

Attachment 4

Draft Zoning Text Amendment for Commercial Cannabis

EXHIBIT A

Chapter 18.117

COMMERCIAL CANNABIS BUSINESSES

18.117.010 Purpose and Intent.

A. The purpose of this chapter is to impose zoning restrictions on various commercial cannabis uses authorized and licensed by the State of California pursuant to state law. This chapter is not intended to give any person or entity independent legal authority to operate a commercial cannabis use, it is intended to impose zoning restrictions regarding commercial cannabis businesses that may operate in the City pursuant to the Union City Municipal Code and state law. This chapter is in addition to any other business license and regulatory requirements imposed on cannabis businesses by this Code or other applicable state law. If a commercial cannabis use is not specifically permitted in this chapter it is not allowed in any zone within the City.

18.117.020 Applicability.

A. Nothing in this section shall be construed to allow any conduct or activity relating to the cultivation, distribution, dispensing, sale, or consumption of cannabis that is otherwise illegal under local or state law. No provision of this section shall be deemed a defense or immunity to any action brought against any person by the Alameda County District Attorney's office, the Attorney General of the State of California or the United States of America.

18.117.030 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. “Indoor cannabis cultivation” means cultivation of cannabis using exclusively artificial lighting.

D. “Mixed-light cannabis 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.

E. “Outdoor cannabis 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.

F. “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.

G. “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.

H. “Cannabis license” means a state license issued pursuant to MAUCRSA or a subsequently applicable state law.

I. “Cannabis manufacturer” means a person that produces, prepares, propagates, or compounds manufactured 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 medical cannabis or medical cannabis products or labels or re-labels its container, that holds a cannabis license Type 6 or 7, or a cannabis license type subsequently established.

J. “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.

K. “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 licensee for these activities.

L. “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.

M. “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.

N. “Commercial Cannabis Permit,” “Cannabis Permit,” or “Permit” shall mean a permit issued by the City pursuant to chapter 5.44 of the Union City Municipal Code for the operation of a commercial cannabis use within the City.

O. “Commercial cannabis use” means any commercial cannabis activity licensed pursuant to the 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.

P. “Microbusiness” means a commercial cannabis facility operating under a cannabis Type 12 license, or a 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 manufacturer, and retailer.

18.117.040 General conditions.

A. Commercial cannabis uses are prohibited from operating in all zoning districts in the City except as expressly permitted by and in conformance with the provisions of this chapter as well as Chapter 5.44.

B. All commercial cannabis uses permitted by this chapter must, prior to establishing and operating any such commercial cannabis use, obtain and maintain at all times a valid cannabis license, as may be applicable, and any local permit, license, variance or other entitlement required by this Code, including a commercial cannabis permit.

C. All commercial cannabis uses permitted by this chapter must comply with distance and setback requirements of this Code, including Title 18 and Chapter 5.44, and any established as conditions of approval with a commercial cannabis permit.

D. No commercial cannabis use may operate without a commercial cannabis permit issued by the City.

E. The City is not obligated to issue commercial cannabis permits, but may do so pursuant to Chapter 5.44.

18.117.050 Cannabis manufacturing facility.

A. A Cannabis manufacturing facility is permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76 , in the following zone:

1. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.

18.117.060 Cannabis testing service.

A. Cannabis testing services are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zones:

1. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.
2. Special Industrial (MS), subject to any applicable requirements of Chapter 18.40, Article III, MS (Special Industrial) District Regulations.

18.117.070 Cannabis distribution facility.

A. Cannabis distribution facilities are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zone:

1. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.

18.117.080 Cannabis cultivation.

A. Indoor cannabis cultivation and mixed-light cannabis cultivation is permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zone:

1. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.

B. Outdoor cannabis cultivation for commercial purposes is prohibited in all zoning districts.

18.117.090 Cannabis dispensary/retail under state license type 10.

A. Cannabis dispensaries, including non-storefront retail cannabis businesses, are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zones:

1. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.
2. Special Industrial (MS), subject to any applicable requirements of Chapter 18.40, Article III, MS (Special Industrial) District Regulations.

18.117.100 Microbusiness.

A. Microbusinesses are permitted subject to the requirements of this section, the granting of, and compliance with all provisions of, a commercial cannabis permit issued pursuant to Chapter 5.44, and any other required permits or approvals including administrative site development review pursuant to Chapter 18.72 or site development review pursuant to Chapter 18.76, in the following zone:

1. Light Industrial (ML), subject to any applicable requirements of Chapter 18.40, Article II, ML (Light Industrial) District Regulations.