Operators shall therefore be required to diligently pursue and obtain a state medical cannabis or cannabis license at such time as the state begins issuing such licenses, and shall comply at all times with all applicable state licensing requirements and conditions, including, but not limited to, operational standards such as, by way of illustration but not limitation, background checks, prior felony convictions, restrictions on multiple licenses and license types, and locational criteria.

1. New operators. Cannabis Businesses which have received land use permit approval pursuant to this Ordinance after the state begins issuing state licenses and after the 10-month transition period noted in subsection A.1 above, shall not

be allowed to commence operations until the Cannabis Business can demonstrate that all necessary state licenses and agency permits have been obtained in compliance with any deadlines established by the state.

2. Existing permitted operators. Cannabis Businesses which have received land use permit approval prior to the adoption of this Ordinance shall be required to comply with all operational requirements set forth in this Ordinance.

3. Grounds for Revocation. Once state licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this Ordinance and within any deadlines established by state law shall be grounds for revocation of City approval. Revocation of a local permit and/or a state license shall terminate the ability of the Cannabis Business to operate until a new permit and/or state license is obtained.

B. Minors.

1. It is unlawful for any Cannabis Operator to employ any person who is not at least 21 years of age, unless otherwise allowed for through State Law.

2. Cannabis Businesses (Medical) shall only allow on the premises a person who is 21 years of age or older, unless they are a qualified patient or primary caregiver, and they are in the presence of their parent or guardian for the first visit, or are of age to legally consent to medical treatment.

i. The entrance to a Cannabis Business (Medical) shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are a qualified patient or primary caregiver, and they are in the presence of their parent or guardian for the first visit, or are of age to legally consent to medical treatment.

3. Cannabis Businesses (Adult Use) shall only allow on the premises a person who is 21 years of age or older and who possesses a valid government-issued photo identification card.

i. The entrance to a Cannabis Business (Adult Use) shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises.

C. Inventory and tracking. Cannabis Operators shall at all times operate in a manner to prevent diversion of Cannabis and shall promptly comply with any track and trace program established by the state.

D. Multiple permits per site. Multiple Cannabis Businesses proposed on any one site or parcel shall be granted permit approval only if all of the proposed Cannabis Businesses and their co-location are authorized by both local and state law. Cannabis Operators issued permits for multiple license types at the same physical address shall maintain clear separation between license types unless otherwise authorized by local and state law.

E. Building and fire permits. Cannabis Operators shall meet the following requirements prior to commencing operations:

1. The Cannabis Operator shall obtain a building permit to confirm with the appropriate occupancy classification and compliance with Ordinance 15 of the City Code.
2. The Cannabis Operator shall obtain all annual operating fire permits with inspections prior to operation.
3. The Cannabis Operator shall comply with all applicable Health and Social Care and California Fire Code requirements related to the storage, use and handling of hazardous materials and the generation of hazardous waste. Cannabis Operators shall also obtain all required Certified Unified Program Agency (CUPA) permits including completing a California Environmental Reporting System (CERS) submission for hazardous materials inventory that meet or exceed State thresholds and any waste generation for accountability.
4. Access with a Fire Department lock box for keys to gates and doors shall be provided.

F. Transfer of ownership or operator. A permittee shall not transfer ownership or operational control of a Cannabis Business or transfer a permit for a Cannabis Business to another person unless and until the transferee obtains an Administrative Permit from the Planning Department verifying compliance with requirements of this Ordinance and stating that the transferee is now the permittee. The Administrative Approval clearance shall commit the transferee to compliance with all conditions of the original permit.

G. Security. Cannabis Businesses shall provide adequate security on the premises, including lighting and alarms, to insure the public safety and the safety of persons within the facility and to protect the premises from theft. Applications for a Cannabis Business shall include a security plan that includes the following minimum security plan requirements:

1. Security cameras. Security surveillance video cameras shall be installed and maintained in good working order to provide coverage on a twenty-four (24) hour basis of all internal and exterior areas where Cannabis is cultivated, weighed, manufactured, packaged, stored, transferred, and dispensed. The security surveillance cameras shall be oriented in a manner that provides clear and certain identification of all individuals within those areas. Cameras shall remain active at all times and shall be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and shall be maintained for a minimum of sixty (60) days.
2. Alarm system. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. The alarm system shall include sensors to detect entry and exit from all secure areas and all windows. Cannabis Operators shall keep the name and contact information of the alarm system installation and monitoring company as part of the Cannabis Business's onsite books and records. Cannabis Operators shall identify a local site contact

person who will be responsible for the use and shall provide and keep current full contact information to the Sebastopol Police Department as part of the permitting process.

3. Secure storage and waste. Cannabis Products and associated product waste shall be stored and secured in a manner that prevents diversion, theft, loss, hazards and nuisance.

4. Transportation. Cannabis Businesses shall implement procedures for safe and secure transportation and delivery of Cannabis, or Cannabis Products and currency in accordance with state law.

5. Locks. All points of ingress and egress to a Cannabis Business shall be secured with Building Code compliant commercial-grade, non-residential door locks or window locks.

6. Emergency access. Security measures shall be designed to ensure emergency access in compliance the California Fire Code and Sebastopol Fire Department standards.

H. Odor control. Cannabis Businesses shall incorporate and maintain adequate odor control measures such that the odors of Cannabis cannot be readily detected from outside of the structure in which the Business operates. Applications for Cannabis Businesses shall include an odor mitigation plan certified by a licensed professional engineer or industrial hygienist that includes the following:

1. Operational processes and maintenance plan, including activities undertaken to ensure the odor mitigation system remains functional;

2. Staff training procedures; and

3. Engineering controls, which may include carbon filtration or other methods of air cleansing, and evidence that such controls are sufficient to effectively mitigate odors from all odor sources. All odor mitigation systems and plans submitted pursuant to this subsection shall be consistent with accepted and best available industry-specific technologies designed to effectively mitigate cannabis odors.

I. Lighting. Interior and exterior lighting shall utilize best management practices and technologies for reducing glare, light pollution, and light trespass onto adjacent properties and the following standards:

1. Exterior lighting systems shall be provided for security purposes in a manner sufficient to provide illumination and clear visibility to all outdoor areas of the premises, including all points of ingress and egress. Exterior lighting shall be stationary, fully shielded, directed away from adjacent properties and public rights of way, and of an intensity compatible with the neighborhood. All exterior lighting shall be Building Code compliant.

2. Interior light systems shall be fully shielded, including adequate coverings on windows, to confine light and glare to the interior of the structure.

J. Noise. Use of air conditioning and ventilation equipment shall comply with Municipal Code Chapter 8.25 (Noise). The use of generators is prohibited, except as short-term temporary emergency back-up systems.

K. Staff Training.

1. All cannabis businesses shall implement a staff training program. Required training shall be provided to all new employees, and annual employee training shall also be conducted. Records of such training shall be maintained, and provided to the Police Department upon request. Such program shall include the following minimum elements:
 - a. Applicable California laws and regulations.
 - b. Applicable City of Sebastopol laws, regulations, and conditions of approval.
 - c. Applicable Sonoma County Health Services laws and regulations.
 - d. Information concerning civil, criminal and administrative liability.
 - e. Procedures for preventing and refusing access, sales, and service to minors and obviously intoxicated patrons.
 - f. Procedures for checking legally acceptable forms of identification.
 - g. Safety and security procedures.
 - h. Good neighbor policies.
2. At the time a Planning application is made for any new Cannabis businesses, the applicant shall provide a proposed staff training program, complying with Section 8.K.1. above, for the review and approval of the Police Department. Police Department acceptance of the training program is required prior to issuance of a Planning approval for a new business. If not previously provided, existing Cannabis businesses shall provide such program for Police Department review within 30 days from any permit modification.

9. Reserved

10. Reserved

11. Cannabis Retail:

- **Type 1: Medical Cannabis Retail (Dispensary)**
- **Type 2: Adult Use Cannabis Retail (Dispensary)**

In addition to the General Operating Requirements set forth in this ordinance, this section provides location and operating requirements for Medical Cannabis Retail (Dispensary), and Adult Use Cannabis Retail (Dispensary).

A. Conditional use. A Conditional Use Permit shall be required to operate Cannabis Retail Types 1 and 2 above in accordance with the attached Tables.

B. Delivery Services. In addition to the requirements established in this Ordinance for Cannabis Retail Types 1, and 2, the delivery of Cannabis and Cannabis Products by such Retail Types shall be subject to the following requirements:

1. Commercial delivery to patients at locations outside a permitted Cannabis Retail facility may be specifically permitted in conjunction with a permitted Cannabis Retail facility that has a physical location in the City of Sebastopol.

2. Applications for any Cannabis Retail type shall include a statement as to whether the use will include delivery of Cannabis and Cannabis Products to patients located outside the Cannabis Retail facility.

3. If delivery services will be provided, the application shall describe the operational plan and specific extent of such service, security protocols, and how the delivery services will comply with the requirements set forth in this Ordinance and state law.

C. Drive through Services. Drive-through or walk-up window services in conjunction with Cannabis Retail Types 1, and 2 are prohibited.

D. Location requirements. Cannabis Retail shall be subject to the following location requirements:

1. No more than two Type 1 and two Type 2 Cannabis Retail establishments are permitted in the City of Sebastopol. Type 2 Cannabis Retail may only occur at an existing Type 1 Medical Cannabis Retail establishment that has obtained and maintained a valid Use Permit, provided such establishment meets the following requirements: comply with all requirements set forth in this ordinance; and obtain State licenses for both Medical and Adult Use commercial sales.

i. Such existing establishments are not required to obtain a new Conditional Use Permit for Type 2 retail sales.

ii. To the extent that such existing establishments have Conditional Use Permits that have conditions in conflict with this Ordinance, the provisions of this Ordinance shall prevail.

iii. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10% increase in square footage; any greater increase, or a relocation of the facility, shall require Conditional Use Permit approval.

iv. Subject to any State permitting, Types 1 and 2 establishments may engage in both medical and non-medical Cannabis sales.

2. Overconcentration. To avoid overconcentration, Types 1 and 2 of Cannabis Retail shall not be established within 1,000 feet of any other separately located Type 1 or 2 Cannabis Retail established within and permitted by the City of Sebastopol.

3. Setback to schools. Cannabis Retail, all types, shall be subject to a 600-foot minimum setback from any "school", as defined by the Health and Safety Code Section 11362.768.

4. Measurement of distance. The distance between Cannabis Retail, all types, and a school shall be made in a straight line from the boundary line of the

property on which the Cannabis Retail is located to the closest boundary line of the property on which a school is located.

5. Location of a new school after permit issued. Establishment of a school within the required setback of a Cannabis Retail, all types, facility after such facility has obtained a Conditional Use Permit for the site shall render the Cannabis Retail facility legal non-conforming and subject to the protections and provisions of Ordinance 17.200 (Non-Conforming Use Regulations).

6. Visibility of entrance. The storefront entrance of a Cannabis Retail, all types, shall be in a visible location that provides an unobstructed view from the public right of way.

E. Edible products. Cannabis Businesses that sell or manufacture edible cannabis products shall obtain a Sonoma County Health Permit. Permit holders shall comply with Health and Safety Code Section 13700 et seq. and Sonoma County Health permit requirements. These requirements provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.

F. Operational requirements. In addition to project specific conditions of approval, Cannabis Retail shall comply with the following operational requirements:

1. Employees. The Cannabis Retail Operator, all types, shall maintain a current register of the names of all employees employed by the Cannabis Retailer, and shall disclose such register for inspection by any City officer or official for purposes of determining compliance with the requirements of this section.

2. Recordkeeping. The Cannabis Retail Operator, all types, shall maintain patient and sales records in accordance with state law.

3. Protocols and requirements for patients and persons entering the site. No person shall be permitted to enter a Cannabis Retail facility, all types, without government issued photo identification. Cannabis Businesses shall not provide Cannabis or Cannabis Products to any person, whether by purchase, trade, gift or otherwise, who does not possess a valid government-issued photo identification card.

4. Hours of operation. Cannabis Retail, all types, may operate between the hours of 7:00 a.m. to 9:00 p.m. up to seven (7) days per week unless the review authority imposes more restrictive hours due to the particular circumstances of the application. The basis for any restriction on hours shall be specified in the permit.

5. Secured access. A Cannabis Retail, all types, facility shall be designed to prevent unauthorized entrance into areas containing Medical Cannabis or Medical Cannabis Products. Limited access areas accessible to only authorized personnel shall be established.

6. Secured products. Cannabis and Cannabis Products that are not used for display purposes or immediate sale shall be stored in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

7. Sale and display of cannabis paraphernalia. No dispensary shall sell or display any cannabis related paraphernalia or any implement that may be used to administer Cannabis or Cannabis Products unless specifically described and authorized in the Conditional Use Permit. The sale of such products must comply with the City's zoning code and any other applicable state regulations.

8. Onsite physician restriction. Establishments engaged in the sale of medical Cannabis shall not have an on-site or on staff physician to evaluate patients and provide a recommendation for Medical Cannabis.

9. Site management. The Cannabis Retail Operator, all types, shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if directly related to the patrons of the subject retailer. For purposes of this subsection, "Reasonable steps" shall include calling the police in a timely manner; and requesting those engaging in nuisance activities to cease those activities, unless personal safety would be threatened in making the request.

10. Advertising and signs. Regardless of any sign allowances in the Sign Ordinance, a Cannabis Retail facility, all types, shall not advertise or market cannabis or cannabis products on an off-site advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

11. Display of permit. Cannabis Retail, all types, shall maintain a copy of its permit on display during business hours and in a conspicuous place so that the same may be readily seen by all persons entering the facility.

G. On-site consumption. In addition to the requirements established in this Ordinance for Cannabis Retail, the consumption of Cannabis and Cannabis Products shall be subject to the following requirements:

1. Patients and Customers. Patients of a Type 1 Cannabis Retail, and customers of a Type 2 Cannabis Retail shall not be permitted to consume cannabis on the site of the facility, except as permitted in accordance with Municipal Code Chapter 8.04 SMC (Smoking Regulations) and state law and as follows:

i. Conditional Use Permit applications for Type 1 Medical Cannabis Retail or Type 2 Adult Use Cannabis Retail shall include a statement as to whether the use is proposed to include on-site consumption by patients or customers of Cannabis and Cannabis Products.

ii. If on-site consumption is proposed, the application shall describe the operational plan and specific extent of such provision, security protocols,

and how the consumption will comply with the requirements set forth in this Ordinance and state law.

iii. The Planning Commission will determine if the request is appropriate and authorized, as part of acting on the Conditional Use Permit application.

2. Employees. Employees of a Cannabis Retail facility, all types, who are qualified patients may consume Medical Cannabis or Medical Cannabis Products on-site within designated spaces not visible by members of the public, provided that such consumption is in compliance with Municipal Code Chapter 8.04 (Smoking Regulations) and state law.

3. Signs regarding public consumption. The entrance to a Cannabis Retail facility, all types, shall be clearly and legibly posted with a notice indicating that smoking and vaping of Cannabis is prohibited on site or in the vicinity of the site except as permitted in accordance with Municipal Code Chapter 8.04 (Smoking Regulations) and state law.

H. Restriction on Ownership. No company or parent company shall simultaneously own or operate more than one Type 1 and one Type 2 facility in the City of Sebastopol.

12. Reserved

13. Special Findings

In addition to the Use Permit findings specified in Municipal Code Chapter 17.260, applications subject to a Use Permit requirement shall also be evaluated in regard to the following criteria, which may also be utilized by the approving authority to rank applications where there are multiple applicants for a limited number of allowances.

- A. Appropriateness of site and building for the use, including but not limited to adequacy of pedestrian and vehicle circulation, parking, and other aspects.
- B. Compatibility with surrounding uses.
- C. Experience and qualifications of the applicant.
- D. Operational, security, safety, noise, and odor control plans and improvements.
- E. Suitable design and improvements.
- F. Energy conservation and other environmental aspects.

14. Permit Expiration

Any permit approvals issued under this ordinance shall expire after one year unless a permanent cannabis ordinance provides otherwise.

15. Grounds for Permit Revocation or Modification

In addition to the grounds in Municipal Code Section 17.250.050 (Term, Revocation of Permits), the review authority may require modification, discontinuance or revocation of a Cannabis Business permit if the review authority finds that the use is operated or maintained in a manner that it:

- A. Adversely affects the health, peace or safety of persons living or working in the surrounding area;
- B. Contributes to a public nuisance; or
- C. Has resulted in repeated nuisance activities including disturbances of the peace, illegal drug activity, diversion of Cannabis or Cannabis Products, public intoxication, smoking in public, harassment of passerby, littering, or obstruction of any street, sidewalk or public way; or
- D. Violates any provision of the Municipal Code or condition imposed by a City issued permit, or violates any provision of any other local, state, regulation, or order, including those of state law or violates any condition imposed by permits or licenses issued in compliance with those laws.

16. Planning Commission Interpretation

This ordinance shall supersede the October 24, 2017 Zoning Ordinance Interpretation approved by the Planning Commission regarding cannabis uses.

17. Severability

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

18. Effective Date

This ordinance shall take effect upon its adoption, and shall be effective for a term of 10 months and 15 days.

IN COUNCIL DULY PASSED AND ADOPTED this 16th day of January, 2018.

AYES: Councilmembers Carnacchi, Glass, Gurney, Vice Mayor Hinton and Mayor Slayter

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST: Mary C. Gurney
City Clerk

APPROVED: P. H. Slayter
Mayor

APPROVED AS TO FORM:



City Attorney

Attachments:

Table 1: Residential District allowances

Table 2: Non-Residential District allowances

Table 1

Permitted and Conditionally Permitted Cannabis Uses in the Residential Single-Family Districts

Use	RE	RA	RR	RSF-1	RSF-2	RD	RM-M	RM-H	MHP
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	P	P	P	P	P	P	P	P	P
Cannabis Cultivation – Personal (Medical): No more than 100 sq. ft.	P	P	P	P	P	P	P	P	P
Cannabis Cultivation – Primary Caregiver (Medical-Only) ⁽¹⁾	P	P	P	P	P	P	P	P	P

P = Permitted Use

C = Conditionally Permitted Use

- = Use Not Allowed

(1) No more than 100 sq. ft. per patient, up to 500 sq. ft. Maximum of 200 sq. ft. permitted for outdoor.

Table 2

Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones										
Use	O	CN	CO	CG	CD	CH	M	O/LM		
Commercial Uses										
Cannabis Retail Dispensary (permitted at existing dispensaries)	C	-	-	C	C	C	C	C		
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾		P ⁽¹⁾
Cannabis Cultivation – Personal (Medical): No more than 100 sq. ft.	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾		P ⁽¹⁾
Cannabis Cultivation – Primary Caregiver (Medical-Only) ⁽²⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾		P ⁽¹⁾
<p>P = Permitted Use</p> <p>C = Conditionally Permitted Use</p> <p>- = Use Not Allowed</p> <p>⁽¹⁾ Only applicable at residences.</p> <p>⁽²⁾ No more than 100 sq. ft. per patient, up to 500 sq. ft. Maximum of 200 sq. ft. permitted for outdoor.</p>										