

### **Attachment 3**

*Draft Text Amendment Cannabis Ordinance* (regulatory framework)

## **EXHIBIT A**

### **Chapter 5.44**

#### **CANNABIS**

##### **5.44.010 Purpose and Intent.**

A. The purpose of this chapter is to identify and establish standards for uses related to cannabis cultivation, use, and commercial activities that are permitted, but which have the potential to create significant effects on the community and surrounding properties.

Furthermore, it is the purpose and intent of this chapter to:

1. Assist law enforcement agencies in performing their duties effectively and in accordance with California law.
2. Acknowledge that the cultivation of medical and nonmedical cannabis is illegal under federal law, while granting limited immunity from local prosecution to those medical and nonmedical cannabis activities that do not violate the restrictions and limitations set forth in this chapter or California law.
3. Ensure that cannabis grown for medical and nonmedical purposes remains secure and does not find its way to minors or illicit markets.
4. Implement state law by providing an equitable approach for regulating the cultivation of medical and nonmedical cannabis in a manner that is consistent with state law and balances the needs of businesses, medical patients and their caregivers with the health, safety, morals and general welfare of the residents and businesses within the city.
5. Require that medical and nonmedical commercial cannabis and commercial cannabis products be cultivated in appropriately secured, enclosed, and ventilated structures, so as not to be visible to the public domain, to provide for the health, safety and welfare of the public, to prevent odor created by cannabis plants from impacting adjacent properties, and to ensure that cannabis remains secure and does not find its way to minors or illicit markets.

##### **5.44.020 Definitions**

A. “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 be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26001(f), as both may be amended from time to time. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products, unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt,

derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

B. “Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.

C. “Cannabis cultivation area” means the total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the drip-line of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown.

D. “Cannabis indoor cultivation” means cultivation of cannabis using exclusively artificial lighting.

E. “Cannabis mixed-light cultivation” means cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures, or light deprivation systems are included in this category.

F. “Cannabis outdoor cultivation” means cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering. Outdoor cultivation does not include greenhouses, hoop houses, hot houses or similar structures.

G. “Cannabis cultivation site” means the premise(s), leased area(s), property, location or facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where all or any combination of those activities.

H. “Cannabis dispensary” or “dispensary” means any commercial cannabis facility, whether fixed or mobile, operated in accordance with state and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including an establishment that delivers cannabis and/or cannabis products as part of a retail sale, operated pursuant to a cannabis license Type 10, or a cannabis license subsequently established.

I. “Cannabis distribution facility” means the location or a facility, whether fixed or mobile, where a person conducts the business of procuring, selling, and transporting cannabis licensees, and the inspection, quality assurance, storage, labeling, packaging and other related processes. This facility requires a Type 11 license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) or a state cannabis license type subsequently established.

J. “Cannabis license” means a state license issued pursuant to MAUCRSA.

K. “Cannabis licensee” means a person issued a state license under MAUCRSA to engage in commercial cannabis uses or activity.

L. “Cannabis manufacturer” means a person that produces, prepares, propagates, or compounds cannabis or cannabis products, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a valid cannabis license Type 6 or 7, or a state cannabis license type subsequently established, and that holds a valid local license or permit.

M. “Cannabis manufacturing facility” means a facility, whether fixed or mobile, that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is operated by a cannabis manufacturer.

N. “Cannabis nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis

O. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

P. “Cannabis testing service” or “cannabis testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity.

Q. “Chief of Police” means the Police Chief of the City, or his or her designated representative.

R. “Child care center” shall have the same meaning as “child day care facility” in Health and Safety Code section 1596.750, and as “day care center” in Health and Safety Code section 1596.76, as both may be amended from time to time: any child care facility, including infant centers, preschools, extended day care facilities, and school-age child care centers where nonmedical care is provided to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

S. “City” means the City of Union City.

T. “City Manager” means the City Manager of the City of Union City, or his or her designated representative.

U. “Commercial Cannabis Permit,” “Cannabis Permit,” or “Permit” shall mean a permit issued by the City pursuant to this chapter for the operation of a commercial cannabis use within the City.

V. “Commercial cannabis use” means any commercial cannabis activity licensed pursuant to MAUCRSA, including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale or manufacturing of cannabis or cannabis products. “Commercial cannabis use” also means any cannabis activity licensed pursuant to additional state laws regulating such businesses. Commercial cannabis uses shall not include legal medical cannabis or cannabis activities carried out exclusively for one’s personal use that do not involve commercial activity or sales.

W. “Council” or “City Council” means the City Council of the City of Union City.

X. “Distributor” means any commercial cannabis operation that distributes cannabis or cannabis products under a valid state Type 11, or a state cannabis license type subsequently established.

Y. “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

Z. “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

AA. “Medical cannabis” or “medicinal cannabis” means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (“CUA,” Health and Safety Code section 11362.7 *et seq.*), the Medical Marijuana Program Act (“MMPA,” Health and Safety Code section 11362.7 *et seq.*) and the Medical Cannabis

Regulation and Safety Act (“MCRSA,” Business and Professions Code section 19300 *et seq.*) and MAUCRSA.

BB. “Microbusiness” means a commercial cannabis facility operating under a state Type 12 license, or a state cannabis license type subsequently established, and meeting the definition of microbusiness Business and Professions Code section 26070(a)(3)(A), as may be amended from time to time, which cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 cannabis manufacturer, and retailer.

CC. “Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit and includes the plural as well as the singular number.

DD. “Premises” means a legal parcel, or a leasehold interest in land, or a leased or owned space in a building where the commercial cannabis use will be or is conducted.

EE. “Primary caregiver” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.

FF. “Public place” means any publicly owned property or property on which a public entity has a right of way or easement. Public place also means any private property that is readily accessible to the public without a challenge or barrier, including but not limited to front yards, driveways, and private businesses.

GG. “Qualifying patient” or “qualified patient” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.

HH. “Operator” means the natural person or designated officer responsible for the operation of any commercial cannabis use and issued a permit pursuant to this chapter.

II. “Sale,” “sell,” and “to sell” shall have the same meaning as set forth in Business and Professions Code section 26001(aa), as the same may be amended from time to time: any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom such cannabis or cannabis product was purchased.

JJ. “School” means any public or private school providing instruction to students in kindergarten or any grades 1 through 12.

KK. “Volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O<sub>2</sub> or H<sub>2</sub>; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshall

LL. “Youth center” shall have the same meaning as in Section 11353.1 of the Health and Safety Code, as may be amended from time to time: any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

#### 5.44.030 Standards for All Commercial Cannabis Uses

A. Purpose. This Section provides the application, development, operating, and permit standards for all commercial cannabis uses within the City. Additional standards may

apply to particular commercial cannabis uses, as established in other Sections of this chapter and as imposed by a commercial cannabis permit.

B. Applicability. Commercial cannabis uses shall be permitted only in compliance with the requirements of this chapter, state law and all applicable requirements of the Union City Municipal Code and a commercial cannabis permit issued pursuant to this chapter. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to cultivate, distribute, manufacture, test or transport cannabis, in amounts that exceed personal use allowances under California law, within the City without a valid permit issued pursuant to the provisions of this chapter. Possession of other types of State or City permits or licenses does not exempt an applicant from the requirement of obtaining a permit under this chapter.

C. Limitations on Use. Commercial cannabis uses shall only be allowed in compliance with this chapter, and all applicable codes set forth in the Union City Municipal Code, including but not limited to: building, plumbing, electrical, fire, hazardous materials, and public health and safety. The operator shall comply with all laws and regulations applicable to the type of use, and shall comply with all permit, license, approval, inspection, reporting and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. The operator shall provide copies of other agency and department permits, licenses, or certificates to the City to serve as verification for such compliance.

D. Permit Requirements and Application Procedure. A commercial cannabis permit shall be required for any commercial cannabis use operating within the City. Commercial cannabis uses shall also be subject to permit requirements and regulations established by the state and those established by the City Council through resolution or ordinance. Commercial cannabis permits shall be subject to the requirements and limitations set forth in this chapter and shall be issued according to the following procedure:

1. The City Council shall establish the number of permits issued for each type of commercial cannabis use by resolution, as may be adjusted from time to time. The City Council is not obligated to adopt a resolution to issue permits for any type of commercial cannabis use.

2. The City Council may in its sole discretion elect, by resolution, to open the process for accepting applications for permits for specified commercial cannabis uses. Nothing in this chapter obligates the City Council to open the process for accepting applications. The City Council shall adopt the procedures to govern the application process and the manner in which the City Council will determine the most qualified applicant to receive the permit(s). Following an open application period and review of applications by City staff and recommendations by the City Manager consistent with the City Council adopted procedures, the City Council shall consider commercial cannabis permit applications meeting minimum qualifications at a public hearing. The City shall provide notice to properties and property owners within 300 feet of the boundaries of the property upon which the commercial cannabis business is proposed at least fifteen (15) days prior to the public hearing for consideration of the permit application(s). The City Council may issue permits to up to the maximum number of qualified commercial cannabis permits, as established by resolution, with any and all conditions that the City Council deems necessary. The City Council is not required to issue any permits following the application process and may issue fewer permits than there are qualified applicants.

3. If a commercial cannabis permit becomes available within twelve (12) months following the close of a previous application period, City staff may first review all minimally

qualified applications from the prior application process, and consider them for submittal to the City Council pursuant to the public hearing process in Section 5.44.030(D)(2).

4. The City Council may adopt by resolution such forms, fees, and procedures as are necessary to implement this chapter with respect to the initial selection, future selection, investigation process, renewal, revocation, and suspension of any permit. Such procedures may include a priority ranking system, and appointment of staff review panel for cannabis permits.

5. The City reserves the right to reject any or all applications. Prior to permit issuance, the City may also modify, postpone, or cancel any request for applications at any time without liability, obligation, or commitment to any party, firm, or organization. Applicants for permits assume the risk that the City may elect to terminate or not issue permits for any commercial cannabis uses at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application.

6. The application must include, at a minimum, the following:

a. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application for the cannabis permit, and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the Union City Municipal Code pertaining to the establishment and operation of the commercial cannabis use, including, but not limited to, the provisions of this Section. The affidavit(s) shall acknowledge that the approval of the cannabis permit shall, in no way, permit any activity contrary to the Union City Municipal Code, or any activity which is in violation of any applicable laws.

b. All necessary information related to the proposed commercial cannabis use and its proposed operators, including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor and/or partner information, and APN number of the parcel upon which the commercial cannabis use will be located. Certain private information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual's privacy interests and public health and safety.

c. Operating Plan as required under Section 5.44.050(D).

d. Security Plan as required under Section 5.44.030(J).

e. A Zoning Verification Letter from the Economic and Community Development Department that the proposed location of the commercial cannabis use is consistent with Title 18.

f. Property Owner Consent. Permits for commercial cannabis uses shall only be issued where written permission from the property owner and/or landlord is provided. The applicant shall provide evidence of such written consent.

g. Air Quality. The applicant shall provide a calculation of the businesses anticipated emissions of air pollutants. Applicants are encouraged to design their project so as to minimize or avoid air pollutant emissions.

h. Greenhouse Gas Emissions. The applicant shall provide calculations of the anticipated greenhouse gas emissions for the operation of the commercial cannabis use. The applicant shall further demonstrate compliance with any applicable state, regional, or local plan for the reduction of greenhouse gas emissions. No cannabis permit shall be granted for any business that would violate any state, regional, or local plan for the reduction of greenhouse gases, nor shall any cannabis permit be issued where the construction and/or operation of the business would exceed any applicable threshold of significance for greenhouse gas emissions under the California Environmental Quality Act.

i. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a completed Building Occupancy Classification form, identifying all hazardous materials proposed for storage, use or handling on the premises, including compressed and cryogenic gases such as carbon dioxide, nitrogen, and others. . “Hazardous materials” includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.

j. Water Supply. The applicant shall demonstrate to the satisfaction of the City that sufficient water supply exists for the use.

k. Wastewater. The applicant shall demonstrate to the satisfaction of the City that sufficient wastewater capacity exists for the proposed use. To the extent the proposed use will result in agricultural or industrial discharges to the City’s wastewater system, the applicant shall provide a plan for meeting all federal, state, and local requirements for such discharges.

l. Parking. Application shall be accompanied by a site plan that demonstrates compliance with applicable parking requirements.

m. New or Improved Structures. If new structures or exterior and/or interior building improvements are proposed, including additions to existing buildings and installation of equipment such as tanks for storing hazardous materials, a site plan, floor plan, and elevation plan detailing the location and design shall be submitted with the application.

n., Deferred Maintenance. Any deferred maintenance issues associated with the building and site shall be addressed prior to establishment of the use. This includes, but is not limited to, replacement of dead or deficient landscaping, re-painting of the building, repaving or restriping of parking lot area, replacement of damaged fencing, removal or replacement of uplifted sidewalks, and removal of any trash or debris. A site plan shall be submitted with the application detailing any proposed improvements necessary to comply with this provision.

E. Limited Term and Interests. Permits shall be limited-term, and shall be issued for a maximum period of one (1) year. No property interest, vested right, or entitlement to receive a future permit to operate a commercial cannabis use shall inure to the benefit of such operator as such permits are revocable. The City may elect at any time to cease issuing commercial cannabis permits, including upon receiving credible information that the federal government will commence enforcement measures against such businesses and/or local governments that permit them.

F. Permit Requirements. In addition to state permitting requirements and the requirements of this chapter, all commercial cannabis uses shall be subject to the applicable requirements of Title 18. The City may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this Code, including a building permit, where the property upon which the use or structure is proposed is in violation of the Union City Municipal Code, or any other local, state or federal law. Commercial cannabis uses shall also be subject to permit requirements and regulations established by the Union City Municipal Code and any additional requirements established by other sections of this chapter, resolution or ordinance of the City Council. Operators must also obtain a City business license.

1. Operator Qualifications. Commercial cannabis operators must meet the following qualifications:

a. Operators must be 21 years of age or older.

b. Operators shall be subject to a background investigation by the Chief of Police at the time of application for a permit. Permits for commercial cannabis uses shall not be permitted for operators that:

- i. are on parole or probation for the possession, sale, manufacture, use, distribution or transportation of a controlled substance; or
- ii. have been convicted of a crime of moral turpitude; or
- iii. have been convicted of any misdemeanor or felony within the last ten years involving the following: the use of violence, force, fear, fraud or deception; or the unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance; or the use of money to engage in criminal activity; or the unlawful possession or use of a firearm.

Permits for commercial cannabis uses shall not be permitted for operators with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement, a criminal conviction for the sale or provision of illegal controlled substances to a minor, or any criminal conviction for a crime moral turpitude as determined by the Chief of Police.

2. Exercise and Renewal of Permit. Commercial cannabis permits shall be exercised only by the operator and shall expire upon termination of the business for which it was issued, or upon sale or transfer of ownership of the business engaged in the commercial cannabis use, unless the operator obtains City approval. All permits issued shall include the following provision: "This permit shall expire upon change of tenancy or sale or transfer of the business or property." Any permit that is abandoned for a period of six (6) months shall automatically expire, and shall become null and void with no further action required on the part of the City. Permits for commercial cannabis uses, other than dispensaries, shall be issued to the operator for a period not to exceed one (1) year from the date of permit approval and shall be subject to annual permit renewals. The operator must apply for permit renewal a minimum of 30 days prior to the expiration of the limited term permit. A commercial cannabis permit may have its renewal request administratively approved by the City Manager only if all of the following findings are made:

- a. The use has been conducted in accordance with this chapter, with the operator's approved operating and security plans, and with all applicable permit conditions of approval, state and local laws and regulations.
- b. The business for which the permit was approved has not been transferred to another owner or operator.
- c. There are no outstanding violations of health, safety, or land use.
- d. The commercial cannabis use for which the permit was approved has remitted all City taxes and fees due.

3. Revocation and Suspension. Any permit issued under this chapter for commercial cannabis uses may be immediately suspended for any of the reasons listed in (a) through (h) below. Any permit issued under this chapter may be revoked by the City Manager, following notice and opportunity for a hearing, upon any of the following:

- a. An operator fails to comply with the requirements of this chapter, this Code or any conditions of approval of the permit.
- b. An operator's state license for commercial cannabis uses is revoked, terminated, or not renewed.
- c. The commercial cannabis use has not been in regular and continuous operation for three (3) consecutive months.

d. State law permitting the use for which the permit was issued is amended or repealed resulting in prohibition of such use, or the City receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that permit them.

e. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification.

f. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application.

g. The operator fails to remit City taxes or fees when due.

h. The operator's state license for commercial cannabis uses is suspended. The City shall not reinstate the permit until documentation is received showing that the state license has been reinstated or reissued. The City shall have discretion as to whether to reinstate any permit.

4. False or misleading information. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit.

5. Appeals.

a. Within ten (10) calendar days after the date of a decision of the City Manager to revoke, suspend or not renew a permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was improper.

b. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council.

c. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.

d. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing. The operator shall not operate the commercial cannabis use while awaiting appeal.

e. At the hearing, the appellant may present any information the appellant deem relevant to the decision appealed.

f. At the conclusion of the hearing the City Council may affirm, reverse or modify the decision of the City Manager. The decision of the City Council shall be final.

G. Compliance with County Health Officials. Commercial cannabis uses shall be subject to any permit requirements and regulations, including inspections, established by the Alameda County Public Health Department. All such permit requirements and regulations shall be interpreted to implement the purpose and intent of this chapter, and shall not prohibit or unreasonably restrict any commercial cannabis use allowed under this chapter.

H. Development Standards.

1. Building Requirements. All structures used for commercial cannabis uses shall comply with all applicable sections of the Union City Municipal Code and shall obtain all required approvals, including any required discretionary approvals or building permits, prior to occupation of the structure. Commercial cannabis uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers or patients shall meet Union City Municipal Code requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.

2. Emissions Control. All commercial cannabis uses shall utilize appropriate measures in construction and, where applicable, operations to prevent the emissions of dust, smoke, noxious gases, or other substances that have the potential to impact local or regional air quality.

3. Odor Control and Ventilation. Commercial cannabis uses shall comply with all current and future state laws and regulations related to odor control and ventilation, in addition to any specific requirements for the particular use established in this chapter. No commercial cannabis use may operate in a manner whereby cannabis odors are detectable from adjacent and nearby properties. All commercial cannabis uses must install a ventilation system that adequately controls for odor, humidity, and mold.

I. Health and Safety. Commercial cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.

J. Security. The following security measures shall be required by all operators. Additional security measures may apply to particular commercial cannabis uses, as established in this chapter.

1. A site security plan shall be required at the time of permit application and shall be subject to review and approval by the Chief of Police and the City Manager. All site security plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Such plans shall include, at a minimum, information regarding the implementation of the requirements of this Section. The Chief of Police may require additional information, including but not limited to, required on-site security personnel, identification of security personnel and proper certification of personnel, be included in the site security plan.

2. Commercial cannabis uses must have security cameras installed that shall be motion-sensored and capable of recording activity on the property, including entry points to the property, and within all buildings and structures on the property, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area. Security cameras shall record 24 hours per day, 7 days per week. The premises shall be equipped with, and at all times be monitored by, a secure web-based surveillance system. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual committing a crime on the premises and the ability to capture license plates entering and exiting the premises. The operator shall provide the Chief of Police remote access of any on-site web-based video surveillance to monitor remotely at any time. Additionally:

a. Areas where cannabis is grown, tested, cured, manufactured, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

b. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation, processing, or labeling activities

c. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

d. At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.

3. Surveillance video shall be kept for a minimum of sixty (60) days in a format that can be easily accessed for viewing. Operators shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request. Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to insure the safety of persons and to protect the premises from theft. Alarm and surveillance systems shall be equipped with a failure notification system that provides prompt notification to the operator and any prolonged surveillance interruption and/or failure of the system. All surveillance equipment, records and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system and/or alarm system.

4. An operator shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of the alarm installation company, and the name of any monitoring company. All monitoring companies shall be licensed by the Bureau of Security and Investigative Services to monitor motion-sensor lighting and alarms. Off-site monitoring and video recording storage of the premises by the operator or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.

5. All security measures installed on the premises shall have the capability to remain fully operational during a power outage.

6. Weapons and firearms are prohibited on the premises, unless authorized by the Chief of Police. This provision shall not apply to public officials engaged in official duty.

7. Security measures shall be designed to ensure emergency access in compliance with fire safety standards.

8. All structures used for commercial cannabis use shall have locking doors, with commercial-grade non-residential locks, to prevent free access.

9. Security measures shall prevent individuals from remaining on the premises of the commercial cannabis business if they are not engaging in activities expressly related to the operations of the commercial cannabis use.

10. Security measures shall include a transportation plan that details the procedures established for the safe and secure transport of cannabis, cannabis products, and currency to and from the commercial cannabis use premises, including the transfer of currency for remitting City tax payments

11. Except for live growing cannabis plants and products on display for sale at dispensaries during hours which the business is open to the public, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault that meets approval of the Chief of Police. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.

12. Panic buttons shall be installed in all commercial cannabis use premises with easy access by employees and all employees shall be properly trained on its use.

13. Any security bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building in compliance with all applicable codes.

14. Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable provisions in this Code.

15. Each commercial cannabis business shall identify a liaison and provide contact information to the Chief of Police who shall be reasonably available to meet with the Chief of Police regarding security measures and operational issues.

16. Minimum lighting level of one-foot candle shall be provided at building entrances and in parking lot areas. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. Exterior lighting on the premises shall be balanced to complement the security/surveillance systems to ensure all areas of the premises are visible, and shall provide increased lighting at all entrances to the premises. The lighting required shall be turned on from dusk to dawn. Site security plan shall include a photometric plan meeting these requirements and fixture details if new or upgraded lighting is required.

K. Operating Standards. In addition to any other requirements, the following are the minimum development criteria and operational standards applicable to commercial cannabis uses:

1. The commercial cannabis use shall provide adequate security on the premises pursuant to Section 5.44.030(J), and any additional requirements in this section, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

2. The site plan, circulation, parking, lighting, facility exterior, and any signage shall be subject to the requirements of Title 18 and City review and approval.

3. No exterior signage or symbols shall be displayed which advertises the availability of cannabis, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.

4. No person shall be allowed onto the premises of a cannabis dispensary unless they are an employee, customer, vendor or contractor of the dispensary, a primary caregiver, and/or a qualified patient or an employee of an agency having jurisdiction monitoring or investigating the terms of regulatory compliance. If the cannabis dispensary denies entry for monitoring and inspection to any employee of an agency having jurisdiction, the permit may be suspended by the City Manager. In strict accordance with California Health and Safety Code Section 11362.5 et seq., no person under the age of eighteen (18) shall be allowed on a medical cannabis dispensary site, and no person under the age of twenty-one (21) shall be allowed on a nonmedical cannabis dispensary premises pursuant to California Business and Professions Code section 26140. All persons entering the premises shall present a photo identification and shall establish proof of doctor's recommendation, except as representing a regulatory agency; a doctor's recommendation shall not be required for customers of a nonmedical cannabis dispensary. The operating plan submitted pursuant to Section 5.44.050(D) shall specify how the operator will comply with and enforce this provision.

5. Odor control devices and techniques shall be incorporated in all commercial cannabis uses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis uses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the facility that is distinctive to its operation and is not detected outside of

the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis use. As such, commercial cannabis uses must install and maintain the following equipment or any other equipment which the Building Official or designee determines has the same or better effectiveness:

a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or,

b. An air system that creates negative air pressure between the commercial cannabis use's interior and exterior so that the odors generated inside the commercial cannabis use are not detectable on the outside of the commercial cannabis use site.

6. No cannabis dispensary shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the permit. A dispensary may sell live starter plants, clones and seeds from qualified nurseries, but shall not cultivate or clone cannabis. An operator of a cannabis dispensary may sell manufactured cannabis, including edible products, and vaporizing devices if the operator has obtained all other necessary permits for such activities.

7. No cannabis shall be consumed on the premises of any commercial cannabis use, unless allowed under a permit. On-site consumption of cannabis may be allowed if expressly permitted by the permit, and if consumption occurs in accordance with state laws and regulations, as may be amended from time to time, and any conditions placed on the permit, including those related to ventilation and odor control.

8. No commercial cannabis use may increase in size without amending the permit and seeking City approval.

9. **Record Keeping.** A medical cannabis dispensary shall maintain records of its members using only the State of California Medical Marijuana Identification Card number issued by the County or the County's designee, pursuant to California Health and Safety Code Section 11362.7 et seq., or a copy of a written doctor's prescription or recommendation, as a protection for the confidentiality of the cardholders. The dispensary shall track when members' medical cannabis recommendations and/or identification cards expire and enforce conditions of membership by excluding members whose identification cards or recommendations are invalid or expired. The dispensary shall maintain member records in a manner to protect confidential information in the records if the records contain information protected by applicable law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and Public Law 104-191. A dispensary shall exclude members who are caught diverting cannabis for nonmedical use. All membership records shall be maintained on-site.

a. A dispensary shall, by using the patient or caregiver's identification number, keep an accurate account of the number of members that visit the dispensary each month, and also for the entire permit year.

b. The dispensary shall keep accurate records, follow accepted cash handling practices and maintain a general ledger of cash transactions. A medical dispensary shall maintain records of all members' contribution of labor, resources or money to the dispensary.

c. The dispensary shall allow the City to access the books, records, accounts and all data relevant to its operations for purposes of conducting an audit or examination to determine compliance with the Municipal Code, conditions of approval, and applicable laws. Books, records, accounts and all relevant data shall be produced no later than twenty-four (24) hours after receipt of the City's request.

d. The dispensary shall maintain a log of member or customer complaints and shall make the log available to the City upon request. The log shall contain at a minimum: the date of the complaint, the complaining member's identification number or reference to his or her written recommendation, the nature of the complaint, and the action taken by the dispensary to address the complaint.

10. Required Signage. The following signs, in measurements of not less than eight by ten inches (8x10"), shall be clearly and legibly posted in a conspicuous location inside the cannabis dispensaries where they will be visible to customers in the normal course of a transaction, stating:

a. "The sale of cannabis without a state license is illegal."

b. "Smoking cannabis on this property, within twenty feet (20') of the dispensary, or in any public place is illegal under California law."

c. For medical cannabis dispensaries: "No one under the age of eighteen (18) shall be allowed on the premises, unless they are a qualified patient or a primary caregiver."

d. For nonmedical cannabis dispensaries: "No one under the age of twenty-one (21) shall be allowed on the premises."

L. Employees.

1. All employees of operators must be at least 21 years of age.

2. All employees of operators shall be subject to a background investigation and approval by the Chief of Police prior to performing any work for an operator. Applications for City authorization for an employee to work for an operator of a commercial cannabis use shall be developed and processed by the Chief of Police.

3. The Chief of Police may deny authorization to an employee seeking to work for an operator of a commercial cannabis use if the employee:

a. is on parole or probation for the possession, sale, manufacture, use, distribution or transportation of a controlled substance; or

b. has been convicted of a crime of moral turpitude; or

c. has been convicted of any misdemeanor or felony within the last ten years involving the following: the use of violence, force, fear, fraud or deception; or the unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance; or the use of money to engage in criminal activity; or the unlawful possession or use of a firearm. Employee authorization may be denied for individuals with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement, a criminal conviction for the sale or provision of illegal controlled substances to a minor, or any criminal conviction for a crime moral turpitude as determined by the Chief of Police.

4. An operator shall not employ and individual that has not received authorization from the Chief of Police.

5. Each operator of a commercial cannabis use shall maintain on-site a current register of all the employees currently employed by the operator, and shall produce such register to the Chief of Police, designee, or any other City official authorized to enforce the Union City Municipal Code for purposes of determining compliance with this Section.

6. The Chief of Police is authorized to take all actions necessary in order to implement an employee authorization system, which may include requiring any employee of an operator to obtain a work permit from the City. The Chief of Police may establish a fee for the cost of issuing such authorization.

7. An employee that changes employment from the operator of one commercial cannabis use to another commercial cannabis use shall notify the City in writing of the change within ten (10) business days.

8. The Chief of Police may revoke authorization to an employee to upon any of the grounds for denial of authorization pursuant to Section 5.44.030(L)(3).

9. The applicant or authorized employee may appeal the denial or revocation of authorization within ten (10) business days of after notice of the denial is served on the applicant or authorized employee to the City Manager by filing with the City Clerk a written notice of appeal specifying the grounds for such appeal. The appeal must also include the appeal fee established by resolution of the City Council. The date, time, and place of the appeal hearing shall be provided in writing to the applicant or authorized employee with at least ten (10) days' notice and copies of hearing rules. If the applicant or authorized employee fails to present evidence establishing that the denial or revocation is improper, the City Manager shall uphold the determination of the Chief of Police and give written notice to the applicant or authorized employee. The authorized employee shall cease working for an operator of a commercial cannabis use within five (5) days of service of the notice of the City Manager's determination.

M. Tracking. Commercial cannabis operators shall comply with any track and trace program established by the City or state agencies. Commercial cannabis operators must maintain records tracking all cannabis production and products, and shall make all records related to commercial cannabis use available to the City upon request.

N. Police Notification. Operators shall notify the Union City Police Department within 24 hours of discovering any of the following:

1. Significant discrepancies identified during inventory. The level of significance shall be 2% of inventory or per state regulations, whichever is stricter.

2. Diversion, theft, or loss, or any criminal activity involving the commercial cannabis use or any agent or employee of the commercial cannabis use.

3. Any other breach of security.

O. Inspections and Monitoring. Commercial cannabis uses and operations shall be subject to inspections by appropriate local and state agencies, including but not limited to, the Chief of Police and the City. Inspections by the City shall be conducted during regular business hours, with at least 24-hours' notice unless public health or safety otherwise requires. Administrative monitoring shall be required for each commercial cannabis use. An annual inspection and monitoring fee may be adopted by Resolution of the City Council.

P. Restriction on Alcohol Sales. No alcoholic beverages may be sold, dispensed, or consumed on or about the premises of any commercial cannabis use.

Q. Record Keeping.

1. Each operator shall maintain accurate records detailing all revenues and expenses of the commercial cannabis use and all assets and liabilities. On no less than an annual basis, at or before the time of the renewal of a permit, or at any time upon reasonable request of the City, each operator shall file a sworn statement detailing the number of sales by the operator during the previous twelve-month period, or shorter period based upon the timing of the request, provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each operator shall submit to the City a financial audit of the operator's operations conducted by an independent certified public accountant. Each operator shall be subject to a regulatory compliance review and financial audit as determined by the City Manager.

2. Each operator shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial cannabis use, and separately of all the officers, managers, employees, and agents currently employed or otherwise engaged by the commercial cannabis use. The register required by this paragraph shall be provided to the City Manager upon request.

3. Each operator shall maintain a record of all persons, patients, collectives and primary caregivers served by the operator as required by MAUCRSA.

4. All operators shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth MAUCRSA.

R. Liability and Indemnification. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the City. To the maximum extent permitted by law, the operators under this chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City and its respective officials, officers, employees, representatives, agents and volunteers from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) against the City to attack, set aside, void or annul, any cannabis-related approvals and actions and strictly comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the operator shall reimburse the City for its reasonable legal costs and attorneys' fees. Operators shall be required to agree to the above obligations in writing.

#### 5.44.040 Standards for Commercial Cannabis Cultivation

A. Purpose. This Section establishes development, operating, and permit standards for commercial cannabis uses related to cannabis cultivation in locations permitted by Title 18.

B. Applicability. This Section shall apply to all commercial cannabis uses related to cannabis cultivation, including but not limited to, cannabis indoor cultivation and cannabis mixed-light cultivation and associated drying, curing, grading, and trimming facilities. Cannabis cultivation does not include operations that manufacture cannabis products such as oils, tinctures, or edibles which are classified separately. Operators engaged in commercial cannabis uses related to cannabis cultivation shall comply with state laws and regulations and the following standards in addition to the requirements of Section 5.44.030. Permits shall only be issued to commercial cannabis cultivation uses identified pursuant to state cannabis license classification Types, 1A, 1B, 1C, 2A, 2B, 3A, 3B and 4, pursuant to Business and Professions Code section 26050. Commercial cannabis use related to cannabis outdoor cultivation is prohibited.

C. Permit Requirements. In addition to the requirements of Section 5.44.030, commercial cannabis uses related to cannabis cultivation shall be subject to requirements of Title 18 and this Section.

D. Limitations on Use. All commercial cannabis uses related to cultivation shall be conducted and maintained in compliance with applicable state laws and regulations, this chapter, and with any other standards adopted by the City Council through resolution or ordinance. All structures related to commercial cannabis uses related to cultivation shall be subject to all

applicable laws, including the California Building Code, California Fire Code, and the Union City Municipal Code.

E. Development Criteria.

1. Number of Permits. Multiple permits may be issued for multi-tenant operations on a single parcel provided that the total cultivation area of all tenants does not exceed the maximum cultivation area allowed under the state license with the largest allowable cultivation area and provided such permits are allowed under state law.

2. Square Footage Limitations. The total combined square footage of the cultivation area shall not exceed the maximum size thresholds as allowed by Title 18 and in the requirements for cannabis license classification Types, 1A, 1B, 1C, 2A, 2B, 3A, 3B, and 4. Structures and areas where cannabis is processed, dried, aged, stored, trimmed, packaged or weighed, and areas where equipment is stored and washed, shall be limited to the on-site cultivation use only.

3. Distance Requirements. Establishment of cannabis cultivation for commercial uses shall be consistent with Title 18 and unless otherwise allowed under state law:

a. Shall not be established on any parcel containing a dwelling unit used as a residence, nor within \_\_\_\_\_ (\_\_\_\_') of a residential zoning district.

b. Shall not be established within \_\_\_\_\_ feet (\_\_\_\_') from any school or child care facility.

c. Shall not be established within \_\_\_\_\_ feet (\_\_\_\_') of any park, library, or youth center.

d. The distance requirements of subsection (E)(3)(a) above may be waived or modified by the City Council when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur, unless otherwise prohibited under state law.

e. All structures used for cannabis indoor cultivation and all structures used for drying, curing, grading or trimming and all indoor cultivation structures shall comply with the setbacks required by this chapter and Title 18. Structures associated with the cultivation shall not be located in the front yard setback area and shall be screened from public view. There shall be no exterior evidence of cultivation either within or outside the structure..

5. Fire Code Requirements. The operator shall prepare and implement a fire prevention plan for construction and ongoing operations and obtain an operational permit from the Fire Department. The fire prevention plan shall include, but not be limited to, emergency vehicle access and turn-around at the facility site(s), vegetation management and fire break maintenance around all structures.

6. Lighting. All indoor and mixed light operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise. .

7. Runoff and Stormwater Control. Runoff containing sediment, or other waste or by-products, shall not be allowed to drain to the storm drain system, waterways, or adjacent lands. Prior to beginning grading or construction, the operator shall prepare and implement a stormwater management plan and an erosion and sediment control plan, approved by the City. The plan must include best management practices for erosion control during and after construction, and permanent drainage and erosion control measures pursuant to Chapter 15.85 of the Union City Municipal Code.

8. Security and Fencing. In addition to the security requirements in Section 5.44.030(J), the following security and fencing standards apply to commercial cannabis uses related to cannabis cultivation.

a. Security cameras shall be motion-sensored and be installed with capability to record activity beneath the canopy from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels.

b. All mixed-light cultivation sites shall be screened by native, fire resistant vegetation and fenced with locking gates consistent with height limitations of the base zoning district to screen cultivation operations from public view. Fencing shall be consistent with the surrounding area and shall not diminish the visual quality of the site or surrounding area. Razor wire, chain-link and similar fencing shall not be permitted.

c. Security measures shall be designed to ensure emergency access in compliance with fire safety standards. All structures used for cultivation or storage of cannabis shall have locking doors, using commercial-grade locks, to prevent free access.

F. Operating Standards. In addition to standards contained in Section 5.44.030, the following standards shall apply to all commercial cannabis uses related to cannabis cultivation.

1. Air Quality and Odor. All cannabis cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold. All cultivation sites shall utilize dust control measures on access roads and all ground disturbing activities. Cultivation sites may not create odors amounting to a nuisance and must comply with the Union City Municipal Code.

2. Energy Use. Use of renewable resources for cannabis indoor cultivation and cannabis mixed-light operations is encouraged, and the City's commercial cannabis permit application procedures may award credit for use of renewable resources.

3. Hazardous Materials. All commercial cannabis uses related to cultivation that utilize hazardous materials shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tanks requirements and maintain any applicable state or local permits for these programs including permits required by the Certified Unified Program Agency ("CUPA").

4. Hours of Operation. The hours of operations for commercial cannabis uses related to cultivation shall be specified in the permit.

5. Waste Management. A waste management plan addressing the storing, handling and disposing of all waste by-products of the cultivation and processing activities shall be submitted for review and approval by the City. This plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose or reuse the wastes in compliance with any regulations adopted by the City Council through resolution or ordinance.

All garbage and refuse on the site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on the site shall not be accumulated or stored for more than seven (7) calendar days, and shall be properly disposed of before the end of the seventh day. All waste, including but not limited to refuse, garbage, green waste and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from

commercial cannabis uses related to cultivation must be properly stored and secured to prevent access by the public.

6. **Waste Water Discharge.** A waste water management plan shall be submitted identifying the amount of waste water, excess irrigation and domestic waste water anticipated, pre-treatment method (when applicable), as well as disposal method. All commercial cannabis uses related to cultivation shall comply with all state regulations, any regulations adopted by the City Council through resolution or ordinance and the discharger shall submit to the City verification of compliance with the waste discharge requirements of the applicable Regional Water Quality Control Board, or waiver thereof. Excess irrigation water or effluent from cultivation activities shall be directed to a sanitary sewer, septic, irrigation, greywater or bio-retention treatment systems.

7. **Water Supply.** An on-site water supply source adequate to meet all on site uses on a sustainable basis shall be provided. Trucked water shall not be allowed, except as noted below and for emergencies requiring immediate action as determined by the City. The onsite water supply shall be considered adequate with documentation of any one of the following sources:

a. **Municipal Water:** The public water supplier providing water service to the site has adequate supplies to serve the proposed use.

b. **Recycled Water:** The use of recycled process waste water from an onsite use or connection to a municipal recycled water supply for the cultivation use, provided that an adequate on-site water supply is available for employees and other uses.

#### 5.44.050 Standards for Commercial Cannabis Dispensaries

A. **Purpose.** This Section provides the location, operational, and permit standards for any cannabis dispensary within the City in order to promote the health, safety, and general welfare of its residents and businesses. The standards in this section shall be in addition to standards contained in Section 5.44.030 for all commercial cannabis uses.

B. **Applicability.** Cannabis dispensaries shall be permitted only in compliance with the requirements of this Section, and all other applicable requirements of this chapter, and Title 18.

C. **Permit Requirements.** Permits shall only be issued to cannabis dispensaries with state cannabis license Types 10 and 12. In addition to the requirements of Section 5.44.030, commercial cannabis uses related to cannabis dispensaries shall be subject to requirements of Title 18 and this Section.

D. **Compliance with Operating Plan and Conditions Required.** In addition to the general requirements of Section 5.44.030, a cannabis dispensary shall submit, as a part of the permit application, an operating plan that specifies the manner in which operations will be handled and security provided, and which details the number of employees, hours and days of operation allowed and approved. The operating plan shall provide that the cannabis dispensary shall require, at a minimum, a doctor's written recommendation in compliance with state law for medical cannabis sales, as well as a photo identification for any person entering the site. Any commercial cannabis use issued a permit for a dispensary shall be operated in conformance with the approved operating plan and shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community,

customers, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.

E. Distance Requirements. Establishment of cannabis dispensaries shall be consistent with Title 18 and unless otherwise allowed under state law and approved by the City:

1. Shall not be established on any parcel containing a dwelling unit used as a residence, nor within \_\_\_\_ feet (\_\_\_\_') of a residential zoning district.

2. Shall not be established within \_\_\_\_ feet (\_\_\_\_') of any other medical cannabis dispensary.

3. Shall not be established within \_\_\_\_ feet (\_\_\_\_') from any school or child care facility.

4. Shall not be established within \_\_\_\_ feet (\_\_\_\_') of any park, library, or youth center.

5. The distance requirements of subsections (E)(1)—(2) above may be waived or modified by the City Council when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur, unless otherwise prohibited under state law.

#### 5.44.060 Standards for Cannabis Manufacturing Facilities, Cannabis Testing Services, Cannabis Distribution Facilities, Deliveries, and Microbusinesses

A. Permits under this Section shall only be issued to operators of commercial cannabis uses with state cannabis license classification Types 6, 7, 8, 10, 11, and 12.

B. Additional Operating Standards. In addition to the requirements of Section 5.44.030 and any requirements of Title 18, commercial cannabis uses permitted under this Section shall not be open to the general public and shall implement a track and trace program that records the movement of cannabis and cannabis products through the business.

C. Distance Requirements. Establishment of commercial cannabis uses under this Section shall be consistent with Title 18 and unless otherwise allowed under state law and approved by the City:

1. Shall not be established on any parcel containing a dwelling unit used as a residence, nor within \_\_\_\_ feet (\_\_\_\_') of a residential zoning district.

2. Shall not be established within \_\_\_\_ feet (\_\_\_\_') of any other medical cannabis dispensary.

3. Shall not be established within \_\_\_\_ feet (\_\_\_\_') from any school or child care facility.

4. Shall not be established within \_\_\_\_ feet (\_\_\_\_') of any park, library, or youth center.

5. Notwithstanding, the subsections (E)(1)—(2) may be waived or modified by the City Council when the applicant can show that an actual physical separation exists between land uses or parcels such that no off-site impacts could occur, unless otherwise prohibited under state law.

D. Manufacturing and delivery operations shall be subject to additional permitting and inspection requirements of the Alameda County Health Official, per Section 5.44.030(G).

E. Delivery. Deliveries of cannabis in the City shall only be permitted for operators that obtain a permit under this chapter for cannabis dispensaries and operates from a premises within the City. Such operators shall be in conformance with state law, shall be subject to the

permit procedures and requirements for cannabis dispensaries under Section 5.44.050 and comply with the following:

1. Deliveries can only be conducted between the hours of 8:00 a.m. to 8:00 p.m.
2. A delivery business wishing to make deliveries must obtain a state license Type 10, or a state cannabis license type subsequently established.
3. Deliveries shall be made by an employee of the delivery business and said employee shall carry with him/her at all times a physical copy of the permit, business license and state license, when such a license is available. Delivery businesses shall comply with all state law and regulations pertaining to cannabis delivery businesses.

G. Microbusinesses. Any commercial cannabis permit issued to a microbusiness with a Type 12 state license, or a state cannabis license type subsequently established, that contains a dispensary operation, shall be subject to the permit procedures and requirements for cannabis dispensaries under Section 5.44.050. Any commercial cannabis permit issued to a microbusiness with a cultivation component will also be subject to the requirements of Section 5.44.040 for cultivation operations.

#### 5.44.070 Enforcement

- A. Violations.
1. Any activity performed contrary to the provisions of this chapter is hereby declared to be a public nuisance.
  2. Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to this chapter shall constitute a violation.
- B. Remedies. In addition to the revocation and suspension provisions in Section 5.44.030(G) and any all available remedies under the law, the following remedies shall be available to the City or other enforcement agency regarding violations of this chapter:
1. Administrative enforcement pursuant to Chapter 1.18 of the Municipal Code.
  2. Civil enforcement.
  3. Criminal enforcement.
- C. In any enforcement action brought pursuant to this Section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis use shall be liable for all costs incurred by the City, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this Section. In any action by the agency having jurisdiction to abate unlawful cannabis uses under this Section, whether by administrative or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the City elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding.