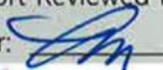


Agenda Report Reviewed by:  
City Manager: 

**CITY OF SEBASTOPOL  
CITY COUNCIL  
AGENDA ITEM**

**Meeting Date:** March 21, 2023  
**To:** Honorable Mayor and City Councilmembers  
**From:** John Jay, Associate Planner  
Kari Svanstrom, Planning Director  
**Subject:** Zoning Amendment to Section 17.360 Comprehensive Cannabis Regulations, 17.400.020.A Powers of the Planning Director, Chapter 17.400-2 Table 2 Public Notice, Public comment, and Public Hearing Requirements.  
**Recommendation:** Hold a Public Hearing and Introduce the Ordinance/Waive the First reading  
**Funding:** Currently Budgeted: \_\_\_\_\_ Yes \_\_\_\_\_ No  X  N/A  
Net General Fund Cost: \$0

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

**INTRODUCTION/PURPOSE:**

This is a zoning ordinance amendment request from the applicant 421 Group on behalf of Regen West, an existing cannabis manufacturing business located on Morris Street, to amend the City of Sebastopol’s Cannabis Ordinance to allow “Cannabis Retail Delivery” within the Industrial (M) districts of Sebastopol as a permitted use where it is currently not allowed. The amendment will update the Cannabis Ordinance Section 17.360 to include the changes recommended by staff and the Planning Commission on this item.

**BACKGROUND:**

On September 8, 2022 the Planning Department received an application from 421 Group on the behalf of Regen West requesting the City of Sebastopol amend the Cannabis Ordinance Section 17.360 of the Sebastopol Municipal Code. The applicant requested that Cannabis Retail Delivery (delivery-only retail sales) be permitted in the Industrial (M) district. This request would include modifying the Permitted and Conditionally Permitted Cannabis Uses in Commercial, Office and Industrial Zones, Table 17.360-2, from not allowing Cannabis Retail Delivery (delivery-only retail sales) in the Industrial (M) district to allowing it with a building permit. This proposed change also includes a note at the end of that table to read as follows: “Cannabis Retailer Delivery (office-only) is only permitted in M District (Industrial Zone) as a supplemental use for an existing/proposed cannabis permit, and is not subject to the limit on delivery licenses set forth in this chapter under section 17.360.100 subsection D. 1.”

The Planning Department routed the project to the various City departments including the Sonoma County Health Department and no comments were provided for the Zoning Amendment.

The Planning Commission held a “study session” discussion at its regular public meeting on November 8, 2022 to discuss the application and provide staff with direction to come back with a proposed zoning amendment. At that meeting the following items were discussed, and the Commission provided direction as noted:

- Should retail delivery-only (no storefront) cannabis uses be allowed in the Industrial (M) zone?

The Commission believe that this would be a compatible and acceptable use within the Industrial (M) district, as there is no retail frontage and it is generally a delivery logistics issue compatible with warehousing and other industrial uses. This has been incorporated in proposed Section 17.360.075 General Operating Requirements/additional criteria for Manufacturing with co-located retail delivery (office only) as well as Table 17.360-2.

- Should co-location with a manufacturing use be required? If so, what type of co-location aspect/criteria (SF/% of sales, what makes a ‘bone fide manufacturing’ business, etc.)

The Commission did not feel co-located with a manufacturing use needed to be required. However, they did feel a stand-alone delivery use should be subject to the same regulations as stand-alone retail (delivery-only) uses should be subject to the same requirements as delivery-only uses in other zones (subject to the 3 license limit, review by the Planning Commission through the Conditional Use Permit Process, etc.).

The Commission believed that retail delivery-only uses that were co-located with bone fide manufacturing uses, if limited in scope, should not be limited. They also did not feel there was a need to limit the hours (hours are regulated by the State) or number of deliveries for smaller co-located uses (20% Square footage of the overall manufacturing facility dedicated to delivery only, with a maximum area of 500 square feet) as these would not be large-scale delivery operations. Larger operations would be subject to a full use permit and the Commission would be able to review these on a case-by-case basis.

- What level of City approval should be required?

As mentioned above, the list of criteria explains what level of permit will be required and the decision body for each. The procedure for these cannabis permits would follow the same policies in place for the alcohol use permits, where staff can approve certain criteria at an administrative level and include conditions of approval. Permits that are outside of those criteria would require a full use permit approved by the Planning Commission. Lastly, the Planning Director, the decision-making body for administrative permits, has the authority to defer the decision to the Planning Commission should he or she deem necessary.

- Should there be a limit to the number of licenses?

The Commission felt that the number of licenses should not be limited if the retail delivery only was being co-located with a manufacturing use. The Commission also felt that it could be allowed as a stand-alone use but should be reviewed as a regular use permit subject to the requirements outline in the existing ordinance.

Staff also strongly recommends that “Retail Delivery Only” is incidental to the primary use of manufacturing, and the Commission concurred with this and set thresholds of size, proportion to manufacturing use, etc. as noted in the proposed language. Any stand-alone “Retail Delivery Only” would be subject to the current regulations and limits.

The Commission also felt that staff should have a level of discretion in their evaluation of the permit and if necessary, could elevate the permit to be reviewed by the Planning Commission.

- Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?

The Commission discussed the existing location criteria (such as buffers to schools) and felt that these were not necessary for a delivery-only since there was no retail presence. These permits would also be subject to chapter 17.360.100.B which provides the criteria required for delivery services.

The Planning Commission held a duly-noticed public meeting on February 14, 2023, to review the proposed Zoning Ordinance modifications based on the above input, where they heard a staff report, listened to a presentation from the applicant and heard public comment. The Commission deliberated and then adopted a Resolution recommending the City Council Adopt the Zoning Ordinance Amendment as attached.

**DISCUSSION:**

The recommended amendments to the Zoning Ordinance are listed below with text additions and changes shown with a strike-through.

Given the Commission’s directly, the following modifications to the Zoning Ordinance are proposed:

**Table 17.360-2 Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones**  
 Currently the Zoning Ordinance does not permit Cannabis retailer delivery (office only) in the Industrial (M) District as show below:

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
Cannabis Retailer Delivery (office-only)	C	C	-	C	-	C
Cannabis Retail Dispensary	C	C	C	C	C	C
Cannabis Cultivation (up to 5,000 sq. ft.) indoor only	-	-	-	<u>P<sup>(1)</sup></u>	<u>P<sup>(1)</sup></u>	<u>P<sup>(1)</sup></u>
Cannabis Cultivation (5,001 – 10,000 sq. ft.) indoor only	-	-	-	<u>P<sup>(1)</sup></u>	<u>P<sup>(1)</sup></u>	<u>P<sup>(1)</sup></u>
Cannabis Cultivation (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
Cannabis Cultivation Nursery, indoor only	-	-	-	<u>P<sup>(1)</sup></u>	<u>P<sup>(1)</sup></u>	<u>P<sup>(1)</sup></u>
Cannabis Microbusiness	-	C	-	C	C	C

The proposed Zoning Ordinance amendment would allow this use with either an administrative permit (if it meets the criteria set forth by section 17.360.075 (or would require a Conditional Use Permit approved by the Planning Commission.

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
Cannabis Retailer Delivery (office-only)	C	C	-	C	P/C <sup>(4)</sup>	C
Cannabis Retail Dispensary	C	C	C	C	C	C
Cannabis Cultivation (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
Cannabis Cultivation Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Microbusiness	-	C	-	C	C	C
<b>Industrial Uses</b>						
Cannabis Testing / Cannabis Laboratories	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Manufacturer (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
Cannabis Distributor / Cannabis Warehouse	-	-	-	C	C	P <sup>(1)</sup>
Cannabis Processing, Packaging and Labeling	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<b>Residential Uses</b>						
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	P <sup>(2)</sup>	P <sup>(2)</sup>				
Cannabis Cultivation – Personal (Medical): No more than 100 sq. ft.	P <sup>(2)</sup>	P <sup>(2)</sup>				
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(3)</sup>	P <sup>(2)</sup>	P <sup>(2)</sup>				
P = Permitted Use						

Within this same table the following changes would include removing the language “zoning clearance” to be replaced with “Administrative permit” and adding note (4) as shown below:

C = Conditionally Permitted Use

- = Use Not Allowed

<sup>(1)</sup> For cannabis-related permitted uses, ~~zoning clearance~~ Administrative permit is still required.

<sup>(2)</sup> Only applicable at residences.

<sup>(3)</sup> No more than 100 sq. ft. per patient, up to 500 sq. ft. Maximum of 200 sq. ft. permitted for outdoor.

<sup>(4)</sup> Permitted with an administrative permit when such uses are co-located with manufacturing use and comply with criteria listed in Section 17.360.095. Retailer delivery-only uses that are not co-located with a manufacturing use are subject to Section 17.360.100.

The following Section is proposed to be added to address both the scale of the delivery-only components compared to manufacturing use, and operating requirements:

**17.360.075 General operating requirements – Manufacturing with co-located retail (office only)**

This section would be added into the ordinance as it outlines the requirements for cannabis retail delivery only when co-located with an allowed manufacturing use. Staff has recommended the following criteria:

- A. The intent of co-location of Cannabis Retailer Delivery (office-only) with manufacturing uses is to support the manufacturing use on the site. the intent is for the co-located retail component to be incidental to the primary use of a bone fide manufacturing use on the site.
- B. The co-located Cannabis Retailer Delivery (office-only) are subject to following criteria are subject to an Administrative Permit Review;
  - 1. 20% Square footage of the overall manufacturing facility dedicated to delivery only, with a maximum area of 500 square feet. A Conditional Use Permit approved by the Planning Commission shall be obtained to exceed this limit.

2. The facility shall clearly designate all “delivery only” spaces on any supplied application materials. Hallways and shared use space such as overall business administrative offices (not to include delivery-only staff offices), restrooms, etc. shall not be included in this limit.
3. Retail Delivery-only is subject to regular business hours and shall be consistent with State Department of Cannabis Control standards.
4. Conditions of Approval shall be posted within the Retail Delivery only section of the facility.
5. Change of ownership of the business shall require the new owner to apply for a transfer of delivery license.

Lastly, the following modifications are proposed to Section 17.400 to address procedures for review:

**Chapter 17.400.020.A Powers of the Planning Director**

Staff recommends the following changes below:

- A. Accomplish all administrative actions required as authorized by this code, including, but not limited to, receiving of applications for permits and reviews, giving of notices, preparing reports, approving or issuing certificates of zoning compliance, process administrative permits; receiving and processing appeals, and receiving and accounting for fees.

Note, the Planning Director retains the authority to defer any Administrative Permit applications in their discretion to the Planning Commission for its review and action, should she feel it to be appropriate, and is not required to approve applications at the staff level.

**Chapter 17.400-2 Table 2 Public Notice, Public Comment, and Public Hearing Requirements**

Staff has recommended the following change below:

“Administrative Permit, Cannabis” and includes the following public notice requires: “Notice mailed to all owners of property adjoining the exterior boundaries of the subject property.”

Those permits being noticed to adjoining property owners via mailed notice, and allow for a public comment period before a decision is made:

Type of Zoning Permit	Public Hearing requirement	Public Notice Requirements	Minimum Public Comment Period
“Administrative Permit, Cannabis”	None	Notice mailed to all owners of property adjoining the exterior boundaries, and directly adjacent any public rights-of-way, of the subject property	12 days from mailing of notice

As noted before the Planning Commission heard these changes are a part of the staff report at their February 14, 2023 meeting and provided minimal grammatical edits but ultimately provided a recommendation to City Council to adopt the Zoning Amendment changes as provided in Exhibit A.

**GOALS:**

This action supports the following City Council Goals and General Plan Actions:

- Goal 8.1.1 Develop Programs & Policies to Promote, Attract and Retain Local Businesses as the amendment will allow the local cannabis manufactures to provide delivery options and not rely on outside agencies.

And General Plan Goals:

- Goal EV 4: Emphasize Sebastopol's Role as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast. As a local business, manufacturers would be offering the products they produce within the city to local shops and, via delivery only retail sales, to the public within and outside of Sebastopol.
- Goal EV 5: Enhance the City's Existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses. As a local business within Sebastopol this would allow Regen and other local cannabis businesses to add a retail-delivery option to their facilities.

**PUBLIC COMMENT:**

As of the writing of this staff report, the City has not received any public comment. Public testimony in support of the Zoning Ordinance changes was received during the Planning Commission's review of the application. Staff anticipates receiving public comment from interested parties following the publication and distribution of this staff report. Such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

**PUBLIC NOTICE:**

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date. Additionally, public notice for this hearing was posted in the Press Democrat, and public notice was mailed to all property owners within the Manufacturing Zoning District and to properties within 600 feet of this zoning district in accordance with SMC Section 17.460.

**FISCAL IMPACT:**

No direct impact to the City's budget. However, if this Amendment is approved, it would allow the businesses located within this Zoning District to provide tax revenue to the City.

**RECOMMENDATION:**

Approve the first reading and schedule the second reading.

**Exhibits:**

Proposed Ordinance

**Attachments:**

Redline of Existing Ordinance

Redline of Existing Table 17.400-2 Public Notice, Public Comment, and Public Hearing Requirements

Application materials

Staff report and minutes from November 8, 2022 Planning Commission meeting

Staff report and draft minutes from February 14, 2023 Planning Commission meeting

Resolution from Planning Commission recommending City Council adopt the proposed Zoning Amendment

City of Sebastopol  
Ordinance No. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL  
ADOPTING AMENDMENTS TO THE ZONING ORDINANCE TO ALLOW CANNABIS RETAIL DELIVERY  
(OFFICE-ONLY) AS A PERMITTED USE WITHIN THE INDUSTRIAL (M) DISTRICT

1. Whereas, the City of Sebastopol completed a comprehensive General Plan update with adoption of a new General Plan on November 15, 2016; and
2. Whereas, the new General Plan includes policies and actions related to Economic Vitality, including;
  - a. *Policy EV 4: Emphasize Sebastopol's Roles as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast.*
  - b. *Policy EV 5: Enhance the City's existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses. And,*
3. Whereas, the Zoning Ordinance amendment includes other clarifying and policy changes identified by the Planning Department staff, the Planning Commission, and City Council; and
4. Whereas, the Planning Commission conducted a study session at a duly-noticed public meeting on November 8, 2022, to review the draft Zoning Ordinance, accepted public comment, and provided direction to staff related to the applicant's request; and
5. Whereas, the Planning Commission held duly-noticed public hearings on the draft Zoning Ordinance on February 14, 2023, to review the draft Zoning Ordinance modifications, accepted public comment, and, following a public hearing, adopted a resolution recommending City Council adopt the proposed ordinance; and
6. Whereas, on \_\_\_\_\_, 2023, the City Council conducted a duly-noticed Public Hearing, deliberated, and found that as revised, the Zoning Ordinance is compatible with the general objectives of the General Plan, in that it directly implements the General Plan policies, thereby achieving consistency between the General Plan and the Zoning Ordinance; and;
7. Whereas, pursuant to the California Environmental Quality Act (CEQA, codified at Public Resources Code § 21000 *et seq.*) and the State CEQA Guidelines (14 CCR, § 15000 *et*

seq.), on November 15, 2016, the City Council certified and adopted an Environmental Impact Report (EIR) for the Sebastopol General Plan (the "Project"; State Clearinghouse No. 2016032001); and,

8. Whereas, pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same Project unless substantial changes are proposed; and
9. Whereas, the City Council finds that no substantial changes have occurred, and concurs with the staff determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of the Zoning Ordinance amendment; and
10. Whereas, the City Council finds that the Zoning Ordinance amendment is categorically exempt from the California Environmental Quality Act (CEQA), Class 5, minor alterations in Land Use Limitation exemption, in that it does not change existing land use categories in the General Plan, nor does it change existing Zoning Map classifications, and would not change density allowance on any property in the City; and further that it is exempt from the requirements of CEQA pursuant to Section 15061(b) (3) of the CEQA Guidelines in that it represents an evolution 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.
11. Whereas, the City Council finds that the Zoning Ordinance amendments are compatible with the general objectives of the General Plan, in that the amendments are consistent General Plan policies and standards, thereby enhancing consistency between the General Plan and Zoning Ordinance; and
12. Whereas, the City Council finds that the amendments will be in conformity with public convenience, general welfare, and good land use practice, in that the revisions are also intended to clarify the regulations and facilitate ease of use and understanding, as well as to establish appropriate standards and procedures; and
13. Whereas, the City Council finds that the amendments will not be detrimental to the public health, safety and general welfare, and will not adversely affect the orderly development of property, in that they will harmonize the General Plan and Zoning

Ordinance, better express the City's policies, and generally promote good land use planning and regulation.

14. Whereas, the City Council finds that the amendments will not adversely affect the orderly development of property, in that the amendments will provide additional business opportunities within this district.

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

**Section 1.** The above recitals are hereby declared to be true and correct and represent the findings of the City Council of the City of Sebastopol. Said findings are incorporated by this reference.

**Section 2.** Chapter 17.360 Comprehensive Cannabis Regulations shall be repealed and replaced as attached in Exhibit A.

**Section 3.** Chapter 17.400.020.A Powers of the Planning Director shall be amended as follows:

- A. Accomplish all administrative actions required as authorized by this code, including, but not limited to, receiving of applications for permits and reviews, giving of notices, preparing reports, approving or issuing certificates of zoning compliance, process administrative permits; receiving and processing appeals, and receiving and accounting for fees;

**Section 4.** Chapter 17.400-2 Table 2 Public Notice, Public Comment, and Public Hearing Requirements shall be amended to add "Administrative Permit, Cannabis" and includes the following public notice requires: "Notice mailed to all owners of property adjoining the exterior boundaries of the subject property"

**Section 5.** The City Council hereby finds that Adoption of this Ordinance will enact only minor changes in land use regulations, and it can be seen with certainty that its adoption will not have a significant effect on the environment because it will not allow for the development of a specific project anywhere other than where they were previously allowed under existing federal, state and local regulations.

The proposed Ordinance also falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."

**Section 6.** Conflicting Laws. During the continuation of the effectiveness of this ordinance, the provisions of this ordinance shall govern. If there is any conflict between the provisions of this ordinance and any provisions of the Sebastopol Municipal Code, or any City ordinance, resolution or policy, the provision of this ordinance shall control. If there are any conflicts between the provisions of this ordinance and any

provisions of State or Federal law in effect during the same time as this ordinance, the provisions of this ordinance shall be null and void.

**Section 7.** 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.

**Section 8.** Effective Date. This ordinance shall become effective thirty (30) days after its adoption.

Approved for First Reading and Introduction on this \_\_\_ day of \_\_\_\_\_, 2022.

Scheduled for Second Reading and Approval on the \_\_\_ day of \_\_\_\_\_, 2022.

**VOTE:**

Ayes:

Noes:

Abstain:

Absent:

APPROVED: \_\_\_\_\_

Mayor Neysa Hinton

ATTEST: \_\_\_\_\_

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: \_\_\_\_\_

Larry McLaughlin, City Attorney

**Attachments:**

Exhibit A Chapter 17.360 Comprehensive Cannabis Regulations

## EXHIBIT A: DRAFT ORDINANCE

## Chapter 17.360

### COMPREHENSIVE CANNABIS REGULATIONS

## Sections:

- 17.360.010 Purpose.
- 17.360.020 Application of regulations.
- 17.360.030 Additional definitions.
- 17.360.040 Limitations on use.
- 17.360.050 Personal cannabis cultivation.
- 17.360.060 Cannabis businesses.
- 17.360.070 General operating requirements.
- 17.360.075 General operating requirements - Manufacturing with co-located retail (office only).
- 17.360.080 Cannabis commercial cultivation.
- 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.
- 17.360.100 Cannabis retail.
- 17.360.110 Cannabis special events.
- 17.360.120 Special findings.
- 17.360.130 Grounds for permit revocation or modification.
- 17.360.140 Planning Commission interpretation.
- 17.360.150 Rescission of urgency ordinance.
- 17.360.160 Severability.

#### 17.360.010 Purpose.

This chapter provides the location and operating standards for personal cannabis cultivation and for cannabis businesses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.

#### 17.360.020 Application of regulations.

The provisions of this chapter shall become effective 30 days after its adoption.

EXHIBIT A: DRAFT ORDINANCE

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## 17.360.030 Additional definitions.

“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.

“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 Health and Safety Code Section 11018, 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 Health and Safety Code Section 11018.5. 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 chapter, 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 three classifications: medical dispensary retail, adult use dispensary retail, or office-only cannabis retail.

“Cannabis distribution/warehouse” means the procurement, sale, and transport of medical cannabis or adult use cannabis, and medical cannabis products or adult use cannabis products, between legally established cannabis businesses. This does not include patient delivery or adult use delivery.

“Cannabis manufacturing” means the production, preparation, propagation, or compounding of medical cannabis or adult use cannabis, or medical cannabis products or adult use cannabis products, using nonvolatile

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EXHIBIT A

EXHIBIT A: DRAFT ORDINANCE

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solvents, or no solvents, either directly or indirectly or by extraction methods, or independently by mean 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 relabels its container. This does not include the manufacturing of either medical or adult use cannabis products using volatile solvents, which is not permitted in the City.

“Cannabis microbusiness” means a cannabis cultivation business of less than 10,000 square feet in combination with medical cannabis distribution, medical cannabis manufacturing – level 1, and/or medical cannabis retail (dispensary) and delivery, combined within one State license.

“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 three 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.
3. Type 3: “Office only, cannabis retail” means the sale and delivery of either medical cannabis or adult use cannabis, and/or medical cannabis products or adult use cannabis products, to qualified customers via online, the phone or by mail. No sales of cannabis are made on site. Except as permitted by State law, all cannabis products shall be stored in a secured fashion. Such use shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. Such use’s premises are closed to the public. The intent of this use-type is to serve as an office to coordinate the transport of cannabis obtained from other licensees to qualified patients or qualified adult customers with valid identification. Such use-type may conduct sales exclusively by delivery.

“Cannabis processing” means a licensee that conducts only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.

“Cannabis packaging and labeling” means entities that only package or repack cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.

“Cannabis testing laboratory” means a laboratory, facility, or entity in the State that offers or performs tests of medical cannabis or adult use cannabis and/or medical cannabis products or adult use cannabis products, and that is both of the following:

## EXHIBIT A: DRAFT ORDINANCE

1. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.
2. Licensed by the Bureau of Cannabis Control.

“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 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 Business and Professions Code.

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

#### 17.360.040 Limitations on use.

A. *Compliance with SMC.* Personal cannabis cultivation and cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations set forth in the SMC, 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

EXHIBIT A: DRAFT ORDINANCE

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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.

### 17.360.050 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 (Chapter 17.25 SMC) 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 100 square feet per residence regardless of the number of residents.

2. *Primary Caregiver 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 100 square feet per patient, up to a total of 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 subsection E of this section.

B. *Adult Use Cannabis Maximum Limitation.* The personal cultivation of adult use cannabis is limited to no more than six 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 subsection E of this section.

C. *Residency Requirement.* Cultivation of cannabis for personal use may occur only by a full-time resident responsible for the cultivation.

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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 SMC.

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 noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, 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 as may be necessary to ensure that odors do not constitute a nuisance.
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 Chapter 8.25 SMC (Noise Control Ordinance). 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.

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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 State Fire Marshal shall be kept in the area of cultivation.

### 17.360.060 Cannabis businesses.

Cannabis businesses shall be permitted only in compliance with the provisions of zoning districts and allowable uses (Chapter 17.25 SMC) and shall be subject to the following standards and limitations:

A. *Land Use.* For purposes of this chapter, cannabis businesses shall include the following land use classifications, which are further defined in SMC 17.360.030, Additional definitions:

1. Cannabis – cultivation.
2. Cannabis – testing/lab.
3. Cannabis – manufacturer (nonvolatile, includes infusions).
  - i. Processing.
  - ii. Packaging and labeling.
4. Cannabis – cannabis retail (dispensary) and cannabis retail (office-only).
5. Cannabis – cannabis distributor/warehouse.
6. Cannabis – microbusiness.

B. *Where Allowed.* Cannabis businesses shall be located in compliance with the requirements of zoning districts and allowable uses (Chapter 17.25 SMC) and as designated on Tables 17.360-1 and 17.360-2. 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 chapter shall not be established or maintained except as authorized by the land use permit required by this chapter. For those business uses not subject to a conditional use permit requirement, an administrative permit is required.

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

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EXHIBIT A

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Table 17.360-1. Permitted and Conditionally Permitted Cannabis Uses in the Residential Districts

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EXHIBIT A

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Use	R1	R2	R3	R4	R5	R6	R7	MHP
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	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
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(1)</sup>	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.

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Table 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones

EXHIBIT A: DRAFT ORDINANCE

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
Cannabis Retailer Delivery (office-only)	C	C	-	C	P/C <sup>(4)</sup>	C
Cannabis Retail Dispensary	C	C	C	C	C	C
Cannabis Cultivation (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
Cannabis Cultivation Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Microbusiness	-	C	-	C	C	C
<b>Industrial Uses</b>						
Cannabis Testing / Cannabis Laboratories	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Manufacturer (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
Cannabis Distributor / Cannabis Warehouse	-	-	-	C	C	P <sup>(1)</sup>
Cannabis Processing, Packaging and Labeling	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<b>Residential Uses</b>						
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	P <sup>(2)</sup>	P <sup>(2)</sup>				
Cannabis Cultivation – Personal (Medical): No more than 100 sq. ft.	P <sup>(2)</sup>	P <sup>(2)</sup>				
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(3)</sup>	P <sup>(2)</sup>	P <sup>(2)</sup>				
P = Permitted Use						

EXHIBIT A

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Use	CO	CG	CD	CM	M	O/LM
<p>C = Conditionally Permitted Use            - = Use Not Allowed            (1) For cannabis-related permitted uses, Administrative permit is still required.            (2) Only applicable at residences.            (3) No more than 100 sq. ft. per patient, up to 500 sq. ft. Maximum of 200 sq. ft. permitted for outdoor.            (4) Permitted with an administrative permit when such uses are co-located with manufacturing use and comply with criteria listed in Section 17.360.095. Retailer delivery-only uses that are not co-located with a manufacturing use are subject to Section 17.360.100.</p>						

### 17.360.070 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 chapter.

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 chapter after the State begins issuing State licenses and after the 10-month transition period noted in this subsection A 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 chapter shall be required to comply with all operational requirements set forth in this chapter.
3. *Grounds for Revocation.* Once State licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this chapter 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.
  - a. 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.

a. 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 SMC Title 15.

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 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 chapter 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 ensure 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 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 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 on-site 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, nonresidential door locks or window locks.
6. *Emergency Access.* Security measures shall be designed to ensure emergency access in compliance with 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, except for those which only deal with packaged cannabis and have no on-site consumption, 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, 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 shielded to appropriately limit exterior glare to surrounding properties.

J. *Noise.* Use of air conditioning and ventilation equipment shall comply with Chapter 8.25 SMC (Noise Control Ordinance). 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 State laws and regulations.
- b. Applicable City 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. Incident reporting, law enforcement liaison policies.
- i. 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 subsection (K)(1) of this section, 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.

### 17.360.075 General operating requirements / additional criteria for Manufacturing with co-located retail delivery (office only).

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis retail delivery only when co-located with an allowed manufacturing use.

- A. The intent of co-location of Cannabis Retailer Delivery (office-only) with manufacturing uses is to support the manufacturing use on the site. the intent is for the co-located retail component to be incidental to the primary use of a bone fide manufacturing use on the site.
- B. The co-located Cannabis Retailer Delivery (office-only) are subject to following criteria are subject to an Administrative Permit Review;
  - 1. 20% Square footage of the overall manufacturing facility dedicated to delivery only, with a maximum area of 500 square feet. A Conditional Use Permit approved by the Planning Commission shall be obtained to exceed this limit.
  - 2. The facility shall clearly designate all “delivery only” spaces on any supplied application materials. Hallways and shared use space such as overall business administrative offices (not to include delivery-only staff offices), restrooms, etc. shall not be included in this limit.
  - 3. Retail Delivery-only is subject to regular business hours and shall be consistent with State Department of Cannabis Control standards.
  - 4. Conditions of Approval shall be posted within the Retail Delivery only section of the facility.
  - 5. Change of ownership of the business shall require the new owner to apply for a transfer of delivery license.

### 17.360.080 Cannabis commercial cultivation.

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis commercial cultivation.

- A. *Outdoor Commercial Cultivation Prohibited.* The cultivation of cannabis for commercial use may only be conducted within a fully enclosed space.
- B. *Type of Permit.* Depending on the size of the facility, and in accordance with the tables in SMC 17.360.060, administrative approval or a conditional use permit shall be required for cannabis commercial cultivation. For purposes of determining the facility size, square footage shall be defined by calculating the gross square footage of the structure or portion of the structure occupied by the cannabis business, not the plant canopy area. For purposes of these regulations, nursery means a use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- C. *Microbusiness.* In addition to compliance with permit and operating requirements set forth in this chapter for cannabis cultivation, a cannabis microbusiness which includes cultivation, manufacturing, distribution and/or retail within one State license shall comply with all permit and operating requirements set forth in this chapter for cannabis manufacturing, distribution, and/or retail (dispensary) and delivery as applicable to the combination of uses within the license. Microbusinesses shall be subject to the City’s limits on the maximum number of cannabis retail facilities.
- D. *Pesticides.* The cultivation of cannabis must be conducted in accordance with all applicable Federal, State, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the fire code.

### 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.

In addition to the general operating requirements set forth in this chapter, this section provides additional operational requirements for cannabis manufacturing.

- A. *Extraction Processes.* Cannabis manufacturers shall utilize only extraction processes that are (1) solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act, and/or (2) use solvents exclusively within a closed loop system that meets the requirements of the Federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a State licensed engineer.
- B. *Processing:* entities that conduct only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.
- C. *Packaging and labeling:* entities that only package or repackage medical cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.

D. *Loop Systems.* No closed loop systems shall be utilized without prior inspection and approval of the City's Building Official and Fire Chief.

E. *Standard of Equipment.* Extraction equipment, manufacturing, processing and analytical testing devices used by the cannabis manufacturer must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City's Building Official and Fire Chief.

F. *Annual Recertification Required.* Extraction equipment used by the cannabis manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on site.

G. *Food Handler Certification.* All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products must be State certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the cannabis manufacturer's facility where that individual participates in the production of edible cannabis products.

H. *Edible Product Manufacturing.* Cannabis businesses that sell or manufacture edible cannabis or cannabis products shall obtain a Sonoma County Health permit. Permit holders shall comply with Health and Safety Code Section 113700 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.

### 17.360.100 Cannabis retail.

- Type 1: Medical cannabis retail (dispensary).
- Type 2: Adult use cannabis retail (dispensary).
- Type 3: Cannabis retail delivery (office-only for medical or adult use).

In addition to the general operating requirements set forth in this chapter, this section provides location and operating requirements for medical cannabis retail (dispensary), adult use cannabis retail (dispensary) and retail delivery (office-only for medical or adult use).

A. *Conditional Use.* A conditional use permit shall be required to operate cannabis retail Types 1 and 2 above in accordance with the tables in SMC 17.360.060.

B. *Delivery Services.* In addition to the requirements established in this chapter for cannabis retail Types 1, 2, and 3, the delivery of cannabis and cannabis products shall be subject to the following requirements:

1. Commercial delivery 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.
2. A cannabis retail facility, office-only (Type 3), that has a physical location in the City may also conduct sales exclusively by delivery, and shall have no on-site retail sales to customers.
3. Applications for any cannabis retail type shall include a statement as to whether the use will include delivery of cannabis and cannabis products located outside the cannabis retail facility.
4. 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 chapter and State law.

C. *Drive-Through Services.* Drive-through or walk-up window services in conjunction with cannabis retail Types 1, 2, and 3 are prohibited.

D. *Location Requirements.* Cannabis retail shall be subject to the following location requirements:

1. No more than two Type 1, two Type 2, and three Type 3 cannabis retail establishments are permitted in the City. Type 2 cannabis retail may only occur at an existing Type 1 medical cannabis retail establishment that has obtained and maintained a valid conditional use permit, provided such establishment meets the following requirements: comply with all requirements set forth in this chapter; and obtain State licenses for both medical and adult use commercial sales.

- a. Such existing establishments are not required to obtain a new conditional use permit for Type 2 retail sales.

- b. To the extent that such existing establishments have conditional use permits that have conditions in conflict with this chapter, the provisions of this chapter shall prevail.

- c. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10 percent increase in square footage; any greater increase, or a relocation of the facility, shall require conditional use permit approval.

- d. Subject to any State permitting, Types 1, 2, and 3 establishments may engage in both medical and nonmedical cannabis sales.

2. *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.

3. *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.

4. *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 nonconforming and subject to the protections and provisions of Chapter 17.160 SMC (Nonconforming Uses).

5. *Visibility of Entrance.* The entrance of a cannabis retail, Types 1 and 2, 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. *Management.* Permit applicants shall be responsible for providing the names of the person or persons having management or supervision responsibility of the applicant's business at the time of application.

3. *Recordkeeping.* The cannabis retail operator, all types, shall maintain patient and sales records in accordance with State law.

4. *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.

5. *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 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.

6. *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.

7. *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.

8. *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 this title and any other applicable State regulations.

9. *On-Site 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.

10. *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.

11. *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.

12. *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 chapter 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 Chapter 8.04 SMC (Use of Tobacco in Public Places – Smoking Control) and State law and as follows:

a. 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.

b. 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 chapter and State law.

c. 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 Chapter 8.04 SMC (Use of Tobacco in Public Places – Smoking Control) 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 Chapter 8.04 SMC (Use of Tobacco in Public Places – Smoking Control) and State law.

H. *Restriction on Ownership.* No company or parent company shall simultaneously own or operate more than one Type 1, one Type 2, and one Type 3 facility in the City.

### 17.360.110 Cannabis special events.

A. *Dual Licensing.* The City recognizes that State law requires cannabis businesses to obtain dual licensing at the State and local level for temporary special events that involve on-site cannabis sales to, and consumption by, patients or qualifying adults with valid identification. Such events shall not be allowed to commence until the cannabis business can demonstrate that all necessary local permits, State temporary event licenses, agency permits, and as necessary, a temporary use permit or a special events permit, as applicable, have been obtained in compliance with any regulations and deadlines established by the City and the State.

B. *Temporary Use Permit, Special Events Permit.* Applications for a cannabis special event shall be filed in a timely manner in accordance with Chapter 17.430 SMC (Temporary Use Permits – includes special events), or a special events permit pursuant to Chapter 12.44 SMC (Special Events), depending on the nature and location of the event. Applicants are advised to confirm State allowance for such event prior to filing of a City application.

Not more than four such events shall be permitted in any calendar year, and no single operator shall be permitted to conduct more than two such events per year.

### 17.360.120 Special findings.

In addition to the conditional use permit findings specified in Chapter 17.415 SMC, applications subject to a conditional 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 site and building design and improvements.
- F. Whether the application will result in an overconcentration of such uses within the community.
- G. Energy conservation and other environmental aspects.

#### 17.360.130 Grounds for permit revocation or modification.

In addition to the grounds in SMC 17.400.090 (Term, adherence to approved plans and conditions, and 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; or
- 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 SMC 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.

#### 17.360.140 Planning Commission interpretation.

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

### 17.360.150 Rescission of urgency ordinance.

Upon its effective date, this chapter shall supersede and rescind Ordinance No. 1107, which established temporary cannabis regulations. Permits that were granted under such ordinance and are not in conflict with this chapter shall remain effective.

### 17.360.160 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter.

## Chapter 17.360

### COMPREHENSIVE CANNABIS REGULATIONS

Sections:

- 17.360.010 Purpose.
- 17.360.020 Application of regulations.
- 17.360.030 Additional definitions.
- 17.360.040 Limitations on use.
- 17.360.050 Personal cannabis cultivation.
- 17.360.060 Cannabis businesses.
- 17.360.070 General operating requirements.
- 17.360.075 General operating requirements - Manufacturing with co-located retail (office only).
- 17.360.080 Cannabis commercial cultivation.
- 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.
- 17.360.100 Cannabis retail.
- 17.360.110 Cannabis special events.
- 17.360.120 Special findings.
- 17.360.130 Grounds for permit revocation or modification.
- 17.360.140 Planning Commission interpretation.
- 17.360.150 Rescission of urgency ordinance.
- 17.360.160 Severability.

#### 17.360.010 Purpose.

This chapter provides the location and operating standards for personal cannabis cultivation and for cannabis businesses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development. (Ord. 1111, 2018)

#### 17.360.020 Application of regulations.

The provisions of this chapter shall become effective 30 days after its adoption. (Ord. 1111, 2018)

### 17.360.030 Additional definitions.

“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.

“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 Health and Safety Code Section [11018](#), 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 Health and Safety Code Section [11018.5](#). 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 chapter, 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 three classifications: medical dispensary retail, adult use dispensary retail, or office-only cannabis retail.

“Cannabis distribution/warehouse” means the procurement, sale, and transport of medical cannabis or adult use cannabis, and medical cannabis products or adult use cannabis products, between legally established cannabis businesses. This does not include patient delivery or adult use delivery.

“Cannabis manufacturing” means the production, preparation, propagation, or compounding of medical cannabis or adult use cannabis, or medical cannabis products or adult use cannabis products, using nonvolatile solvents, or no solvents, either directly or indirectly or by extraction methods, or independently by mean 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 relabels its container. This does not include the manufacturing of either medical or adult use cannabis products using volatile solvents, which is not permitted in the City.

“Cannabis microbusiness” means a cannabis cultivation business of less than 10,000 square feet in combination with medical cannabis distribution, medical cannabis manufacturing – level 1, and/or medical cannabis retail (dispensary) and delivery, combined within one State license.

“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 three 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.
3. Type 3: “Office only, cannabis retail” means the sale and delivery of either medical cannabis or adult use cannabis, and/or medical cannabis products or adult use cannabis products, to qualified customers via online, the phone or by mail. No sales of cannabis are made on site. Except as permitted by State law, all cannabis products shall be stored in a secured fashion. Such use shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. Such use’s premises are closed to the public. The intent of this use-type is to serve as an office to coordinate the transport of cannabis obtained from other licensees to qualified patients or qualified adult customers with valid identification. Such use-type may conduct sales exclusively by delivery.

“Cannabis processing” means a licensee that conducts only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.

“Cannabis packaging and labeling” means entities that only package or repackage cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.

“Cannabis testing laboratory” means a laboratory, facility, or entity in the State that offers or performs tests of medical cannabis or adult use cannabis and/or medical cannabis products or adult use cannabis products, and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.

2. Licensed by the Bureau of Cannabis Control.

“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 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 [Business and Professions Code](#).

“Primary caregiver” shall have the same definition as set forth in 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 Health and Safety Code Section [11362.5](#) et seq., and as they may be amended from time to time. (Ord. 1111, 2018)

### 17.360.040 Limitations on use.

A. *Compliance with SMC.* Personal cannabis cultivation and cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations set forth in the SMC, 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. (Ord. 1111, 2018)

### 17.360.050 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 (Chapter [17.25 SMC](#)) 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 100 square feet per residence regardless of the number of residents.

2. *Primary Caregiver 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 100 square feet per patient, up to a total of 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 subsection [E](#) of this section.

B. *Adult Use Cannabis Maximum Limitation.* The personal cultivation of adult use cannabis is limited to no more than six 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 subsection [E](#) of this section.

C. *Residency Requirement.* Cultivation of cannabis for personal use may occur only 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 SMC.

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 noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, 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 as may be necessary to ensure that odors do not constitute a nuisance.
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 Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State Fire Marshal shall be kept in the area of cultivation. (Ord. 1111, 2018)

### 17.360.060 Cannabis businesses.

Cannabis businesses shall be permitted only in compliance with the provisions of zoning districts and allowable uses (Chapter [17.25 SMC](#)) and shall be subject to the following standards and limitations:

A. *Land Use.* For purposes of this chapter, cannabis businesses shall include the following land use classifications, which are further defined in SMC [17.360.030](#), Additional definitions:

1. Cannabis – cultivation.
2. Cannabis – testing/lab.
3. Cannabis – manufacturer (nonvolatile, includes infusions).
  - i. Processing.
  - ii. Packaging and labeling.
4. Cannabis – cannabis retail (dispensary) and cannabis retail (office-only).
5. Cannabis – cannabis distributor/warehouse.
6. Cannabis – microbusiness.

B. *Where Allowed.* Cannabis businesses shall be located in compliance with the requirements of zoning districts and allowable uses (Chapter [17.25 SMC](#)) and as designated on Tables 17.360-1 and 17.360-2. 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 chapter shall not be established or maintained except as authorized by the land use permit required by this chapter. For those business uses not subject to a conditional use permit requirement, an administrative permit is required.

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

Table 17.360-1. Permitted and Conditionally Permitted Cannabis Uses in the Residential Districts

Use	R1	R2	R3	R4	R5	R6	R7	MHP
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	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
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(1)</sup>	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 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
Cannabis Retailer Delivery (office-only)	C	C	-	C	<del>P/C<sup>(4)</sup></del>	C
Cannabis Retail Dispensary	C	C	C	C	C	C
Cannabis Cultivation (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
Cannabis Cultivation Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Microbusiness	-	C	-	C	C	C
<b>Industrial Uses</b>						
Cannabis Testing / Cannabis Laboratories	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Manufacturer (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
Cannabis Distributor / Cannabis Warehouse	-	-	-	C	C	P <sup>(1)</sup>
Cannabis Processing, Packaging and Labeling	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<b>Residential Uses</b>						
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	P <sup>(2)</sup>	P <sup>(2)</sup>				
Cannabis Cultivation – Personal (Medical): No more than 100 sq. ft.	P <sup>(2)</sup>	P <sup>(2)</sup>				
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(3)</sup>	P <sup>(2)</sup>	P <sup>(2)</sup>				
P = Permitted Use						

Use	CO	CG	CD	CM	M	O/LM
<p>C = Conditionally Permitted Use                      - = Use Not Allowed</p> <p>(1) For cannabis-related permitted uses, <del>zoning clearance</del> <u>Administrative permit</u> is still required.</p> <p>(2) Only applicable at residences.</p> <p>(3) No more than 100 sq. ft. per patient, up to 500 sq. ft. Maximum of 200 sq. ft. permitted for outdoor.</p> <p>(4) <u>Permitted with an administrative permit when such uses are co-located with manufacturing use and comply with criteria listed in Section 17.360.095. Retailer delivery-only uses that are not co-located with a manufacturing use are subject to Section 17.360.100. -</u></p>						

(Ord. 1111, 2018)

### 17.360.070 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 chapter.

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 chapter after the State begins issuing State licenses and after the 10-month transition period noted in this subsection A 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 chapter shall be required to comply with all operational requirements set forth in this chapter.
3. *Grounds for Revocation.* Once State licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this chapter 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.
  - a. 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.

a. 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 SMC Title [15](#).

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 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 chapter 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 ensure 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 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 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 on-site 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, nonresidential door locks or window locks.
6. *Emergency Access.* Security measures shall be designed to ensure emergency access in compliance with 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, except for those which only deal with packaged cannabis and have no on-site consumption, 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, 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 shielded to appropriately limit exterior glare to surrounding properties.

J. *Noise.* Use of air conditioning and ventilation equipment shall comply with Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State laws and regulations.
  - b. Applicable City 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. Incident reporting, law enforcement liaison policies.
  - i. 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 subsection [\(K\)\(1\)](#) of this section, 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. (Ord. 1111, 2018)

17.360.075 General operating requirements / additional criteria for Manufacturing with co-located retail delivery (office only).

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis retail delivery only when co-located with an allowed manufacturing use.

- A. The intent of co-location of Cannabis Retailer Delivery (office-only) with manufacturing uses is to support the manufacturing use on the site. the intent is for the co-located retail component to be incidental to the primary use of a bone fide manufacturing use on the site.
- B. The co-located Cannabis Retailer Delivery (office-only) are subject to following criteria are subject to an Administrative Permit Review:
1. 20% Square footage of the overall manufacturing facility dedicated to delivery only, with a maximum area of 500 square feet. A Conditional Use Permit approved by the Planning Commission shall be obtained to exceed this limit.
  2. The facility shall clearly designate all “delivery only” spaces on any supplied application materials. Hallways and shared use space such as overall business administrative offices (not to include delivery-only staff offices), restrooms, etc. shall not be included in this limit.
  3. Retail Delivery-only is subject to regular business hours and shall be consistent with State Department of Cannabis Control standards.
  4. Conditions of Approval shall be posted within the Retail Delivery only section of the facility.
  5. Change of ownership of the business shall require the new owner to apply for a transfer of delivery license.

### 17.360.080 Cannabis commercial cultivation.

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis commercial cultivation.

- A. *Outdoor Commercial Cultivation Prohibited.* The cultivation of cannabis for commercial use may only be conducted within a fully enclosed space.
- B. *Type of Permit.* Depending on the size of the facility, and in accordance with the tables in SMC [17.360.060](#), administrative approval or a conditional use permit shall be required for cannabis commercial cultivation. For purposes of determining the facility size, square footage shall be defined by calculating the gross square footage of the structure or portion of the structure occupied by the cannabis business, not the plant canopy area. For purposes of these regulations, nursery means a use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- C. *Microbusiness.* In addition to compliance with permit and operating requirements set forth in this chapter for cannabis cultivation, a cannabis microbusiness which includes cultivation, manufacturing, distribution and/or retail within one State license shall comply with all permit and operating requirements set forth in this chapter for cannabis manufacturing, distribution, and/or retail (dispensary) and delivery as applicable to the combination of uses within the license. Microbusinesses shall be subject to the City's limits on the maximum number of cannabis retail facilities.
- D. *Pesticides.* The cultivation of cannabis must be conducted in accordance with all applicable Federal, State, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the fire code. (Ord. 1111, 2018)

### 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.

In addition to the general operating requirements set forth in this chapter, this section provides additional operational requirements for cannabis manufacturing.

- A. *Extraction Processes.* Cannabis manufacturers shall utilize only extraction processes that are (1) solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act, and/or (2) use solvents exclusively within a closed loop system that meets the requirements of the Federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a State licensed engineer.
- B. *Processing:* entities that conduct only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.

C. **Packaging and labeling:** entities that only package or repackage medical cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.

D. *Loop Systems.* No closed loop systems shall be utilized without prior inspection and approval of the City’s Building Official and Fire Chief.

E. *Standard of Equipment.* Extraction equipment, manufacturing, processing and analytical testing devices used by the cannabis manufacturer must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City’s Building Official and Fire Chief.

F. *Annual Recertification Required.* Extraction equipment used by the cannabis manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on site.

G. *Food Handler Certification.* All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products must be State certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the cannabis manufacturer’s facility where that individual participates in the production of edible cannabis products.

H. *Edible Product Manufacturing.* Cannabis businesses that sell or manufacture edible cannabis or cannabis products shall obtain a Sonoma County Health permit. Permit holders shall comply with Health and Safety Code Section [113700](#) 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. (Ord. 1111, 2018)

~~9delivery The intent of co-location of Cannabis Retailer Delivery (office only) with manufacturing uses is to support the manufacturing use on the site. the intent is for the co-located retail component to be a bone fide use.~~

~~co-located Cannabis Retailer Delivery (office only) are subject to A this limit all spaces Hallways and shared use space such as overall business administrative offices (not to include delivery only staff offices), restrooms, etc. shall not be included in this limit. Retail Retail~~ 17.360.100 Cannabis retail.

- Type 1: Medical cannabis retail (dispensary).
- Type 2: Adult use cannabis retail (dispensary).
- Type 3: Cannabis retail delivery (office-only for medical or adult use).

In addition to the general operating requirements set forth in this chapter, this section provides location and operating requirements for medical cannabis retail (dispensary), adult use cannabis retail (dispensary) and retail delivery (office-only for medical or adult use).

A. *Conditional Use.* A conditional use permit shall be required to operate cannabis retail Types 1 and 2 above in accordance with the tables in SMC [17.360.060](#).

B. *Delivery Services.* In addition to the requirements established in this chapter for cannabis retail Types 1, 2, and 3, the delivery of cannabis and cannabis products shall be subject to the following requirements:

1. Commercial delivery 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.
2. A cannabis retail facility, office-only (Type 3), that has a physical location in the City may also conduct sales exclusively by delivery, and shall have no on-site retail sales to customers.
3. Applications for any cannabis retail type shall include a statement as to whether the use will include delivery of cannabis and cannabis products located outside the cannabis retail facility.
4. 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 chapter and State law.

C. *Drive-Through Services.* Drive-through or walk-up window services in conjunction with cannabis retail Types 1, 2, and 3 are prohibited.

D. *Location Requirements.* Cannabis retail shall be subject to the following location requirements:

1. No more than two Type 1, two Type 2, and three Type 3 cannabis retail establishments are permitted in the City. Type 2 cannabis retail may only occur at an existing Type 1 medical cannabis retail establishment that has obtained and maintained a valid conditional use permit, provided such establishment meets the following requirements: comply with all requirements set forth in this chapter; and obtain State licenses for both medical and adult use commercial sales.
  - a. Such existing establishments are not required to obtain a new conditional use permit for Type 2 retail sales.
  - b. To the extent that such existing establishments have conditional use permits that have conditions in conflict with this chapter, the provisions of this chapter shall prevail.
  - c. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10 percent increase in square footage; any greater increase, or a relocation of the facility, shall require conditional use permit approval.

d. Subject to any State permitting, Types 1, 2, and 3 establishments may engage in both medical and nonmedical cannabis sales.

2. *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](#).

3. *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.

4. *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 nonconforming and subject to the protections and provisions of Chapter [17.160](#) SMC (Nonconforming Uses).

5. *Visibility of Entrance.* The entrance of a cannabis retail, Types 1 and 2, 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. *Management.* Permit applicants shall be responsible for providing the names of the person or persons having management or supervision responsibility of the applicant’s business at the time of application.

3. *Recordkeeping.* The cannabis retail operator, all types, shall maintain patient and sales records in accordance with State law.

4. *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.

5. *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 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.
6. *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.
7. *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.
8. *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 this title and any other applicable State regulations.
9. *On-Site 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.
10. *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.
11. *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.
12. *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 chapter 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law and as follows:

- a. 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.
- b. 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 chapter and State law.
- c. 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law.

H. *Restriction on Ownership.* No company or parent company shall simultaneously own or operate more than one Type 1, one Type 2, and one Type 3 facility in the City. (Ord. 1111, 2018)

### 17.360.110 Cannabis special events.

A. *Dual Licensing.* The City recognizes that State law requires cannabis businesses to obtain dual licensing at the State and local level for temporary special events that involve on-site cannabis sales to, and consumption by, patients or qualifying adults with valid identification. Such events shall not be allowed to commence until the cannabis business can demonstrate that all necessary local permits, State temporary event licenses, agency permits, and as necessary, a temporary use permit or a special events permit, as applicable, have been obtained in compliance with any regulations and deadlines established by the City and the State.

B. *Temporary Use Permit, Special Events Permit.* Applications for a cannabis special event shall be filed in a timely manner in accordance with Chapter [17.430](#) SMC (Temporary Use Permits – includes special events), or a special events permit pursuant to Chapter [12.44](#) SMC (Special Events), depending on the nature and location of the event. Applicants are advised to confirm State allowance for such event prior to filing of a City application.

Not more than four such events shall be permitted in any calendar year, and no single operator shall be permitted to conduct more than two such events per year. (Ord. 1111, 2018)

### 17.360.120 Special findings.

In addition to the conditional use permit findings specified in Chapter [17.415 SMC](#), applications subject to a conditional 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 site and building design and improvements.
- F. Whether the application will result in an overconcentration of such uses within the community.
- G. Energy conservation and other environmental aspects. (Ord. 1111, 2018)

### 17.360.130 Grounds for permit revocation or modification.

In addition to the grounds in SMC [17.400.090](#) (Term, adherence to approved plans and conditions, and 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; or
- 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 SMC 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. (Ord. 1111, 2018)

### 17.360.140 Planning Commission interpretation.

This chapter shall supersede and rescind the October 24, 2017, Zoning Ordinance Interpretation approved by the Planning Commission regarding cannabis uses. (Ord. 1111, 2018)

### 17.360.150 Rescission of urgency ordinance.

Upon its effective date, this chapter shall supersede and rescind Ordinance No. [1107](#), which established temporary cannabis regulations. Permits that were granted under such ordinance and are not in conflict with this chapter shall remain effective. (Ord. 1111, 2018)

### 17.360.160 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 1111, 2018)

This site does not support Internet Explorer. To view this site, Code Publishing Company recommends using one of the following browsers: Google Chrome, Firefox, or Safari.

**The Sebastopol Municipal Code is current through Ordinance 1142, and legislation passed through May 17, 2022.**

Disclaimer: The City Clerk's Office has the official version of the Sebastopol Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.ci.sebastopol.ca.us](http://www.ci.sebastopol.ca.us)

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**17.400.050 Public notice, public comment, and public hearing requirements.**

A. *Notice.* All notices for consideration of a zoning permit shall state the nature of the request, the location of the property, the manner in which additional information may be obtained, any deadline for written comments, and, if applicable, the date for a public meeting or hearing that will be held to consider the project. Notice shall be provided as indicated in Table 17.400-2 and as follows:

1. Notice of a public hearing shall be provided as established by Chapter [17.460](#) SMC.
2. Notice for consideration of permits that do not require a public hearing shall be mailed and posted as required by Table 17.400-2. If applicable, said notice shall state any deadline to request a public hearing before the decision-making body.

B. *Public Comment.* The public shall be provided an opportunity to make written comments during the minimum public comment period identified in Table 17.400-2. The public shall be provided an opportunity to make oral or written comments during the public hearing for consideration of any permits that require a public hearing as identified in Table 17.400-2.

C. *Public Hearing Requirements.*

1. A public hearing shall be held for zoning permits where a public hearing requirement is identified in Table 17.400-2. Public hearings shall be held consistent with the requirements of Chapter [17.460](#) SMC.

Table 17.400-2. Public Notice, Public Comment, and Public Hearing Requirements

Type of Zoning Permit	Public Hearing Requirement	Public Notice Requirements	Minimum Public Comment Period <sup>1</sup>
Administrative Permit	None	None	None
<a href="#">Administrative Permit, Cannabis</a>	<a href="#">None</a>	<a href="#">Notice mailed to all owners of property adjoining the exterior boundaries, and directly adjacent any public rights-of-way, of the subject property</a>	<a href="#">12 days from mailing of notice</a>
Adjustment	None	Notice mailed to all owners of property adjoining the exterior boundaries of the subject property	12 days from mailing of notice
Conditional Use Permit – Planning Director	Yes	SMC <a href="#">17.460.020</a>	12 days from publication of the notice
Conditional Use Permit –	Yes	SMC <a href="#">17.460.020</a>	12 days from publication of

Type of Zoning Permit	Public Hearing Requirement	Public Notice Requirements	Minimum Public Comment Period <sup>1</sup>
Planning Commission			notice
Variance	Yes	SMC <a href="#">17.460.020</a>	12 days from publication of notice
Reasonable Accommodation	No	None	None
Temporary Use Permit, six months or less	None	Notice mailed to all owners of property adjoining the exterior boundaries of the subject property	12 days from mailing of notice
Temporary Use Permit, more than six months	None	Notice mailed to all owners of property adjoining the exterior boundaries of the subject property, published in a newspaper of general circulation, and posted in at least three public places including the area directly affected by the requested permit	12 days from mailing of notice
Downtown Noise Permit, small event	None	Notice mailed to all owners of property adjoining the exterior boundaries of the subject property and posted in at least three public places including the area directly affected by the requested permit	12 days from mailing of notice
Downtown Noise Permit, large event	None	Notice mailed to all owners of property within 600 feet of the exterior boundaries of the subject property, published in a newspaper of general circulation, and posted in at least three public places including the area directly affected by the requested permit	12 days from mailing of notice
Development Agreement	Yes	SMC <a href="#">17.460.020</a>	12 days from publication of the notice
General Plan Amendment, Text or Map	Yes	SMC <a href="#">17.460.020</a>	12 days from publication of the notice

Type of Zoning Permit	Public Hearing Requirement	Public Notice Requirements	Minimum Public Comment Period <sup>1</sup>
Zoning Code Amendment, Text or Map	Yes	SMC <a href="#">17.460.020</a>	12 days from publication of the notice
Design Review, Planning Director	None <sup>2</sup>	None	None
Design Review, Design Review Board	None <sup>2</sup>	None	None

1 No decision on the zoning permit shall be made prior to the close of the public comment period.

2 A public hearing shall be scheduled, at the discretion of the City Council or the Design Review Board or the Planning Director if the application does not require a public hearing before another board or commission, or the City Council and if the project involves, for residential developments, construction of 10 or more units, or for nonresidential or mixed-use development, construction of 10,000 square feet of floor area or more, except when the application qualifies for exemption from a public hearing requirement under State law.

*D. Zoning Permit Decision Procedures.*

1. The decision-making body shall consider the recommendations of Planning Department staff and, if any, the recommendations of the Design Review Board or Planning Commission as applicable.
2. The decision-making body shall determine whether the application conforms to the criteria established in Chapters [17.400](#) through [17.470](#) SMC for the specific approval requested and to all other applicable criteria and standards established by this title.
3. In order to grant any use permit, the decision-making body must find that the general and other applicable use permit criteria are satisfied.
4. In granting any use permit, the decision-making body may designate such conditions, in connection with the permit, as it deems necessary in order to secure the purposes of this code, and may require guarantees and evidence that such conditions are being, or will be, complied with. (Ord. 1116 §§ 8, 10, 11, 2018; Ord. 1111, 2018)

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City of Sebastopol

Planning Department
7120 Bodega Avenue
Sebastopol, CA 95472
(707) 823-6167

MASTER PLANNING APPLICATION FORM

APPLICATION TYPE

- Administrative Permit Review
Alcohol Use Permit/ABC Transfer
Conditional Use Permit
Design Review
Lot Line Adjustment/Merger
Preapplication Conference
Preliminary Review
Sign Permit
Temporary Use Permit
Tree Removal Permit
Variance
Other

This application includes the checklist(s) or supplement form(s) for the type of permit requested: Yes No

REVIEW/HEARING BODIES

- Staff/Admin
Design Review/Tree Board
Planning Commission
City Council
Other

APPLICATION FOR

Street Address: 115 Morris Street
Assessor's Parcel No(s): 004-011-030
Present Use of Property: Cannabis Manufacturing and Distribution
Zoning/General Plan Designation: M: Industrial

APPLICANT INFORMATION

Property Owner Name: Dan Davis
Mailing Address: 8880 Barnett Valley Rd.
City/State/ZIP: Sebastopol, CA 95472
Signature: [Signature] Date: 8-29-22

Authorized Agent/Applicant Name: Regen West, Inc. / Craig Litwin
Mailing Address: 115 Morris St.
City/State/ZIP: Sebastopol, CA 95472
Signature: [Signature] Date: 8/26/22

Contact Name (if different from above): Andrew Longman Phone/Email: (707) 277-6903 andrew.longman@421.group

PROJECT DESCRIPTION AND PERMITS REQUESTED (ATTACH ADDITIONAL PAGES IF NECESSARY)

Application for Delivery-Only Retail use at location with permissions for cannabis manufacturing and distribution. Zoning Code Text Amendment application for proposed ordinance changes attached.

CITY USE ONLY

Table with 3 columns: Fill out upon receipt, Action, Action Date. Rows include Application Date, Planning File #, Received By, Fee(s), Completeness Date, Staff/Admin, Planning Director, Design Review/Tree Board, Planning Commission, City Council.

**SITE DATA TABLE**

If an item is not applicable to your project, please indicate "Not Applicable" or "N/A" in the appropriate box; do not leave cells blank.

SITE DATA TABLE	REQUIRED / ZONING STANDARD	EXISTING	PROPOSED
Zoning	N/A		
Use	N/A		
Lot Size			
Square Feet of Building/Structures <i>(if multiple structures include all separately)</i>			
Floor Area Ratio (F.A.R)	_____ FAR	_____ FAR	_____ FAR
Lot Coverage	_____ % of lot _____ sq. ft.	_____ % of lot _____ sq. ft.	_____ % of lot _____ sq. ft.
Parking			
Building Height			
Number of Stories			
Building Setbacks – Primary			
<i>Front</i>			
<i>Secondary Front Yard (corner lots)</i>			
<i>Side – Interior</i>			
<i>Rear</i>			
Building Setbacks – Accessory			
<i>Front</i>			
<i>Secondary Front Yard (corner lots)</i>			
<i>Side – Interior</i>			
<i>Rear</i>			
Special Setbacks <i>(if applicable)</i>			
<i>Other (_____)</i>			
Number of Residential Units	_____ Dwelling Unit(s)	_____ Dwelling Unit(s)	_____ Dwelling Unit(s)
Residential Density	1 unit per _____ sq. ft.	1 unit per _____ sq. ft.	1 unit per _____ sq. ft.
Useable Open Space	_____ sq. ft.	_____ sq. ft.	_____ sq. ft.
Grading	Grading should be minimized to the extent feasible to reflect existing topography and protect significant site features, including trees.	N/A	Total: _____ cu. yds Cut: _____ cu. yds. Fill: _____ cu. yds. Off-Haul: _____ cu. yds
Impervious Surface Area	N/A	<del>_____ % of lot _____ sq. ft.</del>	<del>_____ % of lot _____ sq. ft.</del>
Pervious Surface Area	N/A	<del>_____ % of lot _____ sq. ft.</del>	<del>_____ % of lot _____ sq. ft.</del>

**CONDITIONS OF APPLICATION**

1. All Materials submitted in conjunction with this form shall be considered a part of this application.
2. This application will not be considered filed and processing may not be initiated until the Planning Department determines that the submittal is complete with all necessary information and is "accepted as complete." The City will notify the applicant of all application deficiencies no later than 30 days following application submittal.
3. The property owner authorizes the listed authorized agent(s)/contact(s) to appear before the City Council, Planning Commission, Design Review/Tree Board and Planning Director and to file applications, plans, and other information on the owner's behalf.
4. The Owner shall inform the Planning Department in writing of any changes.
5. **INDEMNIFICATION AGREEMENT:** As part of this application, applicant agrees to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards, committees and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application or the adoption of the environmental document which accompanies it or otherwise arises out of or in connection with the City's action on this application. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the City's action on this application, whether or not there is concurrent passive or active negligence on the part of the City.

If, for any reason, any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

**NOTE:** The purpose of the indemnification agreement is to allow the City to be held harmless in terms of potential legal costs and liabilities in conjunction with permit processing and approval.

6. **REPRODUCTION AND CIRCULATION OF PLANS:** I hereby authorize the Planning Department to reproduce plans and exhibits as necessary for the processing of this application. I understand that this may include circulating copies of the reduced plans for public inspection. Multiple signatures are required when plans are prepared by multiple professionals.
7. **NOTICE OF MAILING:** Email addresses will be used for sending out staff reports and agendas to applicants, their representatives, property owners, and others to be notified.
8. **DEPOSIT ACCOUNT INFORMATION:** Rather than flat fees, some applications require a 'Deposit'. The initial deposit amount is based on typical processing costs. However, each application is different and will experience different costs. The City staff and City consultant time, in addition to other permit processing costs, (i.e., legal advertisements and copying costs are charged against the application deposit). If charges exceed the initial deposit, the applicant will receive billing from the City's Finance department. If at the end of the application process, charges are less than the deposit, the City Finance department will refund the remaining monies. Deposit accounts will be held open for up to 90 days after action or withdrawal for the City to complete any miscellaneous clean up items and to account for all project related costs.
9. **NOTICE OF ORDINANCE/PLAN MODIFICATIONS:** Pursuant to Government Code Section 65945(a), please indicate, by checking the boxes below, if you would like to receive a notice from the City of any proposal to adopt or amend any of the following plans or ordinances if the City determines that the proposal is reasonably related to your request for a development permit:

- |   |   |
|---|---|
| <input type="checkbox"/> A general plan   | <input type="checkbox"/> A specific plan    |
| <input type="checkbox"/> An ordinance affecting building permits or grading permits | <input type="checkbox"/> A zoning ordinance |

**Certification**

*I, the undersigned owner of the subject property, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury. I hereby grant members of the Planning Commission, Design Review Board and City Staff admittance to the subject property as necessary for processing of the project application.*

**Property Owner's Signature:** Samuel Jain **Date:** 8-29-22

*I, the undersigned applicant, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury.*

**Applicant's Signature:** Craig Johnson **Date:** 8.26.22

**NOTE:** It is the responsibility of the applicant and their representatives to be aware of and abide by City laws and policies. City staff, Boards, Commissions, and the City Council will review applications as required by law; however, the applicant has responsibility for determining and following applicable regulations.

## Neighbor Notification

In the interest of being a good neighbor, it is highly recommended that you contact those homes or businesses directly adjacent to, or within the area of your project. Please inform them of the proposed project, including construction activity and possible impacts such as noise, traffic interruptions, dust, larger structures, tree removals, etc.

Many projects in Sebastopol are remodel projects which when initiated bring concern to neighboring property owners, residents, and businesses. Construction activities can be disruptive, and additions or new buildings can affect privacy, sunlight, or landscaping. Some of these concerns can be alleviated by neighbor-to-neighbor contacts early in the design and construction process.

It is a "good neighbor policy" to inform your neighbors so that they understand your project. This will enable you to begin your construction with the understanding of your neighbors and will help promote good neighborhood relationships.

Many times, development projects can have an adverse effect on the tranquility of neighborhoods and tarnish relationships along the way. If you should have questions about who to contact or need property owner information in your immediate vicinity, please contact the Building and Safety Department for information at (707) 823-8597, or the Planning Department at (707) 823-6167.

I have informed site neighbors of my proposed project:  Yes  No

If yes, or if you will inform neighbors in the future, please describe outreach efforts:

We have canvassed our immediate neighbors in the past for our distribution and manufacturing uses. We will do so for this application once deemed complete by the City. Our neighbors have been very supportive of our efforts.

## Website Required for Major Projects

Applicants for major development projects (which involves proposed development of **10,000 square feet of new floor area or greater, or 15 or more dwelling units/lots**), are required to create a project website in conjunction with submittal of an application for Planning approval (including but not limited to Subdivisions, Use Permits, Rezoning, and Design Review). Required information may be provided on an existing applicant web site.

The website address shall be provided as part of the application. The website shall be maintained and updated, as needed until final discretionary approvals are obtained for the project.

Such website shall include, at a minimum, the following information:

- ✓ Project description
- ✓ Contact information for the applicant, including address, phone number, and email address
- ✓ Map showing project location
- ✓ Photographs of project site
- ✓ Project plans and drawings

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# ZONING CODE TEXT AMENDMENT APPLICATION



**Submitted by:** 421 Group on behalf of Regen West, Inc.

**Address:** 115 Morris St. , Sebastopol, CA 95472

**APN:** 004-011-030

## Statement of Need

***From the City's ZCTA application: Why do you want the General Plan or Zoning Ordinance text changed?***

**We are requesting a change to the zoning ordinance in order to keep our business solvent and assist other local manufacturers and distributors do the same.** With inflation across the supply chain, deflation of cannabis prices, compounding taxes for cannabis producers, and supply chain delays, diversifying local cannabis businesses is a viable way to survive.

**Our request is to allow for cannabis retail delivery in Industrial Zones, and only as a supplemental use to other permitted/proposed cultivation, manufacturing, or distribution facilities.** We propose that this use be a Permitted Use allowing for a streamlined Administrative Review versus a CUP. We propose that this supplemental use not be counted towards the limit of three delivery licenses. This will allow for other local cannabis businesses facing similar hurdles the opportunity to quickly diversify and make it through this most difficult time.

- *Please see PROPOSED CHANGES, Redlined chapter of 17.360.010 for proposed edits to allow this use.*

## Statement of Need That Warrants Change

***From the City's ZCTA application: What changes or events have occurred or what new evidence has arisen since the General Plan or Zoning Ordinance was adopted which now warrant a change?***

The regulated cannabis industry is taking a major hit. The price of outdoor flowers has dropped precipitously year over year. This has ramification up the supply chain. As but one example, oil manufacturers such as ourselves are witnessing a significant drop in the price of oil as new low-cost flowers hit the market. There is a race to the bottom. Margins are shrinking and near disappearing. The cannabis industry is in tumultuous times.

Considering the impacts of compounding state taxes up the supply chain, and sales tax at the end of the chain in retail dispensaries, the price of regulated cannabis far exceeds traditional market prices. There is a state-wide effort to reduce state taxes as the race to the bottom continues. The whole state is reeling.

The compounding taxes are a deadly burden on an industry poised for success but dying from a thousand cuts. Fortunately, Sebastopol cannabis businesses have an advantage without the local special use tax imposed by so many other local jurisdictions. This forward thinking policy in Sebastopol, coupled with state tax reform, is a life raft on a sinking ship. It is understandable that

jurisdictions want to raise taxes. But far from the golden goose once imagined, cannabis businesses still offer local jurisdictions significant sales taxes, career development with good paying jobs, and health care.

**How do we build the boat that will keep our local cannabis economy strong?** One clear way is to allow for diversified revenue through permitting direct to consumer sales, delivery licenses, for the handful of local cannabis businesses that have been able to open here locally post legalization.

## No Impact On Surrounding Area

*From the City's ZCTA application: Describe the effect the proposed change will have on the surrounding uses.*

**There will be no impact on surrounding uses as it is delivery only.** This is only a supplemental use to existing businesses. For example, we already operate a distribution and manufacturing center and this addition will be imperceptible. The space needed to fulfill delivery orders is literally a small office, enough for a phone line, computer, desk, and one employee.

## Proposed Change Achieves Objectives of Zoning Ordinance

*From the City's ZCTA application: Describe how the proposed change will affect achievement of the General Plan goals or the objectives of the Zoning Ordinance in this and the surrounding area.*

Please accept this petition (Proposed Zoning Code Text Amendment) as the official required statement per [17.445.020](#) (Application - Initiation) as a supplement to our existing local permits and state licenses for manufacturing and distribution of commercial cannabis to add delivery permissions. It is our intent to demonstrate that our proposed zoning code text amendment meets all requirements of consideration per 17.445.030 (Procedure for consideration), and, therefore, should be recommended for approval by the Planning Commission and the City Council thereafter.

- A. The project is compatible with the general objectives of the General Plan and any applicable specific plan.
- B. The project is in conformity with public convenience, general welfare and good land use practice.
- C. The project will not be detrimental to the public health, safety and general welfare.
- D. The project will not adversely affect the orderly development of property.

Our proposed change to the Zoning Code fulfills the achievement of the General Plan in numerous ways and from multiple sections. Below are some of the specific General Plan citations demonstrating this finding:

### From the Land Use Section

#### **Goal LU 8: Increase Job Opportunities in the Office and Professional Sectors of the Economy**

*Delivery would increase job opportunities in Sebastopol.*

**Policy LU 8-1: Encourage a vibrant mixture of office, retail, and service uses in the Downtown and along major arterials at the north and south ends of town.**

*As a local employer in an industrial building we are contributing to the vibrant mixture the General Plan calls for. This is true for other similar local cannabis businesses.*

**Policy LU 8-4: Support the continued development and intensification of office and professional employment centers throughout all non-residential areas.**

*Adding delivery helps build local businesses as viable employment center.*

**Policy LU 8-5: Maintain and implement Zoning Code provisions that accommodate and facilitate home-based and locally-owned businesses throughout the City.**

*Multiple owners of our business are local.*

#### **Goal LU 9: Increase Industrial Employment in Sebastopol While Maintaining the Quality of the Environment**

*Our request increases employment in an environmentally conscious manner. We are herbalists using organic local ingredients. We utilize organic ethanol to extract our oil. We help local cannabis farmers get to market. Other local producers have similar environmental ethics.*

**Policy LU 9-1: Designate sufficient land for a broad range of industrial uses, with an emphasis on uses that support the regional economy or are sustainable, green industries.**

*Allowing delivery is a supplemental use to our industrial manufacturing without any increase in building footprint. Most industrial facilities can ship directly to consumers. Once cannabis is legal federally we will be able to do the same. Until then we must deliver directly to consumers, and only within state boundaries.*

From the Economic Vitality Section:

**Goal EV 1: Encourage Economic Development that Broadens the City's Employment Base, Attracts High-Quality Jobs, Provides Services and Goods that Reflect the City's Values, and Increases the City's Tax Base**

*Adding delivery to our existing business offerings increases high-quality jobs, provides goods and services that reflect the City's values, and raises sales taxes for the City of Sebastopol.*

**Policy EV 1-2: Strengthen the City's business-related operations to provide a business-friendly and service-oriented environment through efficient processing of applications and permits related to economic development and ensuring that no unnecessary obstacles are created.**

*Our request will strengthen local businesses and remove obstacles towards getting local products to a wider market.*

**Policy EV 1-3: Attract and retain environmentally and socially conscious businesses that contribute to Sebastopol's long-term economic and environmental sustainability.**

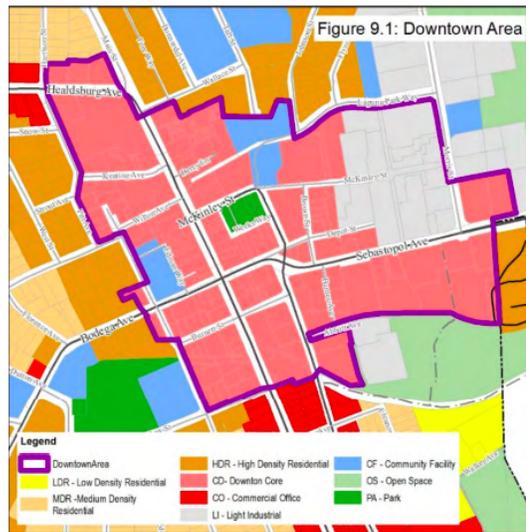
*Our request will allow us to continue as a viable business that honors environmental and socially conscious business practices.*

**Goal EV 4: Emphasize Sebastopol's Role as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast**

*Delivering the local products one creates directly to consumers allows local businesses to be part of this market and service hub for the West County as envisioned in the General Plan.*

**Policy EV 4-1: Encourage businesses in Sebastopol which respond to and meet the needs of West County residents.**

*The medicinal and recreational products we create are in direct response to the needs of local consumers and numerous West County residents. In fact, many of the herbal sources, cannabis and non cannabis alike, are sourced from 95472/ West County. Allowing us to sell these value added products back to the community from which the parts were grown is sustainable.*



**Goal EV 5: Enhance the City’s Existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses**

*As an existing start-up business the requested change would enhance our operations. Other local cannabis businesses would similarly benefit.*

**Policy EV 5-1: Ensure that the application and permitting process for expansion or improvements to existing businesses is user-friendly.**

*Our proposed addition of delivery helps improve existing businesses in a way that is complementary to the needs of this emerging industry. Our proposed changes would make the process more user friendly for future applicants requesting to add delivery to existing cannabis manufacturing and/or distribution.*

**Policy EV 5-2: Encourage the rehabilitation and retrofit of existing commercial, office, and industrial buildings to meet current market needs and code requirements.**

*We have retrofitted and upgraded an existing Industry business with updated power connections, solar installation, and full renovation and buildout of the interior. It is up to code. Our proposed addition of delivery helps to maintain this improved facility as a viable business. The addition of delivery makes the existing uses more sustainable helping meet the policy and goal in the General Plan*

Thank you for your consideration to permit this Zoning Code Text Amendment.

# ATTACHMENT A: Proposed Ordinance Changes



# Proposed Ordinance Changes



## Chapter 17.360: COMPREHENSIVE CANNABIS REGULATIONS

### 17.360.010 Purpose

This chapter provides the location and operating standards for personal [cannabis cultivation](#) and for [cannabis businesses](#) to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development. (Ord. 1111, 2018)

### 17.360.020 Application of regulations

The provisions of this chapter shall become effective 30 days after its adoption. (Ord. 1111, 2018)

### 17.360.030 Additional definitions

“*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.

“*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 Health and Safety Code Section [11018](#), 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 Health and Safety Code Section [11018.5](#). 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 chapter, 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 three classifications: medical dispensary retail, [adult use](#) dispensary retail, or [office-only cannabis retail](#).

“*Cannabis distribution/warehouse*” means the procurement, sale, and transport of medical [cannabis](#) or [adult use cannabis](#), and medical [cannabis products](#) or [adult use cannabis products](#), between legally established [cannabis businesses](#). This does not include patient delivery or [adult use](#) delivery.

“*Cannabis manufacturing*” means the production, preparation, propagation, or compounding of medical [cannabis](#) or [adult use cannabis](#), or medical [cannabis products](#) or [adult use cannabis products](#), using nonvolatile solvents, or no solvents, either directly or indirectly or by extraction methods, or independently by mean 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 relabels its container. This does not include the manufacturing of either medical or [adult use cannabis products](#) using volatile solvents, which is not [permitted](#) in the [City](#).

“*Cannabis microbusiness*” means a [cannabis cultivation](#) business of less than 10,000 square feet in combination with medical [cannabis distribution](#), medical [cannabis manufacturing](#) – level 1, and/or medical [cannabis retail](#) (dispensary) and delivery, combined within one State license.

“*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 three 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](#).
3. Type 3: “*Office only, cannabis retail*” means the sale and delivery of either medical [cannabis](#) or [adult use cannabis](#), and/or medical [cannabis products](#) or [adult use cannabis products](#), to qualified customers via online, the phone or by mail. No sales of [cannabis](#) are made on site. Except as [permitted](#) by State law, all [cannabis products](#) shall be stored in a secured fashion. Such use shall have a licensed [premises](#) which is a physical location from which commercial [cannabis](#) activities are conducted. Such

use's [premises](#) are closed to the public. The intent of this use-type is to serve as an [office](#) to coordinate the transport of [cannabis](#) obtained from other licensees to [qualified patients](#) or qualified adult customers with valid identification. Such use-type may conduct sales exclusively by delivery.

“*Cannabis processing*” means a licensee that conducts only trimming, drying, curing, grading or packaging of [cannabis](#) and nonmanufactured [cannabis products](#). Processing does not involve any cultivation or manufacturing.

“*Cannabis packaging and labeling*” means entities that only package or repackage [cannabis products](#) or label or relabel the [cannabis product](#) container. Can package and label for other licensees.

“*Cannabis testing laboratory*” means a [laboratory](#), facility, or entity in the State that offers or performs tests of medical [cannabis](#) or [adult use cannabis](#) and/or medical [cannabis products](#) or [adult use cannabis products](#), and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in commercial [cannabis](#) activity in the State.
2. Licensed by the Bureau of [Cannabis](#) Control.

“*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 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 [Business and Professions Code](#).

“*Primary caregiver*” shall have the same definition as set forth in 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 Health and Safety Code Section [11362.5](#) et seq., and as they may be amended from time to time. (Ord. 1111, 2018)

### **17.360.040 Limitations on use**

A. *Compliance with SMC*. Personal [cannabis cultivation](#) and [cannabis businesses](#) shall only be allowed in compliance with this chapter and all applicable regulations set forth in the SMC, 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. (Ord. 1111, 2018)

#### **17.360.050 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 (Chapter [17.25](#) SMC) 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 100 square feet per residence regardless of the number of residents.

2. *Primary Caregiver 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 100 square feet per patient, up to a total of 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 subsection [E](#) of this section.

B. *Adult Use Cannabis Maximum Limitation.* The personal cultivation of [adult use cannabis](#) is limited to no more than six 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 subsection [E](#) of this section.

C. *Residency Requirement.* Cultivation of [cannabis](#) for personal use may occur only 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 SMC.

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 noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, 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 as may be necessary to ensure that odors do not constitute a nuisance.
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 Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State Fire Marshal shall be kept in the area of cultivation. (Ord. 1111, 2018)

### **17.360.060 Cannabis businesses**

[Cannabis businesses](#) shall be [permitted](#) only in compliance with the provisions of zoning [districts](#) and allowable uses (Chapter [17.25](#) SMC) and shall be subject to the following standards and limitations:

A. *Land Use.* For purposes of this chapter, [cannabis businesses](#) shall include the following land use classifications, which are further defined in SMC [17.360.030](#), Additional definitions:

1. [Cannabis](#) – cultivation.
2. [Cannabis](#) – testing/lab.
3. [Cannabis](#) – manufacturer (nonvolatile, includes infusions).
  - i. Processing.
  - ii. Packaging and labeling.
4. [Cannabis](#) – [cannabis retail](#) (dispensary) and [cannabis retail](#) (office-only).
5. [Cannabis](#) – [cannabis](#) distributor/[warehouse](#).
6. [Cannabis](#) – microbusiness.

B. *Where Allowed.* [Cannabis businesses](#) shall be located in compliance with the requirements of zoning [districts](#) and allowable uses (Chapter [17.25](#) SMC) and as designated on Tables 17.360-1 and 17.360-2. 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 chapter shall not be established or maintained except as authorized by the land use permit required by this chapter. For those business uses not subject to a [conditional use permit](#) requirement, an administrative permit is required.

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

**Table 17.360-1. Permitted and Conditionally Permitted Cannabis Uses in the Residential Districts**

Use	R1	R2	R3	R4	R5	R6	R7	MHP
<a href="#">Cannabis Cultivation</a> – Personal (Adult): No more than 6 mature plants	P	P	P	P	P	P	P	P
<a href="#">Cannabis Cultivation</a> – Personal (Medical): No more than 100 sq. ft.	P	P	P	P	P	P	P	P
<a href="#">Cannabis Cultivation</a> – <a href="#">Primary Caregiver</a> (Medical Only) <sup>(1)</sup>	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 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones**

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
<a href="#">Cannabis</a> Retailer Delivery ( <a href="#">office</a> -only)	C	C	-	C	P <sup>(4)</sup>	C
<a href="#">Cannabis Retail</a> Dispensary	C	C	C	C	C	C
<a href="#">Cannabis Cultivation</a> (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<a href="#">Cannabis Cultivation</a> (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>

<u>Cannabis Cultivation</u> (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
<u>Cannabis Cultivation</u> Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Microbusiness</u>	-	C	-	C	C	C

**Industrial Uses**

<u>Cannabis</u> Testing / <u>Cannabis Laboratories</u>	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis</u> Manufacturer (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<u>Cannabis</u> Distributor / <u>Cannabis Warehouse</u>	-	-	-	C	C	P <sup>(1)</sup>
<u>Cannabis Processing</u> , Packaging and Labeling	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C

**Residential Uses**

<u>Cannabis Cultivation</u> – Personal (Adult): No more than 6 mature plants	P <sup>(2)</sup>					
<u>Cannabis Cultivation</u> – Personal (Medical): No more than 100 sq. ft.	P <sup>(2)</sup>					
<u>Cannabis Cultivation</u> – <u>Primary Caregiver</u> (Medical Only) <sup>(3)</sup>	P <sup>(2)</sup>					

P = Permitted Use

C = Conditionally Permitted Use

- = Use Not Allowed

(1) For cannabis-related permitted uses, zoning clearance is still required.

(2) Only applicable at residences.

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

- 
- (4) Cannabis Retailer Delivery (office-only) is only permitted in M District (Industrial Zone) as a supplemental use for an existing/proposed cannabis permit, and is not subject to the limit on delivery licenses set forth in this chapter under section 17.360.100 subsection D. 1.

### 17.360.070 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 chapter.

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 chapter after the State begins issuing State licenses and after the 10-month transition period noted in this subsection A 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 chapter shall be required to comply with all operational requirements set forth in this chapter.

3. *Grounds for Revocation*. Once State licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this chapter 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.

a. 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.

a. 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 SMC Title [15](#).

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 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 chapter 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 ensure 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 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 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 on-site 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, nonresidential door locks or window locks.
6. *Emergency Access.* Security measures shall be designed to ensure emergency access in compliance with 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, except for those which only deal with packaged cannabis and have no on-site consumption, 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, 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 shielded to appropriately limit exterior glare to surrounding properties.

J. *Noise*. Use of air conditioning and ventilation equipment shall comply with Chapter 8.25 SMC (Noise Control Ordinance). 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 State laws and regulations.
- b. Applicable City 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. Incident reporting, law enforcement liaison policies.
- i. 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 subsection (K)(1) of this section, 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. (Ord. 1111, 2018)

### **17.360.080 Cannabis commercial cultivation**

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for [cannabis](#) commercial cultivation.

A. *Outdoor Commercial Cultivation Prohibited.* The cultivation of [cannabis](#) for [commercial use](#) may only be conducted within a fully enclosed space.

B. *Type of Permit.* Depending on the size of the facility, and in accordance with the tables in SMC [17.360.060](#), administrative approval or a [conditional use permit](#) shall be required for [cannabis](#) commercial cultivation. For purposes of determining the facility size, square footage shall be defined by calculating the gross square footage of the [structure](#) or portion of the [structure](#) occupied by the [cannabis business](#), not the plant [canopy](#) area. For purposes of these regulations, nursery means a use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of [cannabis](#).

C. *Microbusiness.* In addition to compliance with permit and operating requirements set forth in this chapter for [cannabis cultivation](#), a [cannabis microbusiness](#) which includes cultivation, manufacturing, [distribution](#) and/or retail within one State license shall comply with all permit and operating requirements set forth in this chapter for [cannabis manufacturing](#), [distribution](#), and/or retail (dispensary) and delivery as applicable to the combination of uses within the license. Microbusinesses shall be subject to the [City's](#) limits on the maximum number of [cannabis retail](#) facilities.

D. *Pesticides.* The cultivation of [cannabis](#) must be conducted in accordance with all applicable Federal, State, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the fire code. (Ord. 1111, 2018)

### **17.360.090 Cannabis manufacturing – includes regulations regarding processing, packaging and labeling**

In addition to the general operating requirements set forth in this chapter, this section provides additional operational requirements for [cannabis manufacturing](#).

A. *Extraction Processes.* [Cannabis](#) manufacturers shall utilize only extraction processes that are (1) solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act, and/or (2) use solvents exclusively within a closed loop system that meets the requirements of the Federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a State licensed engineer.

- B. Processing: entities that conduct only trimming, drying, curing, grading or packaging of [cannabis](#) and non manufactured [cannabis products](#). Processing does not involve any cultivation or manufacturing.
- C. Packaging and labeling: entities that only package or repackage medical [cannabis products](#) or label or relabel the [cannabis product](#) container. Can package and label for other licensees.
- D. *Loop Systems*. No closed loop systems shall be utilized without prior inspection and approval of the [City's Building](#) Official and Fire Chief.
- E. *Standard of Equipment*. Extraction equipment, manufacturing, processing and analytical testing devices used by the [cannabis](#) manufacturer must be UL (Underwriters [Laboratories](#)) listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the [City's Building](#) Official and Fire Chief.
- F. *Annual Recertification Required*. Extraction equipment used by the [cannabis](#) manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on site.
- G. *Food Handler Certification*. All owners, employees, volunteers or other individuals that participate in the production of [edible cannabis products](#) must be State certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the [cannabis](#) manufacturer's facility where that individual participates in the production of [edible cannabis products](#).
- H. *Edible Product Manufacturing*. [Cannabis businesses](#) that sell or manufacture edible [cannabis](#) or [cannabis products](#) shall obtain a Sonoma County Health permit. Permit holders shall comply with Health and Safety Code Section [113700](#) 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. (Ord. 1111, 2018)

### **17.360.100 Cannabis retail**

- Type 1: Medical [cannabis retail](#) (dispensary).
- Type 2: [Adult use cannabis retail](#) (dispensary).
- Type 3: [Cannabis retail](#) delivery ([office](#)-only for medical or [adult use](#)).

In addition to the general operating requirements set forth in this chapter, this section provides location and operating requirements for medical [cannabis retail](#) (dispensary), [adult use cannabis retail](#) (dispensary) and retail delivery ([office](#)-only for medical or [adult use](#)).

- A. *Conditional Use*. A [conditional use permit](#) shall be required to operate [cannabis retail](#) Types 1 and 2 above in accordance with the tables in SMC [17.360.060](#).

B. *Delivery Services.* In addition to the requirements established in this chapter for [cannabis retail](#) Types 1, 2, and 3, the delivery of [cannabis](#) and [cannabis products](#) shall be subject to the following requirements:

1. Commercial delivery 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](#).
2. A [cannabis retail](#) facility, [office](#)-only (Type 3), that has a physical location in the [City](#) may also conduct sales exclusively by delivery, and shall have no on-site [retail sales](#) to customers.
3. Applications for any [cannabis retail](#) type shall include a statement as to whether the use will include delivery of [cannabis](#) and [cannabis products](#) located outside the [cannabis retail](#) facility.
4. 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 chapter and State law.

C. *Drive-Through Services.* Drive-through or walk-up window services in conjunction with [cannabis retail](#) Types 1, 2, and 3 are prohibited.

D. *Location Requirements.* [Cannabis retail](#) shall be subject to the following location requirements:

1. No more than two Type 1, two Type 2, and three Type 3 [cannabis retail](#) establishments are [permitted](#) in the [City](#). Type 2 [cannabis retail](#) may only occur at an existing Type 1 medical [cannabis retail](#) establishment that has obtained and maintained a valid [conditional use permit](#), provided such establishment meets the following requirements: comply with all requirements set forth in this chapter; and obtain State licenses for both medical and [adult use](#) commercial sales.
  - a. Such existing establishments are not required to obtain a new [conditional use permit](#) for Type 2 [retail sales](#).
  - b. To the extent that such existing establishments have [conditional use permits](#) that have conditions in conflict with this chapter, the provisions of this chapter shall prevail.
  - c. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10 percent increase in square footage; any greater increase, or a relocation of the facility, shall require [conditional use permit](#) approval.
  - d. Subject to any State permitting, Types 1, 2, and 3 establishments may engage in both medical and nonmedical [cannabis](#) sales.
2. *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](#).

3. *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.

4. *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 nonconforming and subject to the protections and provisions of Chapter [17.160](#) SMC ([Nonconforming Uses](#)).

5. *Visibility of Entrance.* The entrance of a [cannabis retail](#), Types 1 and 2, 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. *Management.* Permit [applicants](#) shall be responsible for providing the names of the person or persons having management or supervision responsibility of the [applicant's](#) business at the time of application.

3. *Recordkeeping.* The [cannabis retail operator](#), all types, shall maintain patient and sales records in accordance with State law.

4. *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.

5. *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 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.

6. *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.
7. *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.
8. *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 this title and any other applicable State regulations.
9. *On-Site 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](#).
10. *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.
11. *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.
12. *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 chapter 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law and as follows:
    - a. [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](#).

b. 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 chapter and State law.

c. 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law.

H. *Restriction on Ownership.* No company or parent company shall simultaneously own or operate more than one Type 1, one Type 2, and one Type 3 facility in the [City](#). (Ord. 1111, 2018)

### **17.360.110 Cannabis special events**

A. *Dual Licensing.* The [City](#) recognizes that State law requires [cannabis businesses](#) to obtain dual licensing at the State and local level for temporary special events that involve on-site [cannabis](#) sales to, and consumption by, patients or qualifying adults with valid identification. Such events shall not be allowed to commence until the [cannabis business](#) can demonstrate that all necessary local permits, State temporary event licenses, agency permits, and as necessary, a temporary use permit or a special events permit, as applicable, have been obtained in compliance with any regulations and deadlines established by the [City](#) and the State.

B. *Temporary Use Permit, Special Events Permit.* Applications for a [cannabis](#) special event shall be filed in a timely manner in accordance with Chapter [17.430](#) SMC (Temporary Use Permits – includes special events), or a special events permit pursuant to Chapter [12.44](#) SMC (Special Events), depending on the nature and location of the event. [Applicants](#) are advised to confirm State allowance for such event prior to filing of a [City](#) application.

Not more than four such events shall be [permitted](#) in any calendar year, and no single [operator](#) shall be [permitted](#) to conduct more than two such events per year. (Ord. 1111, 2018)

### **17.360.120 Special findings**

In addition to the [conditional use permit](#) findings specified in Chapter [17.415](#) SMC, applications subject to a [conditional 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 site and [building](#) design and improvements.
- F. Whether the application will result in an overconcentration of such uses within the community.
- G. Energy conservation and other environmental aspects. (Ord. 1111, 2018)

#### **17.360.130 Grounds for permit revocation or modification**

In addition to the grounds in SMC [17.400.090](#) (Term, adherence to approved plans and conditions, and 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; or
- 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 SMC 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. (Ord. 1111, 2018)

#### **17.360.140 Planning commission interpretation**

This chapter shall supersede and rescind the October 24, 2017, Zoning Ordinance Interpretation approved by the Planning Commission regarding [cannabis](#) uses. (Ord. 1111, 2018)

#### **17.360.150 Recission of urgency ordinance**

Upon its effective date, this chapter shall supersede and rescind Ordinance No. [1107](#), which established temporary [cannabis](#) regulations. Permits that were granted under such ordinance and are not in conflict with this chapter shall remain effective. (Ord. 1111, 2018)

#### **17.360.160 Severability**

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 1111, 2018)

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## City of Sebastopol Planning Commission Staff Report

Meeting Date: November 8, 2022  
Agenda Item: 6A  
To: Planning Commission  
From: John Jay, Associate Planner  
Subject: Zoning Ordinance amendment  
Recommendation: None

Applicant/Owner: 421 Group on behalf of Regen West Inc/Dan Davis  
File Number: 2022-067  
Address: 115 Morris Street  
CEQA Status: Exempt  
General Plan: Light Industrial (LI)  
Zoning: Industrial (M)

**Introduction:**

This is a study session with the Planning Commission to get initial feedback on a proposed Zoning Amendment change to the Comprehensive Cannabis Regulations ordinance, Section 17.360 of the Sebastopol Municipal Code. The applicant has requested an ordinance amendment that would allow Cannabis Retailer Delivery (office-only) [i.e. ‘delivery only retail sales’] as a permitted use within the Industrial (M) district of the City of Sebastopol. The applicant has also submitted for a Conditional Use Permit for the Cannabis Retail Delivery (office-only) in conjunction with the Zoning Amendment at 115 Morris Street, which currently has a permitted cannabis manufacturing use.

**Project Description:**

421 Group on the behalf of Regen West is requesting the City of Sebastopol amend the Cannabis Ordinance Section 17.360 of the Sebastopol Municipal Code. The applicant is requesting that in the Permitted and Conditionally Permitted Cannabis Uses in Commercial, Office and Industrial Zones, Table 17.360-2, be change from not allowing Cannabis Retail Delivery in the Industrial (M) district to allowing it with a building permit. This proposed change also includes a note at the end of that table to read as follows: *“Cannabis Retailer Delivery (office-only) is only permitted in M District (Industrial Zone) as a supplemental use for an existing/proposed cannabis permit, and is not subject to the limit on delivery licenses set forth in this chapter under section 17.360.100 subsection D. 1.”*

**Project Location and Surrounding Land Uses:**

The intent of this agenda item is to allow for the Planning Commission to discuss the proposed Zoning Amendment and provide direction to staff. A proposed ordinance revisions and formal public hearing will be scheduled for a subsequent Commission meeting, as would any required Use Permit requested for the specific facility at 115 Morris Street.

The Use Permit would be for a project located within the Industrial district on Morris Street. Within this district there are a variety of businesses geared towards manufacturing and distribution. Currently the site is permitted to operate a Type 6 (non-volatile) cannabis manufacturing facility. The project was granted this use in 2019 under permit number 2019-060 and was approved by planning staff (as required for cannabis manufacturing facilities).

**General Plan Consistency:**

The project is consistent with the following policies within the General Plan.

**Goal EV 4:** Emphasize Sebastopol's Role as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast. *As a local business who would be offering the products they produce on site to local shops within and outside of Sebastopol.*

**Goal EV 5:** Enhance the City's Existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses. *As a local business within Sebastopol this would allow Regen and other local cannabis businesses to add a delivery option to their facilities.*

**Zoning Ordinance Consistency:**

Currently Cannabis Retail Delivery (office only) is not an allowed use within the Industrial (M) district. For this to be an allowed use, Section 17.360 Comprehensive Cannabis Regulations would need to be amended and approved by City Council. The process for this is outlined in Chapter 17.445 General Plan and Zoning Amendment Procedure. The applicant has provided a Zoning Amendment change to Table 17.360-2, which provides the permitted and conditionally permitted Cannabis uses in the Commercial, Office and Industrial Zones.

**Background**

Currently, the Cannabis Ordinance allows 'Type 3' - Cannabis retail facilities, office-only' (retail delivery only) in the following Zoning Districts: Office Commercial, General Commercial, Commercial manufacturing, and Light Industrial/Office zones, as noted in the table below. The applicant is proposing that the Use Table be modified to allow Cannabis Retailer Delivery (office-only) to have P<sup>(1)</sup> under the M Zone. (Note 1 states "For cannabis-related permitted uses, zoning clearance is still required." This is done through an Administrative Permit issued by the Planning Department).

**Table 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones**

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
<u>Cannabis Retailer Delivery (office-only)</u>	C	C	-	C	-	C
<u>Cannabis Retail Dispensary</u>	C	C	C	C	C	C
<u>Cannabis Cultivation</u> (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Cultivation</u> (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Cultivation</u> (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
<u>Cannabis Cultivation</u> Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Microbusiness</u>	-	C	-	C	C	C
<b>Industrial Uses</b>						
<u>Cannabis Testing / Cannabis Laboratories</u>	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Manufacturer</u> (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<u>Cannabis Distributor / Cannabis Warehouse</u>	-	-	-	C	C	P <sup>(1)</sup>
<u>Cannabis Processing, Packaging and Labeling</u>	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C

**Analysis:**

Staff is requesting a study session with the Planning Commission to provide feedback and comments to come back at a future meeting with a comprehensive amendment request. The applicant has proposed to allow Cannabis Retail delivery (office only) within the Industrial (M) district as a permitted use and to be supplemental to an existing or proposed cannabis permit.

Staff has reviewed the supplied documents and has requested the Commission consider the following questions:

- Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?
- Should co-location with a manufacturing use be required and, if so, what type of co-location aspect/criteria (SF/% of sales, what makes a ‘bone fide manufacturing’ business, etc.)
- What level of City approval should be required?
- Should there be a limited number of licenses, or unlimited?
- Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?

*Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?*

The Planning Commission has reviewed a couple of delivery-only retail uses in the past, and one of the questions raised by commissioners was why this was not allowed in the M-zone, as it is essential a warehouse and logistics/shipping operation. Staff concurs with this assessment, as staff believes it is compatible with the purpose of the Manufacturing Zone, especially if co-located and supporting a cannabis manufacturing use.

*Should co-location with a manufacturing use be required and, if so, what type of co-location aspect/criteria should be included?*

The Planning Commission should also consider co-location criteria and how that can affect the level of review for Cannabis Retail Delivery for office only within the Industrial district. The Planning Commission could consider modeling this use like the Alcohol Use Permit requirements, which require a Conditional Use Permit for all alcohol uses within City limits. However, within Section 17.350.080 there is an exemption which allows the Planning Director/staff to approve the alcohol use permit for restaurants or “bona fide” public eating places which offer for sale or dispense for consideration alcoholic beverages including beer or wine incidental to meal service. There are several criteria that must be met to qualify for this, related to ensuring the use is a ‘bone fide’ restaurant, including:

1. The premises contain a kitchen or food-serving area in which a variety of food is prepared and cooked on the premises.
2. The primary use of the premises is for sit-down service to patrons, and the establishment is not a drive-up, drive-through, or fast-food restaurant.
3. The establishment serves food to patrons during all hours the establishment is open for customers.
4. The establishment only serves alcohol in a dining area and not in an alcohol serving area that is separate from the dining area.
5. Adequate seating arrangements for sit-down patrons are provided on the premises, not to exceed a seating capacity of 50 persons.
6. Any take-out service is only incidental to the primary sit-down use and does not include the sale or dispensing for consideration of alcoholic beverage or beer or wine.
7. No alcoholic beverages or beer or wine are sold or dispensed for consumption beyond the premises.
8. No dancing or live entertainment is permitted on the premises except with approval by the Chief of Police and Planning Director, who may impose conditions controlling such activities.
9. An employee alcohol awareness training program and security plan is approved by the Chief of Police.

These criteria can be categorized as follows:

- Ensure the “primary use” is legitimately the primary use, and not a ‘front’ for the use permit licensing, and that the primary use is maintained at all times;
- Limits on overall size of operation (without a full use permit);
- Restrictions on other ancillary uses;
- Health and Safety requirements from the City (many of which are already included in the Cannabis Ordinance as requirements for retail cannabis licensing)

Staff recommends the Commission set parameters to define ‘co-location with a bone fide cannabis manufacturing use’ using these measures. Staff further recommends the Commission provide guidance on if the level of approval should vary based on these factors. Staff would recommend criteria based on the following:

1. Square footage of 20% of the overall manufacturing facility dedicated to delivery only, with a maximum area of 500 square feet for an administrative permit review, to exceed this would require a conditional use permit.
2. Limit the number of deliveries on a weekly basis to 10 to 20 for an administrative permit review, to exceed that amount would require a full use permit approved by the Planning Commission.
3. Delivery only is only incidental to the primary use of manufacturing for the site.
4. The facility shall clearly designate the a “delivery only” section within the supplied application documents.
5. Delivery only is subject to regular business hours or a last delivery out by.
6. Conditions of approval shall be posted within the Delivery only section of the facility.
7. Change of ownership of the business shall require the new owner to apply for a transfer of delivery license.

*What type (level) of approval should be required?*

The applicant is requesting staff-level use permit approval of this use if co-located with a bone-fide cannabis manufacturing use (i.e. to approve this use with a building permit only). Staff feels that there should be discretion from the City and acting bodies to be able to take site by site submittals and condition them appropriately. With that, staff is requesting that the Planning Commission provide feedback on the appropriate review level of a Conditional Use Permit, Planning Director Use Permit; Staff level review/approval (such as with restaurants); or, a permitted by right (building-permit only).

*Should there be a limited number of licenses, or unlimited?*

The current Comprehensive Cannabis Ordinance limits the number of retail delivery-only licenses within the City to three licenses. Two of these have been issued (to the two retail dispensaries, Solful and SPARC), the third has been available since cannabis was legalized (the City has processed one additional delivery license application, which was denied by the Planning Commission due to issues with the location / proximity to residential uses),

The applicant purposes that the number of delivery-only retail licenses issued in conjunction with manufacturing uses (co-location discussed above) be unlimited. While staff believes there is capacity for additional delivery-only licenses within the City

*Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?*

These include the 600 foot distance to any schools, based on the boundary to boundary distance (so, an interior boundary) rather than walking distance. There are several establishments in the M Zone along the north part of Morris Street that are less than 600 feet from the High School fields, which would be excluded from being able to qualify for a permit

unless that threshold were changed for delivery-only retail. The proposed use at 115 Morris currently requesting a Permit is beyond the threshold.

While not a part of the applicant's request, the Commission may wish to provide input on this criteria.

**Environmental Review:**

The Zoning Amendment (the "Project") would be exempt with the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15183, because it is consistent with the General Plan for which an Environment Impact Report (EIR) was certified by Council in 2016, a Zoning Code Amendment consistent with the General Plan shall not require additional environmental review except as might be necessary to examine whether there are project specific significant effects which are peculiar to the project or its site.

**City Departmental Comments:**

- The Planning Department routed this to the various city departments and no comments were received on the Zoning Amendment proposal.

**Public Comment:**

No public comments have been received as of the writing of this staff report.

**Recommendation:**

Staff believes that the following topics should be discussed amongst the commission and to provide staff with direction to return with an appropriate recommendation.

- Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?
- Should co-location with a manufacturing use be required and, if so, what type of co-location aspect/criteria (SF/% of sales, what makes a 'bone fide manufacturing' business, etc.)
- What level of City approval should be required (Permitted 'by right'; Administrative use Permit, Planning Director, Planning Commission)
- Should there be a limited number of licenses, or unlimited?
- Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?

**Attachments:**

Application  
Current Cannabis Ordinance

# ZONING CODE TEXT AMENDMENT APPLICATION



**Submitted by:** 421 Group on behalf of Regen West, Inc.

**Address:** 115 Morris St. , Sebastopol, CA 95472

**APN:** 004-011-030

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## Statement of Need

***From the City's ZCTA application: Why do you want the General Plan or Zoning Ordinance text changed?***

**We are requesting a change to the zoning ordinance in order to keep our business solvent and assist other local manufacturers and distributors do the same.** With inflation across the supply chain, deflation of cannabis prices, compounding taxes for cannabis producers, and supply chain delays, diversifying local cannabis businesses is a viable way to survive.

**Our request is to allow for cannabis retail delivery in Industrial Zones, and only as a supplemental use to other permitted/proposed cultivation, manufacturing, or distribution facilities.** We propose that this use be a Permitted Use allowing for a streamlined Administrative Review versus a CUP. We propose that this supplemental use not be counted towards the limit of three delivery licenses. This will allow for other local cannabis businesses facing similar hurdles the opportunity to quickly diversify and make it through this most difficult time.

- *Please see PROPOSED CHANGES, Redlined chapter of 17.360.010 for proposed edits to allow this use.*

## Statement of Need That Warrants Change

***From the City's ZCTA application: What changes or events have occurred or what new evidence has arisen since the General Plan or Zoning Ordinance was adopted which now warrant a change?***

The regulated cannabis industry is taking a major hit. The price of outdoor flowers has dropped precipitously year over year. This has ramification up the supply chain. As but one example, oil manufacturers such as ourselves are witnessing a significant drop in the price of oil as new low-cost flowers hit the market. There is a race to the bottom. Margins are shrinking and near disappearing. The cannabis industry is in tumultuous times.

Considering the impacts of compounding state taxes up the supply chain, and sales tax at the end of the chain in retail dispensaries, the price of regulated cannabis far exceeds traditional market prices. There is a state-wide effort to reduce state taxes as the race to the bottom continues. The whole state is reeling.

The compounding taxes are a deadly burden on an industry poised for success but dying from a thousand cuts. Fortunately, Sebastopol cannabis businesses have an advantage without the local special use tax imposed by so many other local jurisdictions. This forward thinking policy in Sebastopol, coupled with state tax reform, is a life raft on a sinking ship. It is understandable that

jurisdictions want to raise taxes. But far from the golden goose once imagined, cannabis businesses still offer local jurisdictions significant sales taxes, career development with good paying jobs, and health care.

**How do we build the boat that will keep our local cannabis economy strong?** One clear way is to allow for diversified revenue through permitting direct to consumer sales, delivery licenses, for the handful of local cannabis businesses that have been able to open here locally post legalization.

## No Impact On Surrounding Area

*From the City's ZCTA application: Describe the effect the proposed change will have on the surrounding uses.*

**There will be no impact on surrounding uses as it is delivery only.** This is only a supplemental use to existing businesses. For example, we already operate a distribution and manufacturing center and this addition will be imperceptible. The space needed to fulfill delivery orders is literally a small office, enough for a phone line, computer, desk, and one employee.

## Proposed Change Achieves Objectives of Zoning Ordinance

*From the City's ZCTA application: Describe how the proposed change will affect achievement of the General Plan goals or the objectives of the Zoning Ordinance in this and the surrounding area.*

Please accept this petition (Proposed Zoning Code Text Amendment) as the official required statement per [17.445.020](#) (Application - Initiation) as a supplement to our existing local permits and state licenses for manufacturing and distribution of commercial cannabis to add delivery permissions. It is our intent to demonstrate that our proposed zoning code text amendment meets all requirements of consideration per 17.445.030 (Procedure for consideration), and, therefore, should be recommended for approval by the Planning Commission and the City Council thereafter.

- A. The project is compatible with the general objectives of the General Plan and any applicable specific plan.
- B. The project is in conformity with public convenience, general welfare and good land use practice.
- C. The project will not be detrimental to the public health, safety and general welfare.
- D. The project will not adversely affect the orderly development of property.

Our proposed change to the Zoning Code fulfills the achievement of the General Plan in numerous ways and from multiple sections. Below are some of the specific General Plan citations demonstrating this finding:

### From the Land Use Section

#### **Goal LU 8: Increase Job Opportunities in the Office and Professional Sectors of the Economy**

*Delivery would increase job opportunities in Sebastopol.*

**Policy LU 8-1: Encourage a vibrant mixture of office, retail, and service uses in the Downtown and along major arterials at the north and south ends of town.**

*As a local employer in an industrial building we are contributing to the vibrant mixture the General Plan calls for. This is true for other similar local cannabis businesses.*

**Policy LU 8-4: Support the continued development and intensification of office and professional employment centers throughout all non-residential areas.**

*Adding delivery helps build local businesses as viable employment center.*

**Policy LU 8-5: Maintain and implement Zoning Code provisions that accommodate and facilitate home-based and locally-owned businesses throughout the City.**

*Multiple owners of our business are local.*

#### **Goal LU 9: Increase Industrial Employment in Sebastopol While Maintaining the Quality of the Environment**

*Our request increases employment in an environmentally conscious manner. We are herbalists using organic local ingredients. We utilize organic ethanol to extract our oil. We help local cannabis farmers get to market. Other local producers have similar environmental ethics.*

**Policy LU 9-1: Designate sufficient land for a broad range of industrial uses, with an emphasis on uses that support the regional economy or are sustainable, green industries.**

*Allowing delivery is a supplemental use to our industrial manufacturing without any increase in building footprint. Most industrial facilities can ship directly to consumers. Once cannabis is legal federally we will be able to do the same. Until then we must deliver directly to consumers, and only within state boundaries.*

From the Economic Vitality Section:

**Goal EV 1: Encourage Economic Development that Broadens the City's Employment Base, Attracts High-Quality Jobs, Provides Services and Goods that Reflect the City's Values, and Increases the City's Tax Base**

*Adding delivery to our existing business offerings increases high-quality jobs, provides goods and services that reflect the City's values, and raises sales taxes for the City of Sebastopol.*

**Policy EV 1-2: Strengthen the City's business-related operations to provide a business-friendly and service-oriented environment through efficient processing of applications and permits related to economic development and ensuring that no unnecessary obstacles are created.**

*Our request will strengthen local businesses and remove obstacles towards getting local products to a wider market.*

**Policy EV 1-3: Attract and retain environmentally and socially conscious businesses that contribute to Sebastopol's long-term economic and environmental sustainability.**

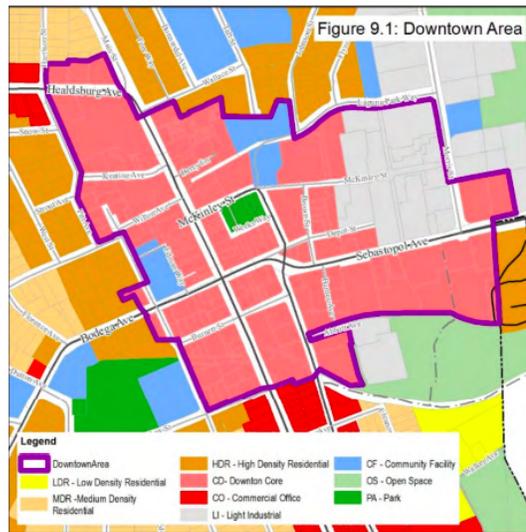
*Our request will allow us to continue as a viable business that honors environmental and socially conscious business practices.*

**Goal EV 4: Emphasize Sebastopol's Role as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast**

*Delivering the local products one creates directly to consumers allows local businesses to be part of this market and service hub for the West County as envisioned in the General Plan.*

**Policy EV 4-1: Encourage businesses in Sebastopol which respond to and meet the needs of West County residents.**

*The medicinal and recreational products we create are in direct response to the needs of local consumers and numerous West County residents. In fact, many of the herbal sources, cannabis and non cannabis alike, are sourced from 95472/ West County. Allowing us to sell these value added products back to the community from which the parts were grown is sustainable.*



**Goal EV 5: Enhance the City’s Existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses**

*As an existing start-up business the requested change would enhance our operations. Other local cannabis businesses would similarly benefit.*

**Policy EV 5-1: Ensure that the application and permitting process for expansion or improvements to existing businesses is user-friendly.**

*Our proposed addition of delivery helps improve existing businesses in a way that is complementary to the needs of this emerging industry. Our proposed changes would make the process more user friendly for future applicants requesting to add delivery to existing cannabis manufacturing and/or distribution.*

**Policy EV 5-2: Encourage the rehabilitation and retrofit of existing commercial, office, and industrial buildings to meet current market needs and code requirements.**

*We have retrofitted and upgraded an existing Industry business with updated power connections, solar installation, and full renovation and buildout of the interior. It is up to code. Our proposed addition of delivery helps to maintain this improved facility as a viable business. The addition of delivery makes the existing uses more sustainable helping meet the policy and goal in the General Plan*

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Thank you for your consideration to permit this Zoning Code Text Amendment.

# ATTACHMENT A: Proposed Ordinance Changes



# Proposed Ordinance Changes



## Chapter 17.360: COMPREHENSIVE CANNABIS REGULATIONS

### 17.360.010 Purpose

This chapter provides the location and operating standards for personal [cannabis cultivation](#) and for [cannabis businesses](#) to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development. (Ord. 1111, 2018)

### 17.360.020 Application of regulations

The provisions of this chapter shall become effective 30 days after its adoption. (Ord. 1111, 2018)

### 17.360.030 Additional definitions

“*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.

“*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 Health and Safety Code Section [11018](#), 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 Health and Safety Code Section [11018.5](#). 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 chapter, 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 three classifications: medical dispensary retail, [adult use](#) dispensary retail, or [office-only cannabis retail](#).

“*Cannabis distribution/warehouse*” means the procurement, sale, and transport of medical [cannabis](#) or [adult use cannabis](#), and medical [cannabis products](#) or [adult use cannabis products](#), between legally established [cannabis businesses](#). This does not include patient delivery or [adult use](#) delivery.

“*Cannabis manufacturing*” means the production, preparation, propagation, or compounding of medical [cannabis](#) or [adult use cannabis](#), or medical [cannabis products](#) or [adult use cannabis products](#), using nonvolatile solvents, or no solvents, either directly or indirectly or by extraction methods, or independently by mean 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 relabels its container. This does not include the manufacturing of either medical or [adult use cannabis products](#) using volatile solvents, which is not [permitted](#) in the [City](#).

“*Cannabis microbusiness*” means a [cannabis cultivation](#) business of less than 10,000 square feet in combination with medical [cannabis distribution](#), medical [cannabis manufacturing](#) – level 1, and/or medical [cannabis retail](#) (dispensary) and delivery, combined within one State license.

“*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 three 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](#).
3. Type 3: “*Office only, cannabis retail*” means the sale and delivery of either medical [cannabis](#) or [adult use cannabis](#), and/or medical [cannabis products](#) or [adult use cannabis products](#), to qualified customers via online, the phone or by mail. No sales of [cannabis](#) are made on site. Except as [permitted](#) by State law, all [cannabis products](#) shall be stored in a secured fashion. Such use shall have a licensed [premises](#) which is a physical location from which commercial [cannabis](#) activities are conducted. Such

use's [premises](#) are closed to the public. The intent of this use-type is to serve as an [office](#) to coordinate the transport of [cannabis](#) obtained from other licensees to [qualified patients](#) or qualified adult customers with valid identification. Such use-type may conduct sales exclusively by delivery.

“*Cannabis processing*” means a licensee that conducts only trimming, drying, curing, grading or packaging of [cannabis](#) and nonmanufactured [cannabis products](#). Processing does not involve any cultivation or manufacturing.

“*Cannabis packaging and labeling*” means entities that only package or repackage [cannabis products](#) or label or relabel the [cannabis product](#) container. Can package and label for other licensees.

“*Cannabis testing laboratory*” means a [laboratory](#), facility, or entity in the State that offers or performs tests of medical [cannabis](#) or [adult use cannabis](#) and/or medical [cannabis products](#) or [adult use cannabis products](#), and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in commercial [cannabis](#) activity in the State.
2. Licensed by the Bureau of [Cannabis](#) Control.

“*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 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 [Business and Professions Code](#).

“*Primary caregiver*” shall have the same definition as set forth in 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 Health and Safety Code Section [11362.5](#) et seq., and as they may be amended from time to time. (Ord. 1111, 2018)

### **17.360.040 Limitations on use**

A. *Compliance with SMC*. Personal [cannabis cultivation](#) and [cannabis businesses](#) shall only be allowed in compliance with this chapter and all applicable regulations set forth in the SMC, 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. (Ord. 1111, 2018)

#### **17.360.050 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 (Chapter 17.25 SMC) 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 100 square feet per residence regardless of the number of residents.

2. *Primary Caregiver 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 100 square feet per patient, up to a total of 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 subsection E of this section.

B. *Adult Use Cannabis Maximum Limitation.* The personal cultivation of adult use cannabis is limited to no more than six 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 subsection E of this section.

C. *Residency Requirement.* Cultivation of [cannabis](#) for personal use may occur only 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 SMC.

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 noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, 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 as may be necessary to ensure that odors do not constitute a nuisance.
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 Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State Fire Marshal shall be kept in the area of cultivation. (Ord. 1111, 2018)

### **17.360.060 Cannabis businesses**

[Cannabis businesses](#) shall be [permitted](#) only in compliance with the provisions of zoning [districts](#) and allowable uses (Chapter [17.25](#) SMC) and shall be subject to the following standards and limitations:

A. *Land Use.* For purposes of this chapter, [cannabis businesses](#) shall include the following land use classifications, which are further defined in SMC [17.360.030](#), Additional definitions:

1. [Cannabis](#) – cultivation.
2. [Cannabis](#) – testing/lab.
3. [Cannabis](#) – manufacturer (nonvolatile, includes infusions).
  - i. Processing.
  - ii. Packaging and labeling.
4. [Cannabis](#) – [cannabis retail](#) (dispensary) and [cannabis retail](#) (office-only).
5. [Cannabis](#) – [cannabis](#) distributor/[warehouse](#).
6. [Cannabis](#) – microbusiness.

B. *Where Allowed.* [Cannabis businesses](#) shall be located in compliance with the requirements of zoning [districts](#) and allowable uses (Chapter [17.25](#) SMC) and as designated on Tables 17.360-1 and 17.360-2. 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 chapter shall not be established or maintained except as authorized by the land use permit required by this chapter. For those business uses not subject to a [conditional use permit](#) requirement, an administrative permit is required.

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

**Table 17.360-1. Permitted and Conditionally Permitted Cannabis Uses in the Residential Districts**

Use	R1	R2	R3	R4	R5	R6	R7	MHP
<a href="#">Cannabis Cultivation</a> – Personal (Adult): No more than 6 mature plants	P	P	P	P	P	P	P	P
<a href="#">Cannabis Cultivation</a> – Personal (Medical): No more than 100 sq. ft.	P	P	P	P	P	P	P	P
<a href="#">Cannabis Cultivation</a> – <a href="#">Primary Caregiver</a> (Medical Only) <sup>(1)</sup>	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 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones**

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
<a href="#">Cannabis</a> Retailer Delivery ( <a href="#">office</a> -only)	C	C	-	C	P <sup>(4)</sup>	C
<a href="#">Cannabis Retail</a> Dispensary	C	C	C	C	C	C
<a href="#">Cannabis Cultivation</a> (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<a href="#">Cannabis Cultivation</a> (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>

<u>Cannabis Cultivation</u> (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
<u>Cannabis Cultivation</u> Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Microbusiness</u>	-	C	-	C	C	C
<b>Industrial Uses</b>						
<u>Cannabis</u> Testing / <u>Cannabis Laboratories</u>	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis</u> Manufacturer (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<u>Cannabis</u> Distributor / <u>Cannabis Warehouse</u>	-	-	-	C	C	P <sup>(1)</sup>
<u>Cannabis Processing</u> , Packaging and Labeling	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<b>Residential Uses</b>						
<u>Cannabis Cultivation</u> – Personal (Adult): No more than 6 mature plants	P <sup>(2)</sup>					
<u>Cannabis Cultivation</u> – Personal (Medical): No more than 100 sq. ft.	P <sup>(2)</sup>					
<u>Cannabis Cultivation</u> – <u>Primary Caregiver</u> (Medical Only) <sup>(3)</sup>	P <sup>(2)</sup>					

P = Permitted Use

C = Conditionally Permitted Use

- = Use Not Allowed

(1) For cannabis-related permitted uses, zoning clearance is still required.

(2) Only applicable at residences.

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

- 
- (4) Cannabis Retailer Delivery (office-only) is only permitted in M District (Industrial Zone) as a supplemental use for an existing/proposed cannabis permit, and is not subject to the limit on delivery licenses set forth in this chapter under section 17.360.100 subsection D. 1.

### 17.360.070 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 chapter.

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 chapter after the State begins issuing State licenses and after the 10-month transition period noted in this subsection A 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 chapter shall be required to comply with all operational requirements set forth in this chapter.

3. *Grounds for Revocation*. Once State licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this chapter 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.

a. 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.

a. 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 SMC Title [15](#).

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 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 chapter 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 ensure 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 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 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 on-site 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, nonresidential door locks or window locks.
6. *Emergency Access.* Security measures shall be designed to ensure emergency access in compliance with 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, except for those which only deal with packaged cannabis and have no on-site consumption, 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, 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 shielded to appropriately limit exterior glare to surrounding properties.

J. *Noise*. Use of air conditioning and ventilation equipment shall comply with Chapter 8.25 SMC (Noise Control Ordinance). 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 State laws and regulations.
- b. Applicable City 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. Incident reporting, law enforcement liaison policies.
- i. 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 subsection (K)(1) of this section, 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. (Ord. 1111, 2018)

### **17.360.080 Cannabis commercial cultivation**

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for [cannabis](#) commercial cultivation.

A. *Outdoor Commercial Cultivation Prohibited.* The cultivation of [cannabis](#) for [commercial use](#) may only be conducted within a fully enclosed space.

B. *Type of Permit.* Depending on the size of the facility, and in accordance with the tables in SMC [17.360.060](#), administrative approval or a [conditional use permit](#) shall be required for [cannabis](#) commercial cultivation. For purposes of determining the facility size, square footage shall be defined by calculating the gross square footage of the [structure](#) or portion of the [structure](#) occupied by the [cannabis business](#), not the plant [canopy](#) area. For purposes of these regulations, nursery means a use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of [cannabis](#).

C. *Microbusiness.* In addition to compliance with permit and operating requirements set forth in this chapter for [cannabis cultivation](#), a [cannabis microbusiness](#) which includes cultivation, manufacturing, [distribution](#) and/or retail within one State license shall comply with all permit and operating requirements set forth in this chapter for [cannabis manufacturing](#), [distribution](#), and/or retail (dispensary) and delivery as applicable to the combination of uses within the license. Microbusinesses shall be subject to the [City's](#) limits on the maximum number of [cannabis retail](#) facilities.

D. *Pesticides.* The cultivation of [cannabis](#) must be conducted in accordance with all applicable Federal, State, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the fire code. (Ord. 1111, 2018)

### **17.360.090 Cannabis manufacturing – includes regulations regarding processing, packaging and labeling**

In addition to the general operating requirements set forth in this chapter, this section provides additional operational requirements for [cannabis manufacturing](#).

A. *Extraction Processes.* [Cannabis](#) manufacturers shall utilize only extraction processes that are (1) solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act, and/or (2) use solvents exclusively within a closed loop system that meets the requirements of the Federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a State licensed engineer.

- B. Processing: entities that conduct only trimming, drying, curing, grading or packaging of [cannabis](#) and non manufactured [cannabis products](#). Processing does not involve any cultivation or manufacturing.
- C. Packaging and labeling: entities that only package or repackage medical [cannabis products](#) or label or relabel the [cannabis product](#) container. Can package and label for other licensees.
- D. *Loop Systems*. No closed loop systems shall be utilized without prior inspection and approval of the [City's Building](#) Official and Fire Chief.
- E. *Standard of Equipment*. Extraction equipment, manufacturing, processing and analytical testing devices used by the [cannabis](#) manufacturer must be UL (Underwriters [Laboratories](#)) listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the [City's Building](#) Official and Fire Chief.
- F. *Annual Recertification Required*. Extraction equipment used by the [cannabis](#) manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on site.
- G. *Food Handler Certification*. All owners, employees, volunteers or other individuals that participate in the production of [edible cannabis products](#) must be State certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the [cannabis](#) manufacturer's facility where that individual participates in the production of [edible cannabis products](#).
- H. *Edible Product Manufacturing*. [Cannabis businesses](#) that sell or manufacture edible [cannabis](#) or [cannabis products](#) shall obtain a Sonoma County Health permit. Permit holders shall comply with Health and Safety Code Section [113700](#) 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. (Ord. 1111, 2018)

### **17.360.100 Cannabis retail**

- Type 1: Medical [cannabis retail](#) (dispensary).
- Type 2: [Adult use cannabis retail](#) (dispensary).
- Type 3: [Cannabis retail](#) delivery ([office](#)-only for medical or [adult use](#)).

In addition to the general operating requirements set forth in this chapter, this section provides location and operating requirements for medical [cannabis retail](#) (dispensary), [adult use cannabis retail](#) (dispensary) and retail delivery ([office](#)-only for medical or [adult use](#)).

- A. *Conditional Use*. A [conditional use permit](#) shall be required to operate [cannabis retail](#) Types 1 and 2 above in accordance with the tables in SMC [17.360.060](#).

B. *Delivery Services.* In addition to the requirements established in this chapter for [cannabis retail](#) Types 1, 2, and 3, the delivery of [cannabis](#) and [cannabis products](#) shall be subject to the following requirements:

1. Commercial delivery 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](#).
2. A [cannabis retail](#) facility, [office](#)-only (Type 3), that has a physical location in the [City](#) may also conduct sales exclusively by delivery, and shall have no on-site [retail sales](#) to customers.
3. Applications for any [cannabis retail](#) type shall include a statement as to whether the use will include delivery of [cannabis](#) and [cannabis products](#) located outside the [cannabis retail](#) facility.
4. 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 chapter and State law.

C. *Drive-Through Services.* Drive-through or walk-up window services in conjunction with [cannabis retail](#) Types 1, 2, and 3 are prohibited.

D. *Location Requirements.* [Cannabis retail](#) shall be subject to the following location requirements:

1. No more than two Type 1, two Type 2, and three Type 3 [cannabis retail](#) establishments are [permitted](#) in the [City](#). Type 2 [cannabis retail](#) may only occur at an existing Type 1 medical [cannabis retail](#) establishment that has obtained and maintained a valid [conditional use permit](#), provided such establishment meets the following requirements: comply with all requirements set forth in this chapter; and obtain State licenses for both medical and [adult use](#) commercial sales.
  - a. Such existing establishments are not required to obtain a new [conditional use permit](#) for Type 2 [retail sales](#).
  - b. To the extent that such existing establishments have [conditional use permits](#) that have conditions in conflict with this chapter, the provisions of this chapter shall prevail.
  - c. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10 percent increase in square footage; any greater increase, or a relocation of the facility, shall require [conditional use permit](#) approval.
  - d. Subject to any State permitting, Types 1, 2, and 3 establishments may engage in both medical and nonmedical [cannabis](#) sales.
2. *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](#).

3. *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.

4. *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 nonconforming and subject to the protections and provisions of Chapter [17.160](#) SMC ([Nonconforming Uses](#)).

5. *Visibility of Entrance.* The entrance of a [cannabis retail](#), Types 1 and 2, 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. *Management.* Permit [applicants](#) shall be responsible for providing the names of the person or persons having management or supervision responsibility of the [applicant's](#) business at the time of application.

3. *Recordkeeping.* The [cannabis retail operator](#), all types, shall maintain patient and sales records in accordance with State law.

4. *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.

5. *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 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.

6. *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.
7. *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.
8. *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 this title and any other applicable State regulations.
9. *On-Site 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.
10. *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.
11. *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.
12. *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 chapter 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 Chapter 8.04 SMC (Use of Tobacco in Public Places – Smoking Control) and State law and as follows:
    - a. 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.

b. 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 chapter and State law.

c. 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law.

H. *Restriction on Ownership.* No company or parent company shall simultaneously own or operate more than one Type 1, one Type 2, and one Type 3 facility in the [City](#). (Ord. 1111, 2018)

### **17.360.110 Cannabis special events**

A. *Dual Licensing.* The [City](#) recognizes that State law requires [cannabis businesses](#) to obtain dual licensing at the State and local level for temporary special events that involve on-site [cannabis](#) sales to, and consumption by, patients or qualifying adults with valid identification. Such events shall not be allowed to commence until the [cannabis business](#) can demonstrate that all necessary local permits, State temporary event licenses, agency permits, and as necessary, a temporary use permit or a special events permit, as applicable, have been obtained in compliance with any regulations and deadlines established by the [City](#) and the State.

B. *Temporary Use Permit, Special Events Permit.* Applications for a [cannabis](#) special event shall be filed in a timely manner in accordance with Chapter [17.430](#) SMC (Temporary Use Permits – includes special events), or a special events permit pursuant to Chapter [12.44](#) SMC (Special Events), depending on the nature and location of the event. [Applicants](#) are advised to confirm State allowance for such event prior to filing of a [City](#) application.

Not more than four such events shall be [permitted](#) in any calendar year, and no single [operator](#) shall be [permitted](#) to conduct more than two such events per year. (Ord. 1111, 2018)

### **17.360.120 Special findings**

In addition to the [conditional use permit](#) findings specified in Chapter [17.415](#) SMC, applications subject to a [conditional 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 site and [building](#) design and improvements.
- F. Whether the application will result in an overconcentration of such uses within the community.
- G. Energy conservation and other environmental aspects. (Ord. 1111, 2018)

#### **17.360.130 Grounds for permit revocation or modification**

In addition to the grounds in SMC [17.400.090](#) (Term, adherence to approved plans and conditions, and 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; or
- 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 SMC 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. (Ord. 1111, 2018)

#### **17.360.140 Planning commission interpretation**

This chapter shall supersede and rescind the October 24, 2017, Zoning Ordinance Interpretation approved by the Planning Commission regarding [cannabis](#) uses. (Ord. 1111, 2018)

#### **17.360.150 Recission of urgency ordinance**

Upon its effective date, this chapter shall supersede and rescind Ordinance No. [1107](#), which established temporary [cannabis](#) regulations. Permits that were granted under such ordinance and are not in conflict with this chapter shall remain effective. (Ord. 1111, 2018)

#### **17.360.160 Severability**

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 1111, 2018)

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## Chapter 17.360 COMPREHENSIVE CANNABIS REGULATIONS

Sections:

- 17.360.010 Purpose.
- 17.360.020 Application of regulations.
- 17.360.030 Additional definitions.
- 17.360.040 Limitations on use.
- 17.360.050 Personal cannabis cultivation.
- 17.360.060 Cannabis businesses.
- 17.360.070 General operating requirements.
- 17.360.080 Cannabis commercial cultivation.
- 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.
- 17.360.100 Cannabis retail.
- 17.360.110 Cannabis special events.
- 17.360.120 Special findings.
- 17.360.130 Grounds for permit revocation or modification.
- 17.360.140 Planning Commission interpretation.
- 17.360.150 Rescission of urgency ordinance.
- 17.360.160 Severability.

### 17.360.010 Purpose.

This chapter provides the location and operating standards for personal cannabis cultivation and for cannabis businesses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development. (Ord. 1111, 2018)

### 17.360.020 Application of regulations.

The provisions of this chapter shall become effective 30 days after its adoption. (Ord. 1111, 2018)

### 17.360.030 Additional definitions.

“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.

“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 Health and Safety Code Section [11018](#), 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 Health and Safety Code Section [11018.5](#). 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 chapter, 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 three classifications: medical dispensary retail, adult use dispensary retail, or office-only cannabis retail.

“Cannabis distribution/warehouse” means the procurement, sale, and transport of medical cannabis or adult use cannabis, and medical cannabis products or adult use cannabis products, between legally established cannabis businesses. This does not include patient delivery or adult use delivery.

“Cannabis manufacturing” means the production, preparation, propagation, or compounding of medical cannabis or adult use cannabis, or medical cannabis products or adult use cannabis products, using nonvolatile solvents, or no solvents, either directly or indirectly or by extraction methods, or independently by mean 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 relabels its container. This does not include the manufacturing of either medical or adult use cannabis products using volatile solvents, which is not permitted in the City.

“Cannabis microbusiness” means a cannabis cultivation business of less than 10,000 square feet in combination with medical cannabis distribution, medical cannabis manufacturing – level 1, and/or medical cannabis retail (dispensary) and delivery, combined within one State license.

“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 three 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.
3. Type 3: “Office only, cannabis retail” means the sale and delivery of either medical cannabis or adult use cannabis, and/or medical cannabis products or adult use cannabis products, to qualified customers via online, the phone or by mail. No sales of cannabis are made on site. Except as permitted by State law, all cannabis products shall be stored in a secured fashion. Such use shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. Such use’s premises are closed to the public. The intent of this use-type is to serve as an office to coordinate the transport of cannabis obtained from other licensees to qualified patients or qualified adult customers with valid identification. Such use-type may conduct sales exclusively by delivery.

“Cannabis processing” means a licensee that conducts only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.

“Cannabis packaging and labeling” means entities that only package or repackage cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.

“Cannabis testing laboratory” means a laboratory, facility, or entity in the State that offers or performs tests of medical cannabis or adult use cannabis and/or medical cannabis products or adult use cannabis products, and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.

2. Licensed by the Bureau of Cannabis Control.

“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 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 [Business and Professions Code](#).

“Primary caregiver” shall have the same definition as set forth in 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 Health and Safety Code Section [11362.5](#) et seq., and as they may be amended from time to time. (Ord. 1111, 2018)

### 17.360.040 Limitations on use.

A. *Compliance with SMC.* Personal cannabis cultivation and cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations set forth in the SMC, 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. (Ord. 1111, 2018)

### 17.360.050 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 (Chapter [17.25 SMC](#)) 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 100 square feet per residence regardless of the number of residents.

2. *Primary Caregiver 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 100 square feet per patient, up to a total of 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 subsection [E](#) of this section.

B. *Adult Use Cannabis Maximum Limitation.* The personal cultivation of adult use cannabis is limited to no more than six 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 subsection [E](#) of this section.

C. *Residency Requirement.* Cultivation of cannabis for personal use may occur only 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 SMC.

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 noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, 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 as may be necessary to ensure that odors do not constitute a nuisance.
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 Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State Fire Marshal shall be kept in the area of cultivation. (Ord. 1111, 2018)

### 17.360.060 Cannabis businesses.

Cannabis businesses shall be permitted only in compliance with the provisions of zoning districts and allowable uses (Chapter [17.25 SMC](#)) and shall be subject to the following standards and limitations:

A. *Land Use.* For purposes of this chapter, cannabis businesses shall include the following land use classifications, which are further defined in SMC [17.360.030](#), Additional definitions:

1. Cannabis – cultivation.
2. Cannabis – testing/lab.
3. Cannabis – manufacturer (nonvolatile, includes infusions).
  - i. Processing.
  - ii. Packaging and labeling.
4. Cannabis – cannabis retail (dispensary) and cannabis retail (office-only).
5. Cannabis – cannabis distributor/warehouse.
6. Cannabis – microbusiness.

B. *Where Allowed.* Cannabis businesses shall be located in compliance with the requirements of zoning districts and allowable uses (Chapter [17.25 SMC](#)) and as designated on Tables 17.360-1 and 17.360-2. 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 chapter shall not be established or maintained except as authorized by the land use permit required by this chapter. For those business uses not subject to a conditional use permit requirement, an administrative permit is required.

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

Table 17.360-1. Permitted and Conditionally Permitted Cannabis Uses in the Residential Districts

Use	R1	R2	R3	R4	R5	R6	R7	MHP
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	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
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(1)</sup>	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 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
Cannabis Retailer Delivery (office-only)	C	C	-	C	-	C
Cannabis Retail Dispensary	C	C	C	C	C	C
Cannabis Cultivation (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
Cannabis Cultivation Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Microbusiness	-	C	-	C	C	C
<b>Industrial Uses</b>						
Cannabis Testing / Cannabis Laboratories	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Manufacturer (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
Cannabis Distributor / Cannabis Warehouse	-	-	-	C	C	P <sup>(1)</sup>
Cannabis Processing, Packaging and Labeling	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<b>Residential Uses</b>						
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	P <sup>(2)</sup>					
Cannabis Cultivation – Personal (Medical): No more than 100 sq. ft.	P <sup>(2)</sup>					
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(3)</sup>	P <sup>(2)</sup>					
P = Permitted Use						

Use	CO	CG	CD	CM	M	O/LM
<p>C = Conditionally Permitted Use                      - = Use Not Allowed                      (1) For cannabis-related permitted uses, zoning clearance is still required.                      (2) Only applicable at residences.                      (3) No more than 100 sq. ft. per patient, up to 500 sq. ft. Maximum of 200 sq. ft. permitted for outdoor.</p>						

(Ord. 1111, 2018)

### 17.360.070 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 chapter.

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 chapter after the State begins issuing State licenses and after the 10-month transition period noted in this subsection A 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 chapter shall be required to comply with all operational requirements set forth in this chapter.
3. *Grounds for Revocation.* Once State licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this chapter 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.
  - a. 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.

a. 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 SMC Title [15](#).

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 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 chapter 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 ensure 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 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 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 on-site 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, nonresidential door locks or window locks.
6. *Emergency Access.* Security measures shall be designed to ensure emergency access in compliance with 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, except for those which only deal with packaged cannabis and have no on-site consumption, 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, 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 shielded to appropriately limit exterior glare to surrounding properties.

J. *Noise.* Use of air conditioning and ventilation equipment shall comply with Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State laws and regulations.
- b. Applicable City 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. Incident reporting, law enforcement liaison policies.
- i. 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 subsection [\(K\)\(1\)](#) of this section, 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. (Ord. 1111, 2018)

### 17.360.080 Cannabis commercial cultivation.

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis commercial cultivation.

- A. *Outdoor Commercial Cultivation Prohibited.* The cultivation of cannabis for commercial use may only be conducted within a fully enclosed space.
- B. *Type of Permit.* Depending on the size of the facility, and in accordance with the tables in SMC [17.360.060](#), administrative approval or a conditional use permit shall be required for cannabis commercial cultivation. For purposes of determining the facility size, square footage shall be defined by calculating the gross square footage of the structure or portion of the structure occupied by the cannabis business, not the plant canopy area. For purposes of these regulations, nursery means a use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- C. *Microbusiness.* In addition to compliance with permit and operating requirements set forth in this chapter for cannabis cultivation, a cannabis microbusiness which includes cultivation, manufacturing, distribution and/or retail within one State license shall comply with all permit and operating requirements set forth in this chapter for cannabis manufacturing, distribution, and/or retail (dispensary) and delivery as applicable to the combination of uses within the license. Microbusinesses shall be subject to the City's limits on the maximum number of cannabis retail facilities.
- D. *Pesticides.* The cultivation of cannabis must be conducted in accordance with all applicable Federal, State, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the fire code. (Ord. 1111, 2018)

### 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.

In addition to the general operating requirements set forth in this chapter, this section provides additional operational requirements for cannabis manufacturing.

- A. *Extraction Processes.* Cannabis manufacturers shall utilize only extraction processes that are (1) solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act, and/or (2) use solvents exclusively within a closed loop system that meets the requirements of the Federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a State licensed engineer.
- B. *Processing:* entities that conduct only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.
- C. *Packaging and labeling:* entities that only package or repackage medical cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.
- D. *Loop Systems.* No closed loop systems shall be utilized without prior inspection and approval of the City’s Building Official and Fire Chief.
- E. *Standard of Equipment.* Extraction equipment, manufacturing, processing and analytical testing devices used by the cannabis manufacturer must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City’s Building Official and Fire Chief.
- F. *Annual Recertification Required.* Extraction equipment used by the cannabis manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on site.
- G. *Food Handler Certification.* All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products must be State certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the cannabis manufacturer’s facility where that individual participates in the production of edible cannabis products.
- H. *Edible Product Manufacturing.* Cannabis businesses that sell or manufacture edible cannabis or cannabis products shall obtain a Sonoma County Health permit. Permit holders shall comply with Health and Safety Code Section [113700](#) 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. (Ord. 1111, 2018)

### 17.360.100 Cannabis retail.

- Type 1: Medical cannabis retail (dispensary).
- Type 2: Adult use cannabis retail (dispensary).

– Type 3: Cannabis retail delivery (office-only for medical or adult use).

In addition to the general operating requirements set forth in this chapter, this section provides location and operating requirements for medical cannabis retail (dispensary), adult use cannabis retail (dispensary) and retail delivery (office-only for medical or adult use).

A. *Conditional Use.* A conditional use permit shall be required to operate cannabis retail Types 1 and 2 above in accordance with the tables in SMC [17.360.060](#).

B. *Delivery Services.* In addition to the requirements established in this chapter for cannabis retail Types 1, 2, and 3, the delivery of cannabis and cannabis products shall be subject to the following requirements:

1. Commercial delivery 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.
2. A cannabis retail facility, office-only (Type 3), that has a physical location in the City may also conduct sales exclusively by delivery, and shall have no on-site retail sales to customers.
3. Applications for any cannabis retail type shall include a statement as to whether the use will include delivery of cannabis and cannabis products located outside the cannabis retail facility.
4. 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 chapter and State law.

C. *Drive-Through Services.* Drive-through or walk-up window services in conjunction with cannabis retail Types 1, 2, and 3 are prohibited.

D. *Location Requirements.* Cannabis retail shall be subject to the following location requirements:

1. No more than two Type 1, two Type 2, and three Type 3 cannabis retail establishments are permitted in the City. Type 2 cannabis retail may only occur at an existing Type 1 medical cannabis retail establishment that has obtained and maintained a valid conditional use permit, provided such establishment meets the following requirements: comply with all requirements set forth in this chapter; and obtain State licenses for both medical and adult use commercial sales.
  - a. Such existing establishments are not required to obtain a new conditional use permit for Type 2 retail sales.
  - b. To the extent that such existing establishments have conditional use permits that have conditions in conflict with this chapter, the provisions of this chapter shall prevail.
  - c. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10 percent increase in square footage; any greater increase, or a relocation of the facility, shall require conditional use permit approval.

d. Subject to any State permitting, Types 1, 2, and 3 establishments may engage in both medical and nonmedical cannabis sales.

2. *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](#).

3. *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.

4. *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 nonconforming and subject to the protections and provisions of Chapter [17.160](#) SMC (Nonconforming Uses).

5. *Visibility of Entrance.* The entrance of a cannabis retail, Types 1 and 2, 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. *Management.* Permit applicants shall be responsible for providing the names of the person or persons having management or supervision responsibility of the applicant’s business at the time of application.

3. *Recordkeeping.* The cannabis retail operator, all types, shall maintain patient and sales records in accordance with State law.

4. *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.

5. *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 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.
6. *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.
7. *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.
8. *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 this title and any other applicable State regulations.
9. *On-Site 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.
10. *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.
11. *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.
12. *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 chapter 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law and as follows:

- a. 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.
- b. 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 chapter and State law.
- c. 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law.

H. *Restriction on Ownership.* No company or parent company shall simultaneously own or operate more than one Type 1, one Type 2, and one Type 3 facility in the City. (Ord. 1111, 2018)

### 17.360.110 Cannabis special events.

A. *Dual Licensing.* The City recognizes that State law requires cannabis businesses to obtain dual licensing at the State and local level for temporary special events that involve on-site cannabis sales to, and consumption by, patients or qualifying adults with valid identification. Such events shall not be allowed to commence until the cannabis business can demonstrate that all necessary local permits, State temporary event licenses, agency permits, and as necessary, a temporary use permit or a special events permit, as applicable, have been obtained in compliance with any regulations and deadlines established by the City and the State.

B. *Temporary Use Permit, Special Events Permit.* Applications for a cannabis special event shall be filed in a timely manner in accordance with Chapter [17.430](#) SMC (Temporary Use Permits – includes special events), or a special events permit pursuant to Chapter [12.44](#) SMC (Special Events), depending on the nature and location of the event. Applicants are advised to confirm State allowance for such event prior to filing of a City application.

Not more than four such events shall be permitted in any calendar year, and no single operator shall be permitted to conduct more than two such events per year. (Ord. 1111, 2018)

### 17.360.120 Special findings.

In addition to the conditional use permit findings specified in Chapter [17.415 SMC](#), applications subject to a conditional 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 site and building design and improvements.
- F. Whether the application will result in an overconcentration of such uses within the community.
- G. Energy conservation and other environmental aspects. (Ord. 1111, 2018)

### 17.360.130 Grounds for permit revocation or modification.

In addition to the grounds in SMC [17.400.090](#) (Term, adherence to approved plans and conditions, and 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; or
- 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 SMC 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. (Ord. 1111, 2018)

### 17.360.140 Planning Commission interpretation.

This chapter shall supersede and rescind the October 24, 2017, Zoning Ordinance Interpretation approved by the Planning Commission regarding cannabis uses. (Ord. 1111, 2018)

### 17.360.150 Rescission of urgency ordinance.

Upon its effective date, this chapter shall supersede and rescind Ordinance No. [1107](#), which established temporary cannabis regulations. Permits that were granted under such ordinance and are not in conflict with this chapter shall remain effective. (Ord. 1111, 2018)

### 17.360.160 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 1111, 2018)

**The Sebastopol Municipal Code is current through Ordinance 1142, and legislation passed through May 17, 2022.**

Disclaimer: The City Clerk's Office has the official version of the Sebastopol Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.ci.sebastopol.ca.us](http://www.ci.sebastopol.ca.us)

[Code Publishing Company](#)



NOES: None  
ABSTAIN: Chair Oetinger  
ABSENT: None

## 5. PUBLIC HEARINGS:

### A. 2022-077 / 6971 Sebastopol Avenue – Callie Johnston / Chill Baths / Conditional Use Permit

The application is to operate a dog salon, "Chill Baths," at 6971 Sebastopol Avenue in the Downtown Commercial District. The proposed plan is to have two large kennels, two small kennels, and 3.5' barriers at both entry doors to prevent dogs from interacting. The proposed use will not have any overnight boarding.

Associate Planner Jay presented the staff report.

Chair Oetinger asked for Planning Commission questions of staff.

#### **Paul Fritz, Commissioner**

On page 3 it talks about the hours being 8:00am to 6:00pm, and in the condition the hours say 8:00am to 8:00pm, so I want clarify what the proposed hours are.

#### **John Jay, Associate Planner**

The original proposed hours were 9:00am to 6:00pm, and we wanted to provide the applicant with a little more leeway as far as hours go within the downtown core district. A theme with other use permits in the past has been to provide additional hours so that they don't have to come back to do a zoning amendment for one hour on either side of their hours of operation. Within the recommended conditions of approval I think we modified it to 8:00am to 8:00pm.

#### **Paul Fritz, Commissioner**

So the condition is right. Then in the findings, Exhibit A on page 5 says, "the Planning Director finds..." but it should be the Planning Commission. Then Item 2.A. in terms of the General Plan agreement with Policy LU7-9 it talks about being in the General Commercial District and not the downtown core. There was some discussion in the staff report about being able to use the alley, and I wonder if that should be part of the conditions as well, that they are allowed to use the alley for access. I didn't see that in the conditions.

#### **Kari Svanstrom, Planning Director**

I think in that one we were trying to stay away from requiring it be an access, but the understanding that if you do have a nervous dog you can park there at that location and make sure that that was available to them, but we didn't go so far as to make it a condition, because it is part of the development and there is an access point there.

#### **Deborah Burnes, Commissioner**

Could you elaborate a little bit on the staff report findings that with the two other recently approved dog grooming businesses that you find that this isn't a conflict because they're spaced far enough away? I feel like Sebastopol is such a small town that if there's a destination place like a dog groomer or hair dresser, people will go anywhere and it's not about saturation in one area. Was it based on proximity or on dogs and people who are otherwise going out of the area for dog grooming?

**John Jay, Associate Planner**

These three are the only three that I'm aware of in town in my short time being here; they've all kind of come in at once. The one at Gravenstein South is on the southern end of town, the one on Main Street is starting to get into the middle portion of town, and we have the one here tonight, so I think there is adequate distance that they're not all within the same shopping center or same area. We don't have any regulations as far as a certain amount per radius, but I felt like given the geographical distance between the three that it could alleviate some pressure on some of the other ones that may be overbooked with the amount of dogs that are in town now.

**Kari Svanstrom, Planning Director**

One other thing of note is that they're all very small proprietors, so they're all kind of one-person shops.

**Callie Johnston, Applicant**

I believe that John told me that one of them is a self-wash station, so it's not a full service groomer, and then the other one is also a smaller kind of grooming shop. However, I know that there is a necessity for more groomers for Sebastopol and surrounding areas, and the majority of groomers that are established now won't even take any new clients, because they're so overwhelmed.

**Deborah Burnes, Commissioner**

Is the Barking Lot still in town? They used to be here as well, and you're right, they weren't taking on new clients.

**Kari Svanstrom, Planning Director**

I've never heard of that store, and I know most of the businesses in town.

**Kathy Oetinger, Chair**

I think it's outside the district on Main Street.

**Linda Kelley, Commissioner**

For staff, I saw nothing about parking requirements or just even stating what the analysis is based on our requirements in the rules.

**Kari Svanstrom, Planning Director**

A lot of the spaces in downtown, and I believe this is one of them, don't have their own parking, as you know. The City used to have a parking district where you could pay an in-lieu parking fee that helped develop the City parking lots, and so there are no spaces related to this particular site and the businesses within it. However, in 2018 when the City Council adopted the Zoning Ordinance update one thing we did was update the parking regulations so that any use in downtown had the same parking requirement unless it was included as residential use, so within downtown it's all one space per 500 square feet, and there's no change in the parking requirement without a change in use, so all of the uses are considered the same. They all require one per 500, and so unless you're adding a residence there's no parking to be analyzed because it's all the same requirement.

Chair Oetinger asked for further Planning Commission questions of staff. Seeing none, she invited the applicant to speak.

The applicant gave a presentation and was available for questions.

Chair Oetinger asked for questions of the applicant.

**Linda Kelley, Commissioner**

I know that you're going to have a little kenneling available, small and large crates or a little area. What if someone said I need to drop my dog off and I won't be back until the end of my workday? That's not the plan here. Folks are going to come and get their wonderfully groomed dog.

**Callie Johnston, Applicant**

I have ten years experience in this industry, so part of me starting my own business around this was thinking of all of these things that come with it, even the not favorable things that can come with grooming, and so my plan of doing one dog at a time will basically be done like a one-person nail shop, so it will be appointment only, and that's also just something that has to be understood, which I will communicate with my clients, that this isn't your average dog grooming shop. I do not have the availability to hold dogs for extended amounts of time past when their grooming is completed, and this is why I also put four kennels in there, so I do have the availability to hold a dog if necessary, because things happen and maybe someone is stuck in traffic, but the idea is to have them kenneled as little as possible and setting up my appointments back-to-back. And also possibly, if it seems necessary, charging people if their dog is left way past when they're finished being groomed to ensure that each dog coming in can enjoy the calm, stress-free environment as well as for myself, which also should minimize barking and noise. I should definitely have no more than four dogs in there at one time, and the majority of extended barking is when they're kenneled.

**Linda Kelley, Commissioner**

There's that little gated courtyard that goes to the alley around the building. Do you anticipate that folks that will come late there to get their dog? I'm concerned more about we have a restaurant and another business there, and so there's no conflict and that that's the expectation is that they're not to be waiting out there?

**Callie Johnston, Applicant**

Definitely not. No one should ever be waiting outside my door or outside the gates, and this is once again sticking with my plan of one dog at a time and there should never be a crazy influx of people coming in at one time.

**Linda Kelley, Commissioner**

Out in front do you feel there's enough parking for someone to park AND drop off? Are there are any traffic flow concerns?

**Callie Johnston, Applicant**

I personally never have any issues parking on Main Street across from Sunshine Café, otherwise the Hop Monk parking lot is pretty large and there seems to always be space in there, so I don't foresee it being a major issue of people trying to find parking to make it in.

**Deborah Burnes, Commissioner**

You brought up one of my issues, which is barking. If people don't pick their dogs up on time and you're kenneling them, would the other businesses be able to hear the noise?

**Callie Johnston, Applicant**

Firstly, I've let all of my neighbors know that I will be doing dog grooming. They all have dogs and are all excited. No one gave me any concern for barking. During the day the street right there masks a lot of sound, and this is once again why I've thought out this plan

especially for the location, kenneling the least amount that I can and having the minimal amount of dogs as possible in there.

**Deborah Burnes, Commissioner**

I get you're a really small shop and there's one dog at a time, so this is a two-part question. Will you be checking people in and out? If someone is late to pick up their dog and you kennel it, then that dog is in the back and you bring another dog in will you have someone helping in the front to deal with the person picking up their dog while you groom the next dog?

**Callie Johnston, Applicant**

No, it would be only me, and this is why I have more than one or two kennels. I think giving myself four kennels is enough. If a dog is coming in and I have a dog in there, I can put a dog in a kennel and then help the customer and rearrange how I need to.

**Deborah Burnes, Commissioner**

Are you looking to potentially expand in the future and bring on another groomer?

**Callie Johnston, Applicant**

That is for sure a possibility. For now I'd like to maintain a very personal and calm environment, and that makes it most possible with just me being in there. However, I do see this taking off very quickly, and so yes, having another groomer is possible. That would then make it two dogs at a time, still never taking dogs past what I'm grooming in the moment.

**Deborah Burnes, Commissioner**

Are the other groomers in town all fairly competitively priced, and would your pricing be competitive with them?

**Callie Johnston, Applicant**

I've looked at a lot of the groomers around here, but I didn't necessarily look at their pricing. I will make my pricing very fair. I'm going to charge people for the time that it takes me to groom their dog, and the price will always fluctuate based on the status of the dog, the size of the dog, and if the dog is good or bad, but it would still be competitive pricing. They're also paying for a personal experience.

**Evert Fernandez, Vice Chair**

The location that you selected seems to me a little awkward for what you're doing. I had similar concerns as Commissioner Burnes about somebody coming in to get their dog while you're grooming another dog. I'm trying to picture how that process works.

**Callie Johnston, Applicant**

If I'm working on a dog and someone walks into the shop, this is why I have the kennels, so I can safely place them in a safe location and talk to another customer. I'm not necessarily going to take that other dog right away. It would probably be when there's an opening since it will pretty much be appointments only. It's funny you would think it is an awkward location, because I thought it was the best location, which is what pushed me to move forward with this, because it's zoned downtown and it's in the downtown area, and I probably see like ten dogs walking downtown on a daily basis. It's extremely helpful being in a downtown location. I don't see it causing any issues, especially because I'm not taking 16 dogs at one time. This one-on-one thing is with the hopes of avoiding all the unwanted things that can come from having a grooming shop.

**Evert Fernandez, Vice Chair**

Is it a long-term lease? Is this a place where you plan to be for a while? What’s your flexibility?

**Callie Johnston, Applicant**

I believe I signed a one-year lease, and I definitely have the hopes of being there for a long period of time. The one-on-one format is not just for the dogs, but for myself as well, so I can maintain longevity with this, because working in fast paced grooming shops and very large boarding kennels can be very hectic and stressful, so the way this shop is planned is for the best interests of me, the customer, and the dog.

Chair Oetinger asked for further Planning Commission questions of the applicant. Seeing none, Chair Oetinger opened public comment.

**Omar Figueroa**

I fully support this project. I welcome these entrepreneurs and applaud them for stating a small business in challenging economic times. We need more small businesses to fill out the empty places downtown, and I recommend that you unanimously approve this application.

Chair Oetinger asked for further public comment. Seeing none, she closed the public hearing.

The Commission discussed the application as follows:

Commissioner Fritz made a motion to approve a conditional use permit for 6971 Sebastopol Avenue, subject to his recommended modification to Exhibit A.

Commissioner Kelley seconded the motion.

AYES: Chair Oetinger, Vice Chair Fernandez, and Commissioners Burnes, Fritz, and Kelley.

NOES: None

ABSTAIN: None

ABSENT: None

**6. REGULAR AGENDA ITEMS:**

**A. ZONING ORDINANCE AMENDMENT STUDY SESSION –**

The Planning Commission will hold a study session to discuss a proposed Zoning Ordinance change to allow cannabis retail delivery-only in the Industrial (M) Zone and only as a supplemental use to other permitted/proposed cultivation, manufacturing, or distribution facilities. No decision will be made at this meeting on the Zoning Amendment or Conditional Use Permit request for this property. The public hearing for the decision on those items will be held at a later time and will be separately noticed.

Associate Planner Jay and Director Svanstrom presented the staff report.

Chair Oetinger asked for Planning Commission questions of staff.

**Paul Fritz, Commissioner**

In the staff report, page 5, there's a discussion about the number of licenses that seems to drop off, and I wondered what that thought was. What is staff's position about the number of licenses?

**John Jay, Associate Planner**

We weren't really sure as far as having it on one end of the spectrum, whether it's three or unlimited or in between. There's a limit we would definitely look at imposing, but we're not sure what that limit is and wanted to get the Planning Commission's feedback as far as a rough number rather it just being three, which is currently in place, or if it's unlimited as long as their co-location requirements are met.

**Linda Kelley, Commissioner**

Staff report page 5 says, "Ten to 20 deliveries on a weekly basis" for an administrative permit, and you'd need a full use permit if you were going to have more than that. What was the basis for recommending that?

**John Jay, Associate Planner**

I just pulled a number on if they were operating five days a week, a couple of deliveries every day, does that seem appropriate to have a staff level approval on that? Going over that amount I felt would require some additional review from the Planning Commission, because we didn't want to open up a large delivery facility like a small Amazon or large box store type delivery service, and I thought that 10-20, though not arrived at through a scientific method, felt appropriate to do at a staff level.

**Kari Svanstrom, Planning Director**

We were looking at if that would translate to the low side if it's a five day a week operation with one full van in the morning and one in the afternoon. If it's 20, then you could do like three hours or so, and I think that's more or less similar to what Solful is doing, a two-hour delivery window. You don't get into a traffic issue that might warrant a larger review.

**Linda Kelley, Commissioner**

Are you aware of how many deliveries SPARC and Solful do on a weekly basis?

**Kari Svanstrom, Planning Director**

I don't know how many individuals, but I do know that Solful has three or four different time slots, so if you place your order by a certain time you'll get it within one of the three or four delivery time windows they have per day. Solful and SPARC are only open as retail centers. They could open earlier, but they both open around 10:30am or 11:00am, so they have a different operational model than a manufacturer may have.

**Linda Kelley, Commissioner**

Is it too late, Chair Oetinger, to disclose that I had a short discussion with a member of the applicant's team?

**Kathy Oetinger, Chair**

Thank you. I also did as well.

**Evert Fernandez, Vice Chair**

I visited the site and felt that their operation is set up very well and this concept does make sense. I was impressed and satisfied with the way that they run their business.

**Kathy Oetinger, Chair**

I spoke with Craig Litwin on the phone and discussed ideas. I asked if these deliveries would be picked up by a third party and delivered, or whether they were taken to the post office, and my understanding is they are delivered in their truck to their customer, and that sat well with me that they would be hand delivered rather than Fed Ex trucks coming in. Staff, the question of the 10-20 deliveries does seem arbitrary, but I'm wondering if people are ordering product that is manufactured, can they also purchase other ancillary products that they would sell with them that you might find at a normal retail store? Would that be appropriate for them to also sell other items that they didn't manufacture but that complement or go with their product?

**Kari Svanstrom, Planning Director**

That's a good conversation to be part of the study session. I think John and I assumed that they would be doing that; if they asked for a retail license it would be more than just their product. The reality is unless it's restricted in granting a delivery-only retail license they would not be restricted to just their manufactured product.

**Kathy Oetinger, Chair**

Yes, that's where the size of the retail portion comes in versus the manufacturing, because it requires space for warehousing.

**Kari Svanstrom, Planning Director**

Correct, and that's where we put in a square footage that is twice the size of what the particular use on Morris Street conditional use permit would be asking for.

**Kathy Oetinger, Chair**

It's confusing, because the volume of the things they sell in addition to their product, the upsell part of their business, could actually take more space than the product itself.

**Kari Svanstrom, Planning Director**

That's where the staff report suggests what is the percentage of space dedicated? It's easier from an administrative standpoint to regulate a size or a percentage of the business rather than sales. For a retail delivery, if it's outside City limits the City does not get the sales tax for the base, but we do still get the Sebastopol-specific sales tax. If it's within the City, then we get all of the local sales tax associated with it.

**Kathy Oetinger, Chair**

Are there other businesses with that discretionary option of a staff, system, or Commission approval where the numbers are critical?

**Kari Svanstrom, Planning Director**

We have a couple of different uses where the City has been more proactive in putting it into our policy due to concerns of potential overconcentration or oversaturation, and that's always a concern for the business owners, but how much does the City want to be protectionist versus the capitalist system? The businesses that we do have at least policies, if not specific numbers, there is the overconcentration from alcohol use permits, the vacation rental ordinance has that as well, and I do know that in 2018 tasting rooms were set to be a planning-level permit, however Council changed that to Planning Commission because of the example set by Healdsburg and Sonoma where they went too far with those things, and Sonoma has now put a moratorium on tasting rooms. One thing we appreciated with this application was the proposal that it be required to be in association with a manufacturing use, so there does need to be a significant community investment in order to get that delivery license.

**Deborah Burnes, Commissioner**

Is there any issue with security and theft around the building, because cannabis is a high-value product, and how does that affect the businesses around it? My other concern is safety for drivers making deliveries.

**John Jay, Associate Planner**

The application process for cannabis requires submittal of a security plan that must be approved by the police department and is reviewed by City staff.

**Kari Svanstrom, Planning Director**

The only issue the City has had with our current cannabis retailers was a couple of years ago at SPARC, and that was a bunch of teenagers that were caught right away. I'm not aware of any in our manufacturing zones. Their operations are pretty strictly controlled with the track and trade, the security cameras, and the security plan. I don't think anything has changed since then. Security has not become the issue many had feared, and cannabis dispensaries are more boutique and like normal stores.

**Evert Fernandez, Vice Chair**

This is something we need to continue to look at and see where the industry is going, whether we want to support it or not, and get ahead of it. Keep in mind that some of the rules we pass that are going to apply to the businesses in Sebastopol would not apply to deliveries being made in Sebastopol from outside the City.

**Kari Svanstrom, Planning Director**

Under state law you can't limit delivery as long as it's a public address with access via a public street, you can only regulate the types of business that are in the town. There are quantity limits set by the state in terms of how much you can sell to a single customer.

The applicant gave a presentation and was available for questions.

Chair Oetinger asked for Planning Commission questions of the applicant.

**Linda Kelley, Commissioner**

I asked about the amount of deliveries per week with just a procedural approval use permit. I'm wondering how you respond to that limitation?

**Mitcho Thompson, Regen West**

If we were to become a legitimate business we would probably have the same caps as other businesses, so I'd be interested in knowing what those are. If Solful has three or four deliveries, that would be more than we would be doing, but we don't really know. We're a small manufacturer and want to focus on herbal products produced by local farmers and don't intend to make it an Amazon type warehouse. You brought up the safety concern. A fully loaded van is certainly a huge target if it's only going out two times a day, more attractive than smaller deliveries, but we're not looking at cars going in and out of our little place. This is a way to supplement what we're doing and actually bring us towards being able to mail statewide and then hopefully someday federally. These are things we're doing to keep our business viable, because although you talked about cannabis being a high-priced commodity, it is not anymore, and that's one of the reasons we're doing this, because the price has dropped considerably on what we manufacturer. I think the number of 20 deliveries is a little low, but I don't know, and I'm open to whatever the Planning Commission decides.

**Kari Svanstrom, Planning Director**

I wanted to clarify that one thing staff is grappling with is it's permitted, there are limits, and if you want to go beyond that it's allowed, but it requires a use permit from the Planning Commission. We're trying to establish what those two might be, not trying to limit with an overall cap or anything like that. The question I have for Mitcho and Andrew is where do you see yourself or others if you're doing manufacturing? Are you just delivering your own product, or are you doing other products as well? That's part of how much retail versus just supporting your manufacturing.

**Mitcho Thompson, Regen West**

That's a broader question, because part of our plan is to bring some of these small farms into the marketplace with their own brands that we would certainly manufacture, but we may not limit ourselves if there are other local manufacturers and we'd band together. I think it would not just be my own product line; it would certainly be other farms' products in whatever form they are.

**Kathy Oetinger, Chair**

When you say other products, are you talking about other agricultural cannabis products? Would you also be talking about hand lotions or pipes or t-shirts?

**Mitcho Thompson, Regen West**

I don't think we'd be doing pipes, but we would certainly be doing hand lotions, cannabis soaps, bath oils, because our permit allows us to do topicals. Those would be products that we would use from what we've made, or we could make them for other people like small growers.

**Kathy Oetinger, Chair**

More specifically, a branded logo t-shirt, even if it were produced locally, is that the kind of thing you would expand to or you already offer?

**Mitcho Thompson, Regen West**

I would love to be able to offer that; other businesses do. Having our brand out there on nice hoodies, I could see that. That's a little different than selling pipes. We would probably sell vapor cartridges though, because that's something we do manufacture.

**Andrew Longman, 421 Group**

And we're limited on the state level by the Department of Cannabis Control for what we can sell. We're not allowed to go beyond branded merchandise such as clothing, bags, pens, key chains, etc.

**Linda Kelley, Commissioner**

Why is 421 Group asking for unlimited delivery operations, co-location, and manufacturing areas?

**Andrew Longman, 421 Group**

What we're asking for is the ability for a local manufacturer to get their product to market without the burden of this crazy distribution system that has unfolded in the current cannabis market. It's been an absolute challenge to get paid for the products that we make and sell.

**Mitcho Thompson, Regen West**

We do have distribution, and that helps us figure out how to do this. We already have state mandates and safety protocols in place, and we have our own vehicle, so there's already a

pretty overreaching set of mandates that we have to follow to maintain that distribution, and so it sets us up to be able to do deliveries efficiently and safely.

**Linda Kelley, Commissioner**

Who are you going to be delivering to, and is that individuals who use your online site and order it, and then it goes to a patient or someone for recreational use, is that what we're talking about?

**Andrew Longman, 421 Group**

Yes, exactly. Someone will place an order through our system online or through a phone call and it will be delivered to a physical address per the Department of Cannabis Control regulations, and that physical address would not be a school or publicly owned land.

**Linda Kelley, Commissioner**

Do you have any comments regarding staff's seven recommended parameters on page 5 of the staff report that the Planning Commission is being asked to address, such as co-location, square footage of 20%, etc.?

**Mitcho Thompson, Regen West**

The space required is actually more generous than the space we're asking for. We just need an office space. We will certainly not be delivering to schools, as Andrew pointed out, and there are places we are restricted from delivering to.

**Kari Svanstrom, Planning Director**

To clarify the school question that's in the staff comments, currently there is a requirement that there be a 600-foot buffer zone to any schools, and this is a question for the Planning Commission to address is general; it doesn't only apply to this particular application.

**Andrew Longman, 421 Group**

If it were a brick and mortar store, sticking to that 600 feet is critical, but since we're talking about shelf space that is not open to the public and trucks leaving that area and coming back later, no public access, it may be less critical to have those 600 feet.

**Linda Kelley, Commissioner**

The state doesn't prohibit deliveries from going through different jurisdictions, so you could deliver as far as Marin County. Would that possibly be in the mix?

**Mitcho Thompson, Regen West**

That would not be a bad thing. To deliver a truckload of goodies to the Marin Civic Center for a big event or something, I would say why not?

**Andrew Longman, 421 Group**

It comes down to the logistics and where that price point is. At a certain point, if we go far enough out we would start to lose money.

**Paul Fritz, Commissioner**

We don't have any limitation on cultivation sites or manufacturing sites or anything else, it's just the retail that we limit?

**John Jay, Associate Planner**

Yes, I believe so. I think the cultivation is based on square footage within our zoning code, but retail would be the three licenses that were noted earlier.

**Kari Svanstrom, Planning Director**

To answer the earlier question, there are about a dozen cannabis businesses in Sebastopol, and it looks like five of them are manufacturers.

Chair Oetinger asked for further Planning Commission questions. Seeing none, she opened the public hearing.

**Omar Figueroa**

Please permit all licensed Sebastopol cannabis manufacturers and distributors the ability to add delivery to their allowed uses in industrial zones. The economy and the supply chain are being strained. On top of this, the cannabis industry is financially distressed and any support you can give our local businesses to diversify their revenue streams is good for our local economy and to help them survive. I want to address the misconception that somehow permitting what is being proposed here would result in a whole bunch of cannabis businesses opening up in town and starting Amazon type fulfillment centers. That is not going to happen and is not realistic. The cannabis economy is under complete financial distress. The prices are dropping, the profits are low given the tax burdens, the margins are extremely thin, and we're not going to see those effects. That would have happened back in 2016-2019, but now that's not the economic reality. So please do not limit how many deliveries these businesses can make. Limiting the number of deliveries does not make any sense, it increases administrative burdens, and it reduces competition. Please allow any Sebastopol cannabis delivery provider to remain flexible with their delivery fulfillment similar to other businesses. Let the market decide. I urge you to expedite this process to help our local cannabis businesses succeed.

**Zac Guerinoni**

I am one of the other cannabis manufacturers in Sebastopol. I own Ahti Farms and I would like to echo what Omar and Mitcho and Andrew have said previously. The economy for cannabis is not what it was two years ago, or six months ago. We are in an absolute free fall, and unfortunately we'll probably remain in that state for the next 18-24 months while the market balances out, so anything that the City can do to help us small businesses succeed, including delivery and direct to consumer, would be greatly helpful.

Chair Oetinger asked for further public comments. Seeing none, she closed public comments.

The Commission discussed the application as follows:

1) *"Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?"*

**Paul Fritz, Commissioner**

Yes, I think delivery-only uses could be allowed in the Industrial zone. It seems like it should have been from the beginning; I'm not sure why it wasn't.

**Deborah Burnes, Commissioner**

Yes.

**Linda Kelley, Commissioner**

Yes, as long as it's a co-location with manufacturing.

**Evert Fernandez, Vice Chair**

Yes, I agree with that.

**Kathy Oetinger, Chair**

And I do as well.

2) *"Should co-location with a manufacturing use be required, and if so, what type?"*

**Paul Fritz, Commissioner**

I'm not super concerned about co-location. I could be okay with allowing retail delivery-only in the Industrial zone, but I don't have a strong feeling about whether or not it's co-located. If you have an existing business, adding the retail should be completely allowed. The question is if you only wanted to do retail-only delivery; I would be okay with that in the Industrial zone.

**Kari Svanstrom, Planning Director**

When you get into further discussion and actually writing policy, you can certainly bifurcate that where if it's co-located it has one level of approval, and if it's a standalone it's treated just like the regular retail outlets in town, which required a conditional use permit.

**Deborah Burnes, Commissioner**

I don't think you need to have a manufacturer. If it stands alone on its own, I'm okay with that.

**Linda Kelley, Commissioner**

I'd be fine with either. It just seemed like it was presented to use as a co-location and that made perfect sense. I would be fine with a standalone delivery-only too. When we get to how many, that's another story.

**Evert Fernandez, Vice Chair**

Yes, standalone is fine for me.

**Kathy Oetinger, Chair**

I would say it's fine too, and so we just have a business coming in and being a warehouse in the manufacturing district. This is not really a warehousing district, so at some point that could become an issue, but I'm not very worried about it, considering the industry today.

3) *"What level of City approval should be required?"*

**Paul Fritz, Commissioner**

If it's a manufacturing facility are there any instances where it does not need to come to the Commission? Are there certain situations where that is a staff-level only review for a manufacturing facility?

**Kari Svanstrom, Planning Director**

Most manufacturing are staff-only, so most of these folks went through the Planning Department only for their manufacturing use. The distribution requires a use permit by the Planning Commission.

**Paul Fritz, Commissioner**

I'm okay if it's a staff-level review for the manufacturing, as a manufacturing facility that wants to add delivery. I'm okay with that to be maintained at a staff level, and maybe this is where we talk about a threshold, a certain number of deliveries a week is staff level, and beyond that would be a use permit. That's something I'd probably entertain.

**Kari Svanstrom, Planning Director**

Commissioner Fritz, it's the distributor or the cannabis warehouse, both require conditional use permits, and the definition of a warehouse is the procurement, sale, and transport in bulk, but it does not include adult-use delivery. In talking with our cannabis operators, including Zac Guerinoni, Resourcery folks, and Craig Litwin, there's a very big difference between the big manufacture-to-manufacture distribution that some people might be doing and what our businesses are doing, which I would describe more as self-distribution where they're simply trying to bring in their own product from farms and then transport their own product out to people. That's the only industrial use in the Manufacturing zone.

**Paul Fritz, Commissioner**

If it's co-located with a manufacturing business, I'm okay with a staff-level approval of that, but I'd be open to discussion of a threshold beyond which it would need to come to the Planning Commission. I'm open to discussion on exactly what that threshold is.

**Deborah Burnes, Commissioner**

I think I'm going to abstain from speaking to the subject of staff-level approval for now.

**Linda Kelley, Commissioner**

I agree with Commissioner Fritz.

**Evert Fernandez, Vice Chair**

I don't have enough information for that. I'm concerned about limiting deliveries, because that means we're limiting deliveries from businesses in Sebastopol and hampering them, so I wouldn't be supportive of those types of limits. At this point staff approval for manufacturing makes sense, but beyond that, I'm not sure.

**Kathy Oetinger, Chair**

I could see staff-level approval for almost anything that we would set conditions for, and then anything beyond that you would require it to go the Planning Commission, but I don't know what those levels are at this point. I'm not that interested in creating restrictions and making it difficult for businesses to succeed.

4) *"Should there be a limited number of licenses, or unlimited?"*

**Paul Fritz, Commissioner**

If it's a co-location with a manufacturing, if we're not limiting the number of manufacturing facilities, I'm okay with not limiting. I think every manufacturing facility could have a delivery as well, so I would not be for limiting the number of delivery licenses.

**Deborah Burnes, Commissioner**

This is a tough one for me. I think I would be more on limiting both the manufacturing and the delivery, but if we were not going to limit the manufacturing, then I also wouldn't limit the delivery. When you're looking at the diversification of a town as we look at alcohol permits and is there an oversaturation, hearing the examples of Healdsburg and Sonoma where they become too tasting room heavy, do we want to be cannabis heavy? I don't know. I'd prefer to limit both of them, but I wouldn't just limit the delivery if the manufacturing is not limited.

**Linda Kelley, Commissioner**

We're looking at only for the Industrial zone, so if there's manufacturing in an area that's not industrial, that's not what we're covering here, correct?

**Kari Svanstrom, Planning Director**

That's correct, and in fact per our code we don't allow manufacturing in commercial zones and residential zones. The Manufacturing zone was the proposal. Right now the only places we allow manufacturing is the Commercial Industrial, which is most of The Barlow.

**Linda Kelley, Commissioner**

And what is the zoning for the manufacturing near south of the post office?

**Kari Svanstrom, Planning Director**

South of the Benedetti site there are two parcels: one is the Abbott Avenue building, and Zac Guerinoni's use is in that building along with some other uses, and then there is a vacant parcel that is in between the carwash and that building. Those are both zoned Manufacturing and the building does include a manufacturing use.

**Linda Kelley, Commissioner**

So that's an Industrial zone?

**Kari Svanstrom, Planning Director**

Correct.

**Linda Kelley, Commissioner**

This is a hard one for me, because I worked on the first ordinance and we were trying to be very protective of supporting our local businesses, and so I've always leaned toward trying to limit a little bit more. It might be time to open it up. I don't want to create something we can't easily pull back. I am afraid of a larger manufacturing business coming onto Morris Street, and I don't want it to just be cannabis out there. I'd like it to be thriving manufacturing, but I don't also want to necessarily limit it, so at this point I'm fine with not limiting it in the Industrial zone, but because we want to preserve our manufacturing it should be a co-location with manufacturing use rather than just a delivery-only. I hate not having more discretion if it's more appropriate in are they supporting the community and not just coming in? Not that I don't want to support those kinds of businesses either, but I'd like to direct it to being more like the businesses that we already have, and that was because we had an ability to examine and limit, and that's more or less a conditional use permit, so I tend to err on that rather than just opening it wide up.

**Evert Fernandez, Vice Chair**

I also have concerns about keeping an eye on how things are going, but I don't think there should be an arbitrarily number limit, and that may discourage some legitimate businesses from coming to Sebastopol. I also would like to have some discretion, so my thinking is you look at it on a case-by-case basis. Staff can have some discretion and maybe there is some wording. I feel comfortable that if something came up and if Director Svanstrom has a concern about it that she'll alert the Commission, but sometimes things get lost in the future. My thinking is not to limit, but to perhaps set some parameters with the Planning Department that maybe they would in certain situations have the option to bring it to the Commission for review, but I don't want to set an arbitrary number as far as a limit is concerned.

**Kathy Oetinger, Chair**

We heard from our applicant that they're trying to compete, and if the delivery is too far it's not going to pencil out and they lose money. I wonder how many businesses you could have selling local products that could be shipped to retail places all over the country in a distribution system, how many local distribution systems, how many companies do we need driving vehicles in a reasonable distance? It seems like at some point if we have unlimited

levels of that service we're doing a disservice to the companies that are trying to compete with those local affordable deliveries. So does it pencil out if we divide it between a lot of companies? Even for a good product there's only so much market and so much margin, so I'm not sure whether to treat it like our restaurants that are not limited on how many of them can deliver and how often they can do it. and now we're looking at another type of business that's trying to compete, and I'm not sure how big that market is or how profitable it is for them, and whether opening it up does a disservice.

**Kari Svanstrom, Planning Director**

We will need to recommend something to City Council eventually. They will be the ultimate decider. I wasn't involved with the first Cannabis Ordinance and don't know if it was Council that set the number of retail or if it was a recommendation from the Planning Commission.

**Linda Kelley, Commissioner**

It was a Council subcommittee that sort of created the ordinance, and then it went to Planning, and then it ultimately was approved by City Council.

**Kari Svanstrom, Planning Director**

We can certainly leave it at this. Listening to the comments, I would tend to recommend something where there isn't a limit or co-location up to a certain size, so that it isn't an issue for our existing small businesses. So you could set the existing number and then you're not limiting anyone to begin with, or you could not limit with co-location up to a certain size to ensure it doesn't become so competitive that someone is moving in just for a delivery license and that would negatively impact manufactures. As it is, I would say delivery-only should be aligned with delivery in any other zone where it should just be a use permit, and that would give the Planning Commission discretion over that.

**Paul Fritz, Commissioner**

We don't limit anything else, do we? We get an alcohol use permit and we get to decide if there's an overconcentration or whatever, but I'm not sure why we're singling out cannabis businesses and trying to limit them.

**Kari Svanstrom, Planning Director**

It's interesting on the delivery front. On a retail front, I don't know whether two or three or five, or whatever is the right number, but I do know having been to locations in Denver where they don't limit them, it's pretty horrible just in terms of overconcentration, and they do have some of the issues. It changed a couple of neighborhoods pretty significantly. I don't think California is going to get there; I think we've taken more of the ultra-cautious road. Part of the licensing conversation may also get into what are the thresholds before it requires a use permit, so not that you're not going to allow it, but you do have some discretion over it.

**Paul Fritz, Commissioner**

I get the retail side of it. Delivery is a different thing than having a storefront. I can see how you might want to have limitations on a storefront, but I don't see a delivery service having the same kind of neighborhood or quality of life issues necessarily. As Omar said, let the market decide. If people want to buy from certain people, it's going to sort itself out. We only have a limited number of people who are making cannabis purchases on any given day, that I don't know that we would be completely overrun with delivery services in our community.

**Kari Svanstrom, Planning Director**

You can certainly invite the applicant or others to chime in on this. The only thing I can foresee is if cannabis is legalized nationally I'd want us to be poised for it, but in a way that supports the manufacturing in the Manufacturing zone, because that's where you do get support for the local industry, like Mitcho's business supporting local farmers. And if there were no control would you end up with someone like Element 7 who came to the City Council and wanted to be the biggest cannabis retail business in California, and would you want that for Sebastopol, because we have a Formula Business Ordinance? I'd be concerned we might get so much delivery in the Manufacture zone that you don't have a manufacturing base or that diversification anymore, because our manufacturing zones are fairly limited.

**Kathy Oetinger, Chair**

The other thing that comes to mind, are they selling retail to customers who aren't local, because anything can be ordered online and it would come from the post office? It doesn't sound like that's what they're doing, but I could see it expanding to that, so along with those other deliveries I'm guessing your retail could be anywhere, because there's no storefront, the size, and whether there is co-manufacturing.

**Kari Svanstrom, Planning Director**

Andrew, you and Omar are more immersed in this business than the Commissioners or myself and are invited to give some input.

**Andrew Longman, 421 Group**

With the signing of SB 1326 recently for interstate transport of cannabis products once it's federally legalized, I think that would create a lot of opportunity for our local manufacturers who do support our local farmers. I think there is a preference for cannabis from our region and the products that people like Mitcho make, and I think there would be an opportunity there eventually.

**Kari Svanstrom, Planning Director**

Do you have any thoughts on standalone delivery-only in the Manufacturing zone?

**Andrew Longman, 421 Group**

I guess I've been looking at it strictly through the lens of diversification for these manufacturers, so to think about it on a policy level like that, I don't have an opinion right now. I would have to think about that, but it's an interesting thought on whether to or not and what those downsides would be.

**Kari Svanstrom, Planning Director**

It seems we have Commission consensus on those questions on the co-location with some limits, and I know Vice Chair Fernandez had the question about what level of discretion. Right now for manufacturing permits it's generally just a zoning clearance that we're doing. We are making sure that everyone is qualified, that they have all the requirements, which is pretty numerous in terms of odor control, security, transfer of ownership, age limitations, lighting, staff training, etc., so that's mostly what we are doing when we are permitting the manufacturing facilities, but right now I don't believe we have discretion the way we do with an alcohol use permit to say we think there might be an overconcentration or there might be an issue with this particular operator, to bring it to the Planning Commission. It sounds like that's where we're going with the co-location, to allow delivery at that same level. I'm going to go to some potential criteria that John and I have written.

1) "Square footage of 20% of the overall manufacturing facility dedicated to delivery-only with a maximum area of 500 square feet for an administrative permit review. To exceed this would require a conditional use permit."

**Kathy Oetinger, Chair**

It depends on the business model, how much it is and how many there are, as to whether this makes any sense to me. I know it's theoretical.

**Kari Svanstrom, Planning Director**

Right, and again, you can exceed this, but it would require that next level of discretion. And you're right, Andrew, this 500 square feet is double what you're asking for, and it's also far less than 20% of your manufacturing facility.

**Andrew Longman, 421 Group**

Yes, we're asking for 77 square feet.

**Kari Svanstrom, Planning Director**

Because it's co-location, it doesn't include any vehicle storage or anything like that, which is also used for the manufacturing, so it's actually pretty generous in terms of a staff-level approval.

**Paul Fritz, Commissioner**

That seems reasonable.

**Kari Svanstrom, Planning Director**

And the 500 square feet stops the Amazon type from coming in, and if you think about the trip generation and the discussion we've had with distribution use permits with the Planning Commission in the past, that was often a concern regarding the number of delivery trips and the traffic generated.

2) "Limit the number of deliveries on a weekly basis to 10 to 20 for an administrative permit review. To exceed that amount would require a full use permit approved by the Planning Commission."

**Kari Svanstrom, Planning Director**

You may not need to limit the number of deliveries if you're making sure that it's co-located and it's a certain percentage in size limit of the facility. I think staff would be fine with not limiting the number of deliveries. John, any thoughts about limiting deliveries versus not?

**John Jay, Associate Planner**

I think that fine. The main thing we wanted to accomplish is to not allow these large facilities to come in and become delivery-only out of a huge space. I think getting rid of #2, or however you guys feel, is fine with me.

**Deborah Burnes, Commissioner**

I don't think we need to limit deliveries.

**Linda Kelley, Commissioner**

I'm fine with not limiting it as well, but I think the delivery business and how they organize doesn't mean that there are necessarily more trips, I think it's as many trips as they can get into delivery trucks, so it's a lot less impact. I don't think we need to limit that.

**Evert Fernandez, Vice Chair**

I'm fine. I'm not looking to limit.

**Kathy Oetinger, Chair**

I am also fine with taking #2 out.

3) *"Delivery-only is only incidental to the primary use of manufacturing for the site."*

**Kari Svanstrom, Planning Director**

I don't know if we need to discuss this in particular, because there's no actual metric or requirement to it; it's discretionary. I would more put it in the intent or the purpose so that it's clear. It could be a characteristic or criteria, but it's really trying to make sure of the intent that it's a Manufacturing zone and we want to support manufacturers.

**Kathy Oetinger, Chair**

I agree that that's the intent of wanting to do that, but I can imagine that same single person in that office with that computer could also take orders from all five companies in town, but the orders come through and they get sent or delivered in separate packages. That's the modern world, even for a small town with specialty products. I guess that would perhaps come to us to consider as a variance. I'm imagining how to make it profitable.

**Paul Fritz, Commissioner**

Limiting the square footage to 20% for a staff-level approval is the intent of #3. I don't think we need to do anything beyond that.

**Deborah Burnes, Commissioner**

I agree.

**Linda Kelley, Commissioner**

Number three is fine.

**Evert Fernandez, Vice Chair**

I'm fine with #3.

**Kathy Oetinger, Chair**

And so am I.

4) *"The facility shall clearly designate a 'delivery only' section within the supplied application documents."*

**Kari Svanstrom, Planning Director**

They have to designate the section so we can understand the square footage. It's more administrative and it's easier to put it in the code. That way people know that it's part of the process.

**Kathy Oetinger, Chair**

I think we can skip over discussion on that.

5) *"Delivery-only is subject to regular business hours or a last delivery out by."*

**Kari Svanstrom, Planning Director**

Do you want to limit delivery hours?

**Paul Fritz, Commissioner**

I'm good with limiting delivery to business hours only.

**Linda Kelley, Commissioner**

Regular business hours. I don't know if the manufacturer wants to do delivery later, but I know as a convenience for folks that are working that some of the delivery services, as long as it gets ordered during business hours, there is delivery sometimes up until 9:00pm, so I don't necessarily want #5. I could go with a last delivery by.

**Deborah Burnes, Commissioner**

I'm fine with it being during regular business hours and the last delivery out by.

**Evert Fernandez, Vice Chair**

I'd like to hear from the applicants as to whether it makes sense to limit it, or what would make sense for them to work with.

**Andrew Longman, 421 Group**

Considering our operation being seven days a week as it is and our business hours being 7:00am to 9:00pm, I don't see a need to go beyond that at the moment. But we're also in the very preliminary stage of development, so I guess it's to be determined.

**Evert Fernandez, Vice Chair**

I'm hesitant to put a limit or a timeframe on that as an arbitrary; I think the business should determine it. Like Commissioner Kelley was saying, some days they could have regular business hours and then they're closed and delivery might take place after that, because otherwise you're going to have businesses be like we're open until midnight, but not really. I don't know what difference when the delivery is made makes. They're going to deliver it to whatever the customers' needs are, and that may change over time, so I'd rather they have the flexibility to determine that rather than set something and create yet another hurdle where they have to come back and get permission to expand something that may not make a difference.

**Kathy Oetinger, Chair**

I'm in agreement with that. I think 7:00am to 9:00pm was appropriate.

**Andrew Longman, 421 Group**

I have the regulations from the Department of Cannabis Control open, and we're limited to 6:00am to 10:00pm.

**Evert Fernandez, Vice Chair**

Would it make more sense just to say that the delivery hours are the same as the state regulations?

**Kari Svanstrom, Planning Director**

Yes, that way if they change them we don't need to go back and revise our code. It sounds like everyone is more or less okay with whatever the state mandates.

6) *"Conditions of approval shall be posted within the delivery-only section of the facility."*

**Kari Svanstrom, Planning Director**

This is a standard thing that we have for all use permits, so even if it's not a use permit I think it is something you'd want to have.

**Kathy Oetinger, Chair**

Yes, just to have it posted so people know what the rules are.

7) *"Change of ownership of the business shall require the new owner to apply for a transfer of delivery license."*

**Kari Svanstrom, Planning Director**

We also do require a license transfer. It's how we track both alcohol permits and cannabis permits, because the state asks us for that, and it allows us to do the check on that, so please let's keep that.

**Kathy Oetinger, Chair**

Yes. The issue of the schools and a 600-foot distance, because this isn't a retail it seems like it shouldn't apply for this kind of a business because there's no storefront. I don't think its proximity to schools should matter.

**Linda Kelley, Commissioner**

Is there any state language around distance to any schools? I don't remember when we put that in where we got that language from, and certainly the distance to schools and parks and all that have to do with the visibility. However, the liquor store is across the street from SPARC, and it was like what's the difference? However, we did put that in there and I'm wondering if Andrew knows if that's the state regulation?

**Andrew Longman, 421 Group**

I believe it's 600 feet. I'm double-checking right now.

**Kari Svanstrom, Planning Director**

And is it 600 feet in a walking pattern?

**Andrew Longman, 421 Group**

I don't recall if it's distance of travel or parcel-to-parcel, but I'll be right back to you about that.

**Kari Svanstrom, Planning Director**

This is something we can just get a consensus that if the state allows it are you okay changing it? And there is a cannabis manufacturing use in one of those buildings, and that's kind of where if we're not going to limit it. It would still limit those uses up there from doing delivery-only, so I think it's worth a quick check.

**Kathy Oetinger, Chair**

The issue of the storefront and retail aren't the same as a liquor store being 600 feet from the school, or even on the path home, because it doesn't have the same concerns for influence and the nuisance factor.

**Kari Svanstrom, Planning Director**

I don't think any of our cannabis businesses have the word "cannabis" or "marijuana" in their names at all. It's pretty discrete in that way, especially in the manufacturing. The question on this one is if the state doesn't require this, are you okay changing this? I'm hearing Chair Oetinger say it doesn't matter because it's not a storefront. Do others agree with that?

**Paul Fritz, Commissioner**

I'm okay with it.

**Linda Kelley, Commissioner**

Would this apply to standalone delivery as well as co-location? That's where I need to know if there was a distinction in the rules at the state level, because of the types of products or services each category can provide; so I would be fine since it's not retail, and if the state didn't care about it for standalone or for a co-location, which I'm not quite sure how the state uses that word, I would be fine to not have to put in a distance.

**Andrew Longman, 421 Group**

I actually asked the Department of Cannabis Control this question and got an official response saying, "Pursuant to the Business and Professions Code 2654(b) local jurisdictions may specify a different radius than what is listed in the DCC regulations."

**Linda Kelley, Commissioner**

Is that for retail or for any cannabis business?

**Andrew Longman, 421 Group**

I believe I asked that question specifically for retail, but I'd have to pick through my feed real quick to confirm.

**B. PLANNING COMMISSIONER TRAINING –**

Planning Commission training was postponed.

**7. SUBCOMMITTEE UPDATES**

None.

**8. PLANNING DIRECTOR'S REPORT**

**A. Cancellation of November 22, 2022 meeting**

Director Svanstrom provided updates.

The Commission asked questions of Director Svanstrom.

**9. ADJOURNMENT:** Chair Oetinger adjourned the meeting at 9:07 p.m. The next regularly scheduled Planning Commission meeting will take place on Wednesday, December 13, 2022 at 6:00 p.m.



## City of Sebastopol Planning Commission Staff Report

Meeting Date: February 14, 2023  
Agenda Item: 6A  
To: Planning Commission  
From: John Jay, Associate Planner  
Subject: Zoning Ordinance amendment  
Recommendation: Approval with recommendation to City Council

Applicant/Owner: 421 Group on behalf of Regen West Inc/Dan Davis  
File Number: 2022-067  
Address: 115 Morris Street  
CEQA Status: Exempt  
General Plan: Light Industrial (LI)  
Zoning: Industrial (M)

**Introduction:**

This is a zoning ordinance amendment request from the applicant 421 Group on behalf of Regen West to amend the City of Sebastopol’s Cannabis Ordinance to allow “Cannabis Retail Delivery” within the Industrial (M) districts of Sebastopol as a permitted use where it is currently not allowed. The amendment will update the Cannabis Ordinance section 17.360 to include the changes recommended by staff and the Planning Commission from study session on this item.

**Project Description:**

421 Group on the behalf of Regen West is requesting the City of Sebastopol amend the Cannabis Ordinance Section 17.360 of the Sebastopol Municipal Code. The applicant is requesting that Cannabis Retail Delivery (delivery-only retail sales) in the Industrial (M) district. This would include modifying the Permitted and Conditionally Permitted Cannabis Uses in Commercial, Office and Industrial Zones, Table 17.360-2, from not allowing Cannabis Retail Delivery (delivery-only retail sales) in the Industrial (M) district to allowing it with a building permit. This proposed change also includes a note at the end of that table to read as follows: *“Cannabis Retailer Delivery (office-only) is only permitted in M District (Industrial Zone) as a supplemental use for an existing/proposed cannabis permit, and is not subject to the limit on delivery licenses set forth in this chapter under section 17.360.100 subsection D. 1.”*

The Planning Commission held a study session at its regular public meeting on November 8, 2022 to provide staff with direction to come back with a proposed zoning amendment to request this request. At that meeting the following items were discussed and staff has provided the following changes to Chapter 17.360 of the Sebastopol Municipal Code.

- Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?

- Should co-location with a manufacturing use be required and, if so, what type of co-location aspect/criteria (SF/% of sales, what makes a ‘bone fide manufacturing’ business, etc.)
- What level of City approval should be required?
- Should there be a limited number of licenses, or unlimited?
- Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?

**Project Location and Surrounding Land Uses:**

The amendment request to allow Retail Delivery Only would be applicable to all parcels zoned Industrial (M) within the Sebastopol City limits. Within the Industrial district there are a variety of businesses geared towards manufacturing and distribution.

**General Plan Consistency:**

The project is consistent with the following policies within the General Plan.

**Goal EV 4:** Emphasize Sebastopol's Role as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast. *As a local business, manufacturers would be offering the products they produce within the city to local shops and, via delivery only retail sales, to the public within and outside of Sebastopol.*

**Goal EV 5:** Enhance the City's Existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses. *As a local business within Sebastopol this would allow Regen and other local cannabis businesses to add a retail-delivery option to their facilities.*

**Zoning Ordinance Consistency:**

Currently Cannabis Retail Delivery (office only) is not an allowed use within the Industrial (M) district. For this to be an allowed use, Section 17.360 Comprehensive Cannabis Regulations would need to be amended and approved by City Council. The process for this is outlined in Chapter 17.445 General Plan and Zoning Amendment Procedure. The applicant has provided a Zoning Amendment change to Table 17.360-2, which provides the permitted and conditionally permitted Cannabis uses in the Commercial, Office and Industrial Zones.

**Background:**

Currently, the Cannabis Ordinance allows ‘Type 3’ - Cannabis retail facilities, office-only’ (retail delivery only) in the following Zoning Districts: Office Commercial, General Commercial, Commercial manufacturing, and Light Industrial/Office zones, as noted in the table below. The applicant is proposing that the Use Table be modified to allow Cannabis Retailer Delivery (office-only) to have P<sup>(1)</sup> under the M Zone. (Note 1 states: “For cannabis-related permitted uses, zoning clearance is still required.” This is done through an Administrative Permit issued by the Planning Department).

**Analysis:**

Since the Planning Commission meeting of November 8, 2022, staff has been working on the amendment changes that were discussed during that meeting, and outlined as follows;

*Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?*

The Commission believed that this would be an acceptable use within the Industrial (M) district on top of it being co-located with a manufacturing use. This has been incorporated into Section

17.360.095 General operating requirements/additional criteria for Manufacturing with co-located retail delivery (office only) as well as Table 2 of 17.360.

*Should co-location with a manufacturing use be required and, if so, what type of co-location aspect/criteria should be included?*

The Commission agreed that being stand alone or retail only was an acceptable use within this district. However, limiting the number of deliveries was something that the Commission did not believe was necessary. Staff has developed a list of criteria within Section 17.360.075 of the attached amendment to outline what level of permit would be required.

*What type (level) of approval should be required?*

As mentioned above, the list of criteria explains what level of permit will be required and who the decision body will be. The procedure for these cannabis permits would follow the same policies in place for the alcohol use permits where staff can approve certain criteria at an administrative level and include conditions of approval and permits that are outside of those criteria would require a full use permit approved by the Planning Commission. Lastly, the Planning Director being the decision-making body for administrative permits has the authority to defer the decision to the Planning Commission should he or she deem necessary. Staff also strongly recommends that “Retail Delivery Only” is incidental to the primary use of manufacturing.

*Should there be a limited number of licenses, or unlimited?*

The Commission felt that the number of licenses should not be limited if the retail delivery only was being co-located with a manufacturing use. The Commission also felt that it could be allowed as a stand-alone use but should be reviewed as a regular use permit subject to the requirements outline in the existing ordinance.

The Commission also felt that staff should have a level of discretion in their evaluation of the permit and if necessary, could elevate the permit to be reviewed by the Planning Commission.

*Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?*

The Commission discussed the existing location criteria (such as buffers to schools), and felt that these were not necessary for a delivery-only since there was no retail presence. These permits would also be subject to chapter 17.360.100.B which provides the criteria required for delivery services.

### **Environmental Review:**

The Zoning Amendment (the “Project”) would be exempt with the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15183, because it is consistent with the General Plan for which an Environment Impact Report (EIR) was certified by Council in 2016, a Zoning Code Amendment consistent with the General Plan shall not require additional environmental review except as might be necessary to examine whether there are project specific significant effects which are peculiar to the project or its site.

### **Required Findings:**

Section 17.445.030 of the Sebastopol Municipal Code requires the following findings be made by the Planning Commission;

- A. Is compatible with the general objectives of the General Plan and any applicable specific plan.
- B. Is in conformity with public convenience, general welfare and good land use practice.
- C. Will not be detrimental to the public health, safety and general welfare.
- D. Will not adversely affect the orderly development of property.

**City Departmental Comments:**

- The Planning Department routed this to the various city departments and no comments were received on the Zoning Amendment proposal.

**Public Comment:**

As prescribed by Section 17.460 of the Zoning Ordinance, the Planning Department completed the following: (1) Provided written notice to all property owners within 600 feet of the external boundaries of the subject property; (2) provided a written notice that was published in the Press Democrat; and (3) posted three written notices publicly on and within vicinity of the subject property.

Public comments received as of this staff report are included in the Attachments to this staff report.

**Recommendation:**

Hold a public hearing, and adopt the Resolution recommending the City Council adopt the Zoning Ordinance Amendment.

If approved, staff would be able to process the proposed use by Regen West as a delivery-only retail sales co-located with their existing cannabis manufacturing use.

**Exhibits:**

Resolution Recommendation to City Council  
Draft Ordinance

**Attachments:**

Application materials  
November 8, 2022 Planning Commission Staff report and minutes  
Redline ordinance

RESOLUTION NO. 2023-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEBASTOPOL  
RECOMMENDING THE CITY COUNCIL ADOPT AMENDMENTS TO THE ZONING ORDINANCE TO ALLOW  
CANNABIS RETAIL DELIVERY (OFFICE-ONLY) AS A PERMITTED USE WITHIN THE INDUSTRIAL (M) DISTRICT

1. Whereas, the City of Sebastopol completed a comprehensive General Plan update with adoption of a new General Plan on November 15, 2016; and
2. Whereas, the new General Plan includes policies and actions related to Economic Vitality, including;
  - a. *Policy EV 4: Emphasize Sebastopol's Roles as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast.*
  - b. *Policy EV 5: Enhance the City's existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses. And,*
3. Whereas, the Zoning Ordinance amendment includes other clarifying and policy changes identified by the Planning Department staff, the Planning Commission, and City Council; and
4. Whereas, the Planning Commission conducted a study session at a duly-noticed public meeting on November 8, 2022, to review the draft Zoning Ordinance, accepted public comment, and provided direction to staff related to the applicant's request; and
5. Whereas, the Planning Commission held duly-noticed public hearings on the draft Zoning Ordinance on February 14, 2023, to review the draft Zoning Ordinance modifications, accepted public comment, and, following a public hearing, adopted a resolution recommending City Council adopt the proposed ordinance; and
6. Whereas, pursuant to the California Environmental Quality Act (CEQA, codified at Public Resources Code § 21000 *et seq.*) and the State CEQA Guidelines (14 CCR, § 15000 *et seq.*), on November 15, 2016, the City Council certified and adopted an Environmental Impact Report (EIR) for the Sebastopol General Plan (the "Project"; State Clearinghouse No. 2016032001); and
7. Whereas, pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same Project unless substantial changes are proposed; and

8. Whereas, the Planning Commission finds that no substantial changes have occurred, and concurs with the staff determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of the Zoning Ordinance amendment; and
9. Whereas, the Planning Commission finds that the Zoning Ordinance amendment is categorically exempt from the California Environmental Quality Act (CEQA), Class 5, minor alterations in Land Use Limitation exemption, in that it does not change existing land use categories in the General Plan, nor does it change existing Zoning Map classifications, and would not change density allowance on any property in the City; and further that it is exempt from the requirements of CEQA pursuant to Section 15061(b) (3) of the CEQA Guidelines in that it represents an evolution 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.
10. Whereas, the Planning Commission finds that the Zoning Ordinance amendments are compatible with the general objectives of the General Plan, in that the amendments are consistent General Plan policies and standards, thereby enhancing consistency between the General Plan and Zoning Ordinance; and
11. Whereas, the Planning Commission finds that the amendments will be in conformity with public convenience, general welfare, and good land use practice, in that the revisions are also intended to clarify the regulations and facilitate ease of use and understanding, as well as to establish appropriate standards and procedures; and
12. Whereas, the Planning Commission finds that the amendments will not be detrimental to the public health, safety and general welfare, and will not adversely affect the orderly development of property, in that they will harmonize the General Plan and Zoning Ordinance, better express the City's policies, and generally promote good land use planning and regulation.
13. Whereas, the Planning Commission finds that the amendments will not adversely affect the orderly development of property, in that the amendments will provide additional business opportunities within this district.

**NOW, THEREFORE, the Planning Commission of the City of Sebastopol hereby recommends the City Council of the City of Sebastopol adopt the amendments to the zoning Ordinance to allow Cannabis Retail Delivery (Office-only) as a Permitted Use within the INDUSTRIAL (M) Zoning District.**

**Approved on February 14, 2023 by the following vote:**

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

Certified: \_\_\_\_\_

Kari Svanstrom, Planning Director

*City of Sebastopol*  
*Ordinance No. \_\_\_\_\_*

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL  
ADOPTING AMENDMENTS TO THE ZONING ORDINANCE TO ALLOW CANNABIS RETAIL DELIVERY  
(OFFICE-ONLY) AS A PERMITTED USE WITHIN THE INDUSTRIAL (M) DISTRICT

1. Whereas, the City of Sebastopol completed a comprehensive General Plan update with adoption of a new General Plan on November 15, 2016; and
2. Whereas, the new General Plan includes policies and actions related to Economic Vitality, including;
  - a. *Policy EV 4: Emphasize Sebastopol’s Roles as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast.*
  - b. *Policy EV 5: Enhance the City’s existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses. And,*
3. Whereas, the Zoning Ordinance amendment includes other clarifying and policy changes identified by the Planning Department staff, the Planning Commission, and City Council; and
4. Whereas, the Planning Commission conducted a study session at a duly-noticed public meeting on November 8, 2022, to review the draft Zoning Ordinance, accepted public comment, and provided direction to staff related to the applicant’s request; and
5. Whereas, the Planning Commission held duly-noticed public hearings on the draft Zoning Ordinance on February 14, 2023, to review the draft Zoning Ordinance modifications, accepted public comment, and, following a public hearing, adopted a resolution recommending City Council adopt the proposed ordinance; and
6. Whereas, on \_\_\_\_\_, 2023, the City Council conducted a duly-noticed Public Hearing, deliberated, and found that as revised, the Zoning Ordinance is compatible with the general objectives of the General Plan, in that it directly implements the General Plan policies, thereby achieving consistency between the General Plan and the Zoning Ordinance; and;
7. Whereas, pursuant to the California Environmental Quality Act (CEQA, codified at Public Resources Code § 21000 *et seq.*) and the State CEQA Guidelines (14 CCR, § 15000 *et*

seq.), on November 15, 2016, the City Council certified and adopted an Environmental Impact Report (EIR) for the Sebastopol General Plan (the "Project"; State Clearinghouse No. 2016032001); and,

8. Whereas, pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same Project unless substantial changes are proposed; and
9. Whereas, the City Council finds that no substantial changes have occurred, and concurs with the staff determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of the Zoning Ordinance amendment; and
10. Whereas, the City Council finds that the Zoning Ordinance amendment is categorically exempt from the California Environmental Quality Act (CEQA), Class 5, minor alterations in Land Use Limitation exemption, in that it does not change existing land use categories in the General Plan, nor does it change existing Zoning Map classifications, and would not change density allowance on any property in the City; and further that it is exempt from the requirements of CEQA pursuant to Section 15061(b) (3) of the CEQA Guidelines in that it represents an evolution 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.
11. Whereas, the City Council finds that the Zoning Ordinance amendments are compatible with the general objectives of the General Plan, in that the amendments are consistent General Plan policies and standards, thereby enhancing consistency between the General Plan and Zoning Ordinance; and
12. Whereas, the City Council finds that the amendments will be in conformity with public convenience, general welfare, and good land use practice, in that the revisions are also intended to clarify the regulations and facilitate ease of use and understanding, as well as to establish appropriate standards and procedures; and
13. Whereas, the City Council finds that the amendments will not be detrimental to the public health, safety and general welfare, and will not adversely affect the orderly development of property, in that they will harmonize the General Plan and Zoning

Ordinance, better express the City's policies, and generally promote good land use planning and regulation.

14. Whereas, the City Council finds that the amendments will not adversely affect the orderly development of property, in that the amendments will provide additional business opportunities within this district.

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

**Section 1.** The above recitals are hereby declared to be true and correct and represent the findings of the City Council of the City of Sebastopol. Said findings are incorporated by this reference.

**Section 2.** Chapter 17.360 Comprehensive Cannabis Regulations shall be repealed and replaced as attached in Exhibit A.

**Section 3.** Chapter 17.400.020.A Powers of the Planning Director shall be amended as follows:

- A. Accomplish all administrative actions required as authorized by this code, including, but not limited to, receiving of applications for permits and reviews, giving of notices, preparing reports, approving or issuing certificates of zoning compliance, process administrative permits; receiving and processing appeals, and receiving and accounting for fees;

**Section 4.** Chapter 17.400-2 Table 2 Public Notice, Public Comment, and Public Hearing Requirements shall be amended to add "Administrative Permit, Cannabis" and includes the following public notice requires: "Notice mailed to all owners of property adjoining the exterior boundaries of the subject property"

**Section 5.** The City Council hereby finds that Adoption of this Ordinance will enact only minor changes in land use regulations, and it can be seen with certainty that its adoption will not have a significant effect on the environment because it will not allow for the development of a specific project anywhere other than where they were previously allowed under existing federal, state and local regulations.

The proposed Ordinance also falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061(b)(3), excluding projects where "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment."

**Section 6.** Conflicting Laws. During the continuation of the effectiveness of this ordinance, the provisions of this ordinance shall govern. If there is any conflict between the provisions of this ordinance and any provisions of the Sebastopol Municipal Code, or any City ordinance, resolution or policy, the provision of this ordinance shall control. If there are any conflicts between the provisions of this ordinance and any

provisions of State or Federal law in effect during the same time as this ordinance, the provisions of this ordinance shall be null and void.

**Section 7.** 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.

**Section 8.** Effective Date. This ordinance shall become effective thirty (30) days after its adoption.

Approved for First Reading and Introduction on this \_\_\_ day of \_\_\_\_\_, 2022.

Scheduled for Second Reading and Approval on the \_\_\_ day of \_\_\_\_\_, 2022.

**VOTE:**

Ayes:

Noes:

Abstain:

Absent:

APPROVED: \_\_\_\_\_

Mayor Neysa Hinton

ATTEST: \_\_\_\_\_

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: \_\_\_\_\_

Larry McLaughlin, City Attorney

## EXHIBIT A: DRAFT ORDINANCE

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## Chapter 17.360

### COMPREHENSIVE CANNABIS REGULATIONS

## Sections:

17.360.010	Purpose.
17.360.020	Application of regulations.
17.360.030	Additional definitions.
17.360.040	Limitations on use.
17.360.050	Personal cannabis cultivation.
17.360.060	Cannabis businesses.
17.360.070	General operating requirements.
17.360.075	General operating requirements - Manufacturing with co-located retail (office only).
17.360.080	Cannabis commercial cultivation.
17.360.090	Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.
17.360.100	Cannabis retail.
17.360.110	Cannabis special events.
17.360.120	Special findings.
17.360.130	Grounds for permit revocation or modification.
17.360.140	Planning Commission interpretation.
17.360.150	Rescission of urgency ordinance.
17.360.160	Severability.

#### 17.360.010 Purpose.

This chapter provides the location and operating standards for personal cannabis cultivation and for cannabis businesses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development.

#### 17.360.020 Application of regulations.

The provisions of this chapter shall become effective 30 days after its adoption.

EXHIBIT A: DRAFT ORDINANCE

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## 17.360.030 Additional definitions.

“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.

“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 Health and Safety Code Section 11018, 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 Health and Safety Code Section 11018.5. 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 chapter, 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 three classifications: medical dispensary retail, adult use dispensary retail, or office-only cannabis retail.

“Cannabis distribution/warehouse” means the procurement, sale, and transport of medical cannabis or adult use cannabis, and medical cannabis products or adult use cannabis products, between legally established cannabis businesses. This does not include patient delivery or adult use delivery.

“Cannabis manufacturing” means the production, preparation, propagation, or compounding of medical cannabis or adult use cannabis, or medical cannabis products or adult use cannabis products, using nonvolatile

EXHIBIT A: DRAFT ORDINANCE

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solvents, or no solvents, either directly or indirectly or by extraction methods, or independently by mean 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 relabels its container. This does not include the manufacturing of either medical or adult use cannabis products using volatile solvents, which is not permitted in the City.

“Cannabis microbusiness” means a cannabis cultivation business of less than 10,000 square feet in combination with medical cannabis distribution, medical cannabis manufacturing – level 1, and/or medical cannabis retail (dispensary) and delivery, combined within one State license.

“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 three 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.
3. Type 3: “Office only, cannabis retail” means the sale and delivery of either medical cannabis or adult use cannabis, and/or medical cannabis products or adult use cannabis products, to qualified customers via online, the phone or by mail. No sales of cannabis are made on site. Except as permitted by State law, all cannabis products shall be stored in a secured fashion. Such use shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. Such use’s premises are closed to the public. The intent of this use-type is to serve as an office to coordinate the transport of cannabis obtained from other licensees to qualified patients or qualified adult customers with valid identification. Such use-type may conduct sales exclusively by delivery.

“Cannabis processing” means a licensee that conducts only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.

“Cannabis packaging and labeling” means entities that only package or repackage cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.

“Cannabis testing laboratory” means a laboratory, facility, or entity in the State that offers or performs tests of medical cannabis or adult use cannabis and/or medical cannabis products or adult use cannabis products, and that is both of the following:

## EXHIBIT A: DRAFT ORDINANCE

1. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.
2. Licensed by the Bureau of Cannabis Control.

“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 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 Business and Professions Code.

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

#### 17.360.040 Limitations on use.

A. *Compliance with SMC.* Personal cannabis cultivation and cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations set forth in the SMC, 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 C

## EXHIBIT A: DRAFT ORDINANCE

annabis 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.

### 17.360.050 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 (Chapter 17.25 SMC) 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 100 square feet per residence regardless of the number of residents.

2. *Primary Caregiver 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 100 square feet per patient, up to a total of 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 subsection E of this section.

B. *Adult Use Cannabis Maximum Limitation.* The personal cultivation of adult use cannabis is limited to no more than six 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 subsection E of this section.

C. *Residency Requirement.* Cultivation of cannabis for personal use may occur only by a full-time resident responsible for the cultivation.

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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 SMC.

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 noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, 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 as may be necessary to ensure that odors do not constitute a nuisance.
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 Chapter 8.25 SMC (Noise Control Ordinance). 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.

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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 State Fire Marshal shall be kept in the area of cultivation.

### 17.360.060 Cannabis businesses.

Cannabis businesses shall be permitted only in compliance with the provisions of zoning districts and allowable uses (Chapter 17.25 SMC) and shall be subject to the following standards and limitations:

A. *Land Use.* For purposes of this chapter, cannabis businesses shall include the following land use classifications, which are further defined in SMC 17.360.030, Additional definitions:

1. Cannabis – cultivation.
2. Cannabis – testing/lab.
3. Cannabis – manufacturer (nonvolatile, includes infusions).
  - i. Processing.
  - ii. Packaging and labeling.
4. Cannabis – cannabis retail (dispensary) and cannabis retail (office-only).
5. Cannabis – cannabis distributor/warehouse.
6. Cannabis – microbusiness.

B. *Where Allowed.* Cannabis businesses shall be located in compliance with the requirements of zoning districts and allowable uses (Chapter 17.25 SMC) and as designated on Tables 17.360-1 and 17.360-2. 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 chapter shall not be established or maintained except as authorized by the land use permit required by this chapter. For those business uses not subject to a conditional use permit requirement, an administrative permit is required.

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

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Table 17.360-1. Permitted and Conditionally Permitted Cannabis Uses in the Residential Districts

EXHIBIT A: DRAFT ORDINANCE

Use	R1	R2	R3	R4	R5	R6	R7	MHP
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	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
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(1)</sup>	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.

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Table 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones

EXHIBIT A: DRAFT ORDINANCE

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
Cannabis Retailer Delivery (office-only)	C	C	-	C	P/C <sup>(4)</sup>	C
Cannabis Retail Dispensary	C	C	C	C	C	C
Cannabis Cultivation (up to 5,000 sq. ft.) indoor only	-	-	-	p <sup>(1)</sup>	p <sup>(1)</sup>	p <sup>(1)</sup>
Cannabis Cultivation (5,001 – 10,000 sq. ft.) indoor only	-	-	-	p <sup>(1)</sup>	p <sup>(1)</sup>	p <sup>(1)</sup>
Cannabis Cultivation (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
Cannabis Cultivation Nursery, indoor only	-	-	-	p <sup>(1)</sup>	p <sup>(1)</sup>	p <sup>(1)</sup>
Cannabis Microbusiness	-	C	-	C	C	C
<b>Industrial Uses</b>						
Cannabis Testing / Cannabis Laboratories	-	C	-	p <sup>(1)</sup>	p <sup>(1)</sup>	p <sup>(1)</sup>
Cannabis Manufacturer (nonvolatile and infused products)	-	-	-	p <sup>(1)</sup>	p <sup>(1)</sup>	C
Cannabis Distributor / Cannabis Warehouse	-	-	-	C	C	p <sup>(1)</sup>
Cannabis Processing, Packaging and Labeling	-	-	-	p <sup>(1)</sup>	p <sup>(1)</sup>	C
<b>Residential Uses</b>						
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	p <sup>(2)</sup>	p <sup>(2)</sup>				
Cannabis Cultivation – Personal (Medical): No more than 100 sq. ft.	p <sup>(2)</sup>	p <sup>(2)</sup>				
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(3)</sup>	p <sup>(2)</sup>	p <sup>(2)</sup>				
P = Permitted Use						

EXHIBIT A

EXHIBIT A: DRAFT ORDINANCE

Use	CO	CG	CD	CM	M	O/LM
<p>C = Conditionally Permitted Use                      - = Use Not Allowed                      (1) For cannabis-related permitted uses, Administrative permit is still required.                      (2) Only applicable at residences.                      (3) No more than 100 sq. ft. per patient, up to 500 sq. ft. Maximum of 200 sq. ft. permitted for outdoor.                      (4) Permitted with an administrative permit when such uses are co-located with manufacturing use and comply with criteria listed in Section 17.360.095. Retailer delivery-only uses that are not co-located with a manufacturing use are subject to Section 17.360.100.</p>						

### 17.360.070 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 chapter.

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 chapter after the State begins issuing State licenses and after the 10-month transition period noted in this subsection A 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 chapter shall be required to comply with all operational requirements set forth in this chapter.
3. *Grounds for Revocation.* Once State licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this chapter 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.
  - a. 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 q

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.

a. 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 conform with the appropriate occupancy classification and compliance with SMC Title 15.

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 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 chapter 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 ensure the public safety and the safety of persons within the facility and to protect the premises from t

heft. 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 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 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 on-site 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, nonresidential door locks or window locks.
6. *Emergency Access.* Security measures shall be designed to ensure emergency access in compliance with 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, except for those which only deal with packaged cannabis and have no on-site consumption, 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 m

igation 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, 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 shielded to appropriately limit exterior glare to surrounding properties.

J. *Noise.* Use of air conditioning and ventilation equipment shall comply with Chapter 8.25 SMC (Noise Control Ordinance). 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 State laws and regulations.
  - b. Applicable City 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. Incident reporting, law enforcement liaison policies.
  - i. 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 subsection (K)(1) of this section, for the rev

iew 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.

### 17.360.080 Cannabis commercial cultivation.

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis commercial cultivation.

A. *Outdoor Commercial Cultivation Prohibited.* The cultivation of cannabis for commercial use may only be conducted within a fully enclosed space.

B. *Type of Permit.* Depending on the size of the facility, and in accordance with the tables in SMC 17.360.060, administrative approval or a conditional use permit shall be required for cannabis commercial cultivation. For purposes of determining the facility size, square footage shall be defined by calculating the gross square footage of the structure or portion of the structure occupied by the cannabis business, not the plant canopy area. For purposes of these regulations, nursery means a use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

C. *Microbusiness.* In addition to compliance with permit and operating requirements set forth in this chapter for cannabis cultivation, a cannabis microbusiness which includes cultivation, manufacturing, distribution and/or retail within one State license shall comply with all permit and operating requirements set forth in this chapter for cannabis manufacturing, distribution, and/or retail (dispensary) and delivery as applicable to the combination of uses within the license. Microbusinesses shall be subject to the City's limits on the maximum number of cannabis retail facilities.

D. *Pesticides.* The cultivation of cannabis must be conducted in accordance with all applicable Federal, State, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the fire code.

### 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.

In addition to the general operating requirements set forth in this chapter, this section provides additional operational requirements for cannabis manufacturing.

- A. *Extraction Processes.* Cannabis manufacturers shall utilize only extraction processes that are (1) solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act, and/or (2) use solvents exclusively within a closed loop system that meets the requirements of the Federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a State licensed engineer.
- B. *Processing:* entities that conduct only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.
- C. *Packaging and labeling:* entities that only package or repackage medical cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.
- D. *Loop Systems.* No closed loop systems shall be utilized without prior inspection and approval of the City’s Building Official and Fire Chief.
- E. *Standard of Equipment.* Extraction equipment, manufacturing, processing and analytical testing devices used by the cannabis manufacturer must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City’s Building Official and Fire Chief.
- F. *Annual Recertification Required.* Extraction equipment used by the cannabis manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on site.
- G. *Food Handler Certification.* All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products must be State certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the cannabis manufacturer’s facility where that individual participates in the production of edible cannabis products.
- H. *Edible Product Manufacturing.* Cannabis businesses that sell or manufacture edible cannabis or cannabis products shall obtain a Sonoma County Health permit. Permit holders shall comply with Health and Safety Code Section 113700 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.

### 17.360.095 General operating requirements / additional criteria for Manufacturing with co-located retail delivery (office only).

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis retail delivery only when co-located with an allowed manufacturing use.

- A. The intent of co-location of Cannabis Retailer Delivery (office-only) with manufacturing uses is to support the manufacturing use on the site. the intent is for the co-located retail component to be incidental to the primary use of a bone fide manufacturing use on the site.
- B. The co-located Cannabis Retailer Delivery (office-only) are subject to following criteria are subject to an Administrative Permit Review;
  1. 20% Square footage of the overall manufacturing facility dedicated to delivery only, with a maximum area of 500 square feet. A Conditional Use Permit approved by the Planning Commission shall be obtained to exceed this limit.
  2. The facility shall clearly designate all “delivery only” spaces on any supplied application materials. Hallways and shared use space such as overall business administrative offices (not to include delivery-only staff offices), restrooms, etc. shall not be included in this limit.
  3. Retail Delivery-only is subject to regular business hours and shall be consistent with State Department of Cannabis Control standards.
  4. Conditions of Approval shall be posted within the Retail Delivery only section of the facility.
  5. Change of ownership of the business shall require the new owner to apply for a transfer of delivery license.

### 17.360.100 Cannabis retail.

- Type 1: Medical cannabis retail (dispensary).
- Type 2: Adult use cannabis retail (dispensary).
- Type 3: Cannabis retail delivery (office-only for medical or adult use).

In addition to the general operating requirements set forth in this chapter, this section provides location and operating requirements for medical cannabis retail (dispensary), adult use cannabis retail (dispensary) and retail delivery (office-only for medical or adult use).

- A. *Conditional Use.* A conditional use permit shall be required to operate cannabis retail Types 1 and 2 above in accordance with the tables in SMC 17.360.060.

B. *Delivery Services.* In addition to the requirements established in this chapter for cannabis retail Types 1, 2, and 3, the delivery of cannabis and cannabis products shall be subject to the following requirements:

1. Commercial delivery 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.
2. A cannabis retail facility, office-only (Type 3), that has a physical location in the City may also conduct sales exclusively by delivery, and shall have no on-site retail sales to customers.
3. Applications for any cannabis retail type shall include a statement as to whether the use will include delivery of cannabis and cannabis products located outside the cannabis retail facility.
4. 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 chapter and State law.

C. *Drive-Through Services.* Drive-through or walk-up window services in conjunction with cannabis retail Types 1, 2, and 3 are prohibited.

D. *Location Requirements.* Cannabis retail shall be subject to the following location requirements:

1. No more than two Type 1, two Type 2, and three Type 3 cannabis retail establishments are permitted in the City. Type 2 cannabis retail may only occur at an existing Type 1 medical cannabis retail establishment that has obtained and maintained a valid conditional use permit, provided such establishment meets the following requirements: comply with all requirements set forth in this chapter; and obtain State licenses for both medical and adult use commercial sales.
  - a. Such existing establishments are not required to obtain a new conditional use permit for Type 2 retail sales.
  - b. To the extent that such existing establishments have conditional use permits that have conditions in conflict with this chapter, the provisions of this chapter shall prevail.
  - c. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10 percent increase in square footage; any greater increase, or a relocation of the facility, shall require conditional use permit approval.
  - d. Subject to any State permitting, Types 1, 2, and 3 establishments may engage in both medical and nonmedical cannabis sales.
2. *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.

3. *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.
4. *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 nonconforming and subject to the protections and provisions of Chapter 17.160 SMC (Nonconforming Uses).
5. *Visibility of Entrance.* The entrance of a cannabis retail, Types 1 and 2, 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. *Management.* Permit applicants shall be responsible for providing the names of the person or persons having management or supervision responsibility of the applicant's business at the time of application.
3. *Recordkeeping.* The cannabis retail operator, all types, shall maintain patient and sales records in accordance with State law.
4. *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.
5. *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 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.

6. *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.

7. *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.

8. *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 this title and any other applicable State regulations.

9. *On-Site 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.

10. *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.

11. *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.

12. *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 chapter 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 Chapter 8.04 SMC (Use of Tobacco in Public Places – Smoking Control) and State law and as follows:

a. 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.

b. 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 chapter and State law.

c. 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 Chapter 8.04 SMC (Use of Tobacco in Public Places – Smoking Control) 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 Chapter 8.04 SMC (Use of Tobacco in Public Places – Smoking Control) and State law.

H. *Restriction on Ownership.* No company or parent company shall simultaneously own or operate more than one Type 1, one Type 2, and one Type 3 facility in the City.

#### 17.360.110 Cannabis special events.

A. *Dual Licensing.* The City recognizes that State law requires cannabis businesses to obtain dual licensing at the State and local level for temporary special events that involve on-site cannabis sales to, and consumption by, patients or qualifying adults with valid identification. Such events shall not be allowed to commence until the cannabis business can demonstrate that all necessary local permits, State temporary event licenses, agency permits, and as necessary, a temporary use permit or a special events permit, as applicable, have been obtained in compliance with any regulations and deadlines established by the City and the State.

B. *Temporary Use Permit, Special Events Permit.* Applications for a cannabis special event shall be filed in a timely manner in accordance with Chapter 17.430 SMC (Temporary Use Permits – includes special events), or a special events permit pursuant to Chapter 12.44 SMC (Special Events), depending on the nature and location of the event. Applicants are advised to confirm State allowance for such event prior to filing of a City application.

Not more than four such events shall be permitted in any calendar year, and no single operator shall be permitted to conduct more than two such events per year.

### 17.360.120 Special findings.

In addition to the conditional use permit findings specified in Chapter 17.415 SMC, applications subject to a conditional 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 site and building design and improvements.
- F. Whether the application will result in an overconcentration of such uses within the community.
- G. Energy conservation and other environmental aspects.

### 17.360.130 Grounds for permit revocation or modification.

In addition to the grounds in SMC 17.400.090 (Term, adherence to approved plans and conditions, and 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; or
- 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 SMC 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.

**17.360.140 Planning Commission interpretation.**

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

**17.360.150 Rescission of urgency ordinance.**

Upon its effective date, this chapter shall supersede and rescind Ordinance No. 1107, which established temporary cannabis regulations. Permits that were granted under such ordinance and are not in conflict with this chapter shall remain effective.

**17.360.160 Severability.**

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter.



City of Sebastopol

Planning Department
7120 Bodega Avenue
Sebastopol, CA 95472
(707) 823-6167

Agenda item Number:7

MASTER PLANNING APPLICATION FORM

APPLICATION TYPE

- Administrative Permit Review
Alcohol Use Permit/ABC Transfer
Conditional Use Permit
Design Review
Lot Line Adjustment/Merger
Preapplication Conference
Preliminary Review
Sign Permit
Temporary Use Permit
Tree Removal Permit
Variance
Other

This application includes the checklist(s) or supplement form(s) for the type of permit requested: Yes No

REVIEW/HEARING BODIES

- Staff/Admin
Design Review/Tree Board
Planning Commission
City Council
Other

APPLICATION FOR

Street Address: 115 Morris Street
Assessor's Parcel No(s): 004-011-030
Present Use of Property: Cannabis Manufacturing and Distribution
Zoning/General Plan Designation: M: Industrial

APPLICANT INFORMATION

Property Owner Name: Dan Davis
Mailing Address: 8880 Barnett Valley Rd.
City/State/ZIP: Sebastopol, CA 95472
Signature: Daniel O Davis
Date: 8-29-22

Authorized Agent/Applicant Name: Regen West, Inc. / Craig Litwin
Mailing Address: 115 Morris St.
City/State/ZIP: Sebastopol, CA 95472
Signature: Craig Litwin
Date: 8/26/22

Contact Name (if different from above): Andrew Longman
Phone/Email: (707) 277-6903 andrew.longman@421.group

PROJECT DESCRIPTION AND PERMITS REQUESTED (ATTACH ADDITIONAL PAGES IF NECESSARY)

Application for Delivery-Only Retail use at location with permissions for cannabis manufacturing and distribution.
Zoning Code Text Amendment application for proposed ordinance changes attached.

CITY USE ONLY

Table with 3 columns: Fill out upon receipt, Action, Action Date. Rows include Application Date, Planning File #, Received By, Fee(s), Completeness Date, Staff/Admin, Planning Director, Design Review/Tree Board, Planning Commission, City Council.

**SITE DATA TABLE**

If an item is not applicable to your project, please indicate "Not Applicable" or "N/A" in the appropriate box; do not leave cells blank.

SITE DATA TABLE	REQUIRED / ZONING STANDARD	EXISTING	PROPOSED
Zoning	N/A		
Use	N/A		
Lot Size			
Square Feet of Building/Structures <i>(if multiple structures include all separately)</i>			
Floor Area Ratio (F.A.R)	_____ FAR	_____ FAR	_____ FAR
Lot Coverage	_____ % of lot _____ sq. ft.	_____ % of lot _____ sq. ft.	_____ % of lot _____ sq. ft.
Parking			
Building Height			
Number of Stories			
Building Setbacks – Primary			
<i>Front</i>			
<i>Secondary Front Yard (corner lots)</i>			
<i>Side – Interior</i>			
<i>Rear</i>			
Building Setbacks – Accessory			
<i>Front</i>			
<i>Secondary Front Yard (corner lots)</i>			
<i>Side – Interior</i>			
<i>Rear</i>			
Special Setbacks <i>(if applicable)</i>			
<i>Other (_____)</i>			
Number of Residential Units	_____ Dwelling Unit(s)	_____ Dwelling Unit(s)	_____ Dwelling Unit(s)
Residential Density	1 unit per _____ sq. ft.	1 unit per _____ sq. ft.	1 unit per _____ sq. ft.
Useable Open Space	_____ sq. ft.	_____ sq. ft.	_____ sq. ft.
Grading	Grading should be minimized to the extent feasible to reflect existing topography and protect significant site features, including trees.	N/A	Total: _____ cu. yds Cut: _____ cu. yds. Fill: _____ cu. yds. Off-Haul: _____ cu. yds
Impervious Surface Area	N/A	<del>_____ % of lot _____ sq. ft.</del>	<del>_____ % of lot _____ sq. ft.</del>
Pervious Surface Area	N/A	<del>_____ % of lot _____ sq. ft.</del>	<del>_____ % of lot _____ sq. ft.</del>

**CONDITIONS OF APPLICATION**

1. All Materials submitted in conjunction with this form shall be considered a part of this application.
2. This application will not be considered filed and processing may not be initiated until the Planning Department determines that the submittal is complete with all necessary information and is "accepted as complete." The City will notify the applicant of all application deficiencies no later than 30 days following application submittal.
3. The property owner authorizes the listed authorized agent(s)/contact(s) to appear before the City Council, Planning Commission, Design Review/Tree Board and Planning Director and to file applications, plans, and other information on the owner's behalf.
4. The Owner shall inform the Planning Department in writing of any changes.
5. **INDEMNIFICATION AGREEMENT:** As part of this application, applicant agrees to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards, committees and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application or the adoption of the environmental document which accompanies it or otherwise arises out of or in connection with the City's action on this application. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the City's action on this application, whether or not there is concurrent passive or active negligence on the part of the City.

If, for any reason, any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

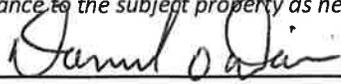
**NOTE:** The purpose of the indemnification agreement is to allow the City to be held harmless in terms of potential legal costs and liabilities in conjunction with permit processing and approval.

6. **REPRODUCTION AND CIRCULATION OF PLANS:** I hereby authorize the Planning Department to reproduce plans and exhibits as necessary for the processing of this application. I understand that this may include circulating copies of the reduced plans for public inspection. Multiple signatures are required when plans are prepared by multiple professionals.
7. **NOTICE OF MAILING:** Email addresses will be used for sending out staff reports and agendas to applicants, their representatives, property owners, and others to be notified.
8. **DEPOSIT ACCOUNT INFORMATION:** Rather than flat fees, some applications require a 'Deposit'. The initial deposit amount is based on typical processing costs. However, each application is different and will experience different costs. The City staff and City consultant time, in addition to other permit processing costs, (i.e., legal advertisements and copying costs are charged against the application deposit). If charges exceed the initial deposit, the applicant will receive billing from the City's Finance department. If at the end of the application process, charges are less than the deposit, the City Finance department will refund the remaining monies. Deposit accounts will be held open for up to 90 days after action or withdrawal for the City to complete any miscellaneous clean up items and to account for all project related costs.
9. **NOTICE OF ORDINANCE/PLAN MODIFICATIONS:** Pursuant to Government Code Section 65945(a), please indicate, by checking the boxes below, if you would like to receive a notice from the City of any proposal to adopt or amend any of the following plans or ordinances if the City determines that the proposal is reasonably related to your request for a development permit:

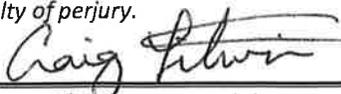
- |   |   |
|---|---|
| <input type="checkbox"/> A general plan   | <input type="checkbox"/> A specific plan    |
| <input type="checkbox"/> An ordinance affecting building permits or grading permits | <input type="checkbox"/> A zoning ordinance |

**Certification**

*I, the undersigned owner of the subject property, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury. I hereby grant members of the Planning Commission, Design Review Board and City Staff admittance to the subject property as necessary for processing of the project application.*

Property Owner's Signature:  Date: 8-29-22

*I, the undersigned applicant, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury.*

Applicant's Signature:  Date: 8.26.22

**NOTE:** It is the responsibility of the applicant and their representatives to be aware of and abide by City laws and policies. City staff, Boards, Commissions, and the City Council will review applications as required by law; however, the applicant has responsibility for determining and following applicable regulations.

## Neighbor Notification

In the interest of being a good neighbor, it is highly recommended that you contact those homes or businesses directly adjacent to, or within the area of your project. Please inform them of the proposed project, including construction activity and possible impacts such as noise, traffic interruptions, dust, larger structures, tree removals, etc.

Many projects in Sebastopol are remodel projects which when initiated bring concern to neighboring property owners, residents, and businesses. Construction activities can be disruptive, and additions or new buildings can affect privacy, sunlight, or landscaping. Some of these concerns can be alleviated by neighbor-to-neighbor contacts early in the design and construction process.

It is a "good neighbor policy" to inform your neighbors so that they understand your project. This will enable you to begin your construction with the understanding of your neighbors and will help promote good neighborhood relationships.

Many times, development projects can have an adverse effect on the tranquility of neighborhoods and tarnish relationships along the way. If you should have questions about who to contact or need property owner information in your immediate vicinity, please contact the Building and Safety Department for information at (707) 823-8597, or the Planning Department at (707) 823-6167.

I have informed site neighbors of my proposed project:  Yes  No

If yes, or if you will inform neighbors in the future, please describe outreach efforts:

We have canvassed our immediate neighbors in the past for our distribution and manufacturing uses. We will do so for this application once deemed complete by the City. Our neighbors have been very supportive of our efforts.

## Website Required for Major Projects

Applicants for major development projects (which involves proposed development of **10,000 square feet of new floor area or greater, or 15 or more dwelling units/lots**), are required to create a project website in conjunction with submittal of an application for Planning approval (including but not limited to Subdivisions, Use Permits, Rezoning, and Design Review). Required information may be provided on an existing applicant web site.

The website address shall be provided as part of the application. The website shall be maintained and updated, as needed until final discretionary approvals are obtained for the project.

Such website shall include, at a minimum, the following information:

- ✓ Project description
- ✓ Contact information for the applicant, including address, phone number, and email address
- ✓ Map showing project location
- ✓ Photographs of project site
- ✓ Project plans and drawings

# ZONING CODE TEXT AMENDMENT APPLICATION



**Submitted by:** 421 Group on behalf of Regen West, Inc.

**Address:** 115 Morris St. , Sebastopol, CA 95472

**APN:** 004-011-030

## Table of Contents

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## Statement of Need

***From the City's ZCTA application: Why do you want the General Plan or Zoning Ordinance text changed?***

**We are requesting a change to the zoning ordinance in order to keep our business solvent and assist other local manufacturers and distributors do the same.** With inflation across the supply chain, deflation of cannabis prices, compounding taxes for cannabis producers, and supply chain delays, diversifying local cannabis businesses is a viable way to survive.

**Our request is to allow for cannabis retail delivery in Industrial Zones, and only as a supplemental use to other permitted/proposed cultivation, manufacturing, or distribution facilities.** We propose that this use be a Permitted Use allowing for a streamlined Administrative Review versus a CUP. We propose that this supplemental use not be counted towards the limit of three delivery licenses. This will allow for other local cannabis businesses facing similar hurdles the opportunity to quickly diversify and make it through this most difficult time.

- *Please see PROPOSED CHANGES, Redlined chapter of 17.360.010 for proposed edits to allow this use.*

## Statement of Need That Warrants Change

***From the City's ZCTA application: What changes or events have occurred or what new evidence has arisen since the General Plan or Zoning Ordinance was adopted which now warrant a change?***

The regulated cannabis industry is taking a major hit. The price of outdoor flowers has dropped precipitously year over year. This has ramification up the supply chain. As but one example, oil manufacturers such as ourselves are witnessing a significant drop in the price of oil as new low-cost flowers hit the market. There is a race to the bottom. Margins are shrinking and near disappearing. The cannabis industry is in tumultuous times.

Considering the impacts of compounding state taxes up the supply chain, and sales tax at the end of the chain in retail dispensaries, the price of regulated cannabis far exceeds traditional market prices. There is a state-wide effort to reduce state taxes as the race to the bottom continues. The whole state is reeling.

The compounding taxes are a deadly burden on an industry poised for success but dying from a thousand cuts. Fortunately, Sebastopol cannabis businesses have an advantage without the local special use tax imposed by so many other local jurisdictions. This forward thinking policy in Sebastopol, coupled with state tax reform, is a life raft on a sinking ship. It is understandable that

jurisdictions want to raise taxes. But far from the golden goose once imagined, cannabis businesses still offer local jurisdictions significant sales taxes, career development with good paying jobs, and health care.

**How do we build the boat that will keep our local cannabis economy strong?** One clear way is to allow for diversified revenue through permitting direct to consumer sales, delivery licenses, for the handful of local cannabis businesses that have been able to open here locally post legalization.

## No Impact On Surrounding Area

*From the City's ZCTA application: Describe the effect the proposed change will have on the surrounding uses.*

**There will be no impact on surrounding uses as it is delivery only.** This is only a supplemental use to existing businesses. For example, we already operate a distribution and manufacturing center and this addition will be imperceptible. The space needed to fulfill delivery orders is literally a small office, enough for a phone line, computer, desk, and one employee.

## Proposed Change Achieves Objectives of Zoning Ordinance

*From the City's ZCTA application: Describe how the proposed change will affect achievement of the General Plan goals or the objectives of the Zoning Ordinance in this and the surrounding area.*

Please accept this petition (Proposed Zoning Code Text Amendment) as the official required statement per [17.445.020](#) (Application - Initiation) as a supplement to our existing local permits and state licenses for manufacturing and distribution of commercial cannabis to add delivery permissions. It is our intent to demonstrate that our proposed zoning code text amendment meets all requirements of consideration per 17.445.030 (Procedure for consideration), and, therefore, should be recommended for approval by the Planning Commission and the City Council thereafter.

- A. The project is compatible with the general objectives of the General Plan and any applicable specific plan.
- B. The project is in conformity with public convenience, general welfare and good land use practice.
- C. The project will not be detrimental to the public health, safety and general welfare.
- D. The project will not adversely affect the orderly development of property.

Our proposed change to the Zoning Code fulfills the achievement of the General Plan in numerous ways and from multiple sections. Below are some of the specific General Plan citations demonstrating this finding:

### From the Land Use Section

#### **Goal LU 8: Increase Job Opportunities in the Office and Professional Sectors of the Economy**

*Delivery would increase job opportunities in Sebastopol.*

**Policy LU 8-1: Encourage a vibrant mixture of office, retail, and service uses in the Downtown and along major arterials at the north and south ends of town.**

*As a local employer in an industrial building we are contributing to the vibrant mixture the General Plan calls for. This is true for other similar local cannabis businesses.*

**Policy LU 8-4: Support the continued development and intensification of office and professional employment centers throughout all non-residential areas.**

*Adding delivery helps build local businesses as viable employment center.*

**Policy LU 8-5: Maintain and implement Zoning Code provisions that accommodate and facilitate home-based and locally-owned businesses throughout the City.**

*Multiple owners of our business are local.*

#### **Goal LU 9: Increase Industrial Employment in Sebastopol While Maintaining the Quality of the Environment**

*Our request increases employment in an environmentally conscious manner. We are herbalists using organic local ingredients. We utilize organic ethanol to extract our oil. We help local cannabis farmers get to market. Other local producers have similar environmental ethics.*

**Policy LU 9-1: Designate sufficient land for a broad range of industrial uses, with an emphasis on uses that support the regional economy or are sustainable, green industries.**

*Allowing delivery is a supplemental use to our industrial manufacturing without any increase in building footprint. Most industrial facilities can ship directly to consumers. Once cannabis is legal federally we will be able to do the same. Until then we must deliver directly to consumers, and only within state boundaries.*

From the Economic Vitality Section:

**Goal EV 1: Encourage Economic Development that Broadens the City's Employment Base, Attracts High-Quality Jobs, Provides Services and Goods that Reflect the City's Values, and Increases the City's Tax Base**

*Adding delivery to our existing business offerings increases high-quality jobs, provides goods and services that reflect the City's values, and raises sales taxes for the City of Sebastopol.*

**Policy EV 1-2: Strengthen the City's business-related operations to provide a business-friendly and service-oriented environment through efficient processing of applications and permits related to economic development and ensuring that no unnecessary obstacles are created.**

*Our request will strengthen local businesses and remove obstacles towards getting local products to a wider market.*

**Policy EV 1-3: Attract and retain environmentally and socially conscious businesses that contribute to Sebastopol's long-term economic and environmental sustainability.**

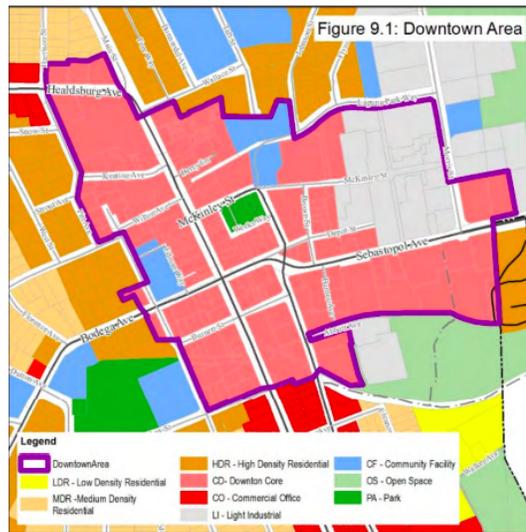
*Our request will allow us to continue as a viable business that honors environmental and socially conscious business practices.*

**Goal EV 4: Emphasize Sebastopol's Role as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast**

*Delivering the local products one creates directly to consumers allows local businesses to be part of this market and service hub for the West County as envisioned in the General Plan.*

**Policy EV 4-1: Encourage businesses in Sebastopol which respond to and meet the needs of West County residents.**

*The medicinal and recreational products we create are in direct response to the needs of local consumers and numerous West County residents. In fact, many of the herbal sources, cannabis and non cannabis alike, are sourced from 95472/ West County. Allowing us to sell these value added products back to the community from which the parts were grown is sustainable.*



**Goal EV 5: Enhance the City’s Existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses**

*As an existing start-up business the requested change would enhance our operations. Other local cannabis businesses would similarly benefit.*

**Policy EV 5-1: Ensure that the application and permitting process for expansion or improvements to existing businesses is user-friendly.**

*Our proposed addition of delivery helps improve existing businesses in a way that is complementary to the needs of this emerging industry. Our proposed changes would make the process more user friendly for future applicants requesting to add delivery to existing cannabis manufacturing and/or distribution.*

**Policy EV 5-2: Encourage the rehabilitation and retrofit of existing commercial, office, and industrial buildings to meet current market needs and code requirements.**

*We have retrofitted and upgraded an existing Industry business with updated power connections, solar installation, and full renovation and buildout of the interior. It is up to code. Our proposed addition of delivery helps to maintain this improved facility as a viable business. The addition of delivery makes the existing uses more sustainable helping meet the policy and goal in the General Plan*

Thank you for your consideration to permit this Zoning Code Text Amendment.

# ATTACHMENT A: Proposed Ordinance Changes



# Proposed Ordinance Changes



## Chapter 17.360: COMPREHENSIVE CANNABIS REGULATIONS

### 17.360.010 Purpose

This chapter provides the location and operating standards for personal [cannabis cultivation](#) and for [cannabis businesses](#) to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development. (Ord. 1111, 2018)

### 17.360.020 Application of regulations

The provisions of this chapter shall become effective 30 days after its adoption. (Ord. 1111, 2018)

### 17.360.030 Additional definitions

“*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.

“*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 Health and Safety Code Section [11018](#), 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 Health and Safety Code Section [11018.5](#). 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 chapter, 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 three classifications: medical dispensary retail, [adult use](#) dispensary retail, or [office-only cannabis retail](#).

“*Cannabis distribution/warehouse*” means the procurement, sale, and transport of medical [cannabis](#) or [adult use cannabis](#), and medical [cannabis products](#) or [adult use cannabis products](#), between legally established [cannabis businesses](#). This does not include patient delivery or [adult use](#) delivery.

“*Cannabis manufacturing*” means the production, preparation, propagation, or compounding of medical [cannabis](#) or [adult use cannabis](#), or medical [cannabis products](#) or [adult use cannabis products](#), using nonvolatile solvents, or no solvents, either directly or indirectly or by extraction methods, or independently by mean 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 relabels its container. This does not include the manufacturing of either medical or [adult use cannabis products](#) using volatile solvents, which is not [permitted](#) in the [City](#).

“*Cannabis microbusiness*” means a [cannabis cultivation](#) business of less than 10,000 square feet in combination with medical [cannabis distribution](#), medical [cannabis manufacturing](#) – level 1, and/or medical [cannabis retail](#) (dispensary) and delivery, combined within one State license.

“*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 three 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](#).
3. Type 3: “*Office only, cannabis retail*” means the sale and delivery of either medical [cannabis](#) or [adult use cannabis](#), and/or medical [cannabis products](#) or [adult use cannabis products](#), to qualified customers via online, the phone or by mail. No sales of [cannabis](#) are made on site. Except as [permitted](#) by State law, all [cannabis products](#) shall be stored in a secured fashion. Such use shall have a licensed [premises](#) which is a physical location from which commercial [cannabis](#) activities are conducted. Such

use's [premises](#) are closed to the public. The intent of this use-type is to serve as an [office](#) to coordinate the transport of [cannabis](#) obtained from other licensees to [qualified patients](#) or qualified adult customers with valid identification. Such use-type may conduct sales exclusively by delivery.

“*Cannabis processing*” means a licensee that conducts only trimming, drying, curing, grading or packaging of [cannabis](#) and nonmanufactured [cannabis products](#). Processing does not involve any cultivation or manufacturing.

“*Cannabis packaging and labeling*” means entities that only package or repackage [cannabis products](#) or label or relabel the [cannabis product](#) container. Can package and label for other licensees.

“*Cannabis testing laboratory*” means a [laboratory](#), facility, or entity in the State that offers or performs tests of medical [cannabis](#) or [adult use cannabis](#) and/or medical [cannabis products](#) or [adult use cannabis products](#), and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in commercial [cannabis](#) activity in the State.
2. Licensed by the Bureau of [Cannabis](#) Control.

“*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 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 [Business and Professions Code](#).

“*Primary caregiver*” shall have the same definition as set forth in 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 Health and Safety Code Section [11362.5](#) et seq., and as they may be amended from time to time. (Ord. 1111, 2018)

### **17.360.040 Limitations on use**

A. *Compliance with SMC*. Personal [cannabis cultivation](#) and [cannabis businesses](#) shall only be allowed in compliance with this chapter and all applicable regulations set forth in the SMC, 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. (Ord. 1111, 2018)

#### **17.360.050 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 (Chapter 17.25 SMC) 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 100 square feet per residence regardless of the number of residents.

2. *Primary Caregiver 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 100 square feet per patient, up to a total of 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 subsection E of this section.

B. *Adult Use Cannabis Maximum Limitation.* The personal cultivation of adult use cannabis is limited to no more than six 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 subsection E of this section.

C. *Residency Requirement.* Cultivation of [cannabis](#) for personal use may occur only 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 SMC.

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 noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, 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 as may be necessary to ensure that odors do not constitute a nuisance.
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 Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State Fire Marshal shall be kept in the area of cultivation. (Ord. 1111, 2018)

### **17.360.060 Cannabis businesses**

[Cannabis businesses](#) shall be [permitted](#) only in compliance with the provisions of zoning [districts](#) and allowable uses (Chapter [17.25](#) SMC) and shall be subject to the following standards and limitations:

A. *Land Use.* For purposes of this chapter, [cannabis businesses](#) shall include the following land use classifications, which are further defined in SMC [17.360.030](#), Additional definitions:

1. [Cannabis](#) – cultivation.
2. [Cannabis](#) – testing/lab.
3. [Cannabis](#) – manufacturer (nonvolatile, includes infusions).
  - i. Processing.
  - ii. Packaging and labeling.
4. [Cannabis](#) – [cannabis retail](#) (dispensary) and [cannabis retail](#) (office-only).
5. [Cannabis](#) – [cannabis](#) distributor/[warehouse](#).
6. [Cannabis](#) – microbusiness.

B. *Where Allowed.* [Cannabis businesses](#) shall be located in compliance with the requirements of zoning [districts](#) and allowable uses (Chapter [17.25](#) SMC) and as designated on Tables 17.360-1 and 17.360-2. 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 chapter shall not be established or maintained except as authorized by the land use permit required by this chapter. For those business uses not subject to a [conditional use permit](#) requirement, an administrative permit is required.

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

**Table 17.360-1. Permitted and Conditionally Permitted Cannabis Uses in the Residential Districts**

Use	R1	R2	R3	R4	R5	R6	R7	MHP
<a href="#">Cannabis Cultivation</a> – Personal (Adult): No more than 6 mature plants	P	P	P	P	P	P	P	P
<a href="#">Cannabis Cultivation</a> – Personal (Medical): No more than 100 sq. ft.	P	P	P	P	P	P	P	P
<a href="#">Cannabis Cultivation</a> – <a href="#">Primary Caregiver</a> (Medical Only) <sup>(1)</sup>	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 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones**

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
<a href="#">Cannabis</a> Retailer Delivery ( <a href="#">office</a> -only)	C	C	-	C	P <sup>(4)</sup>	C
<a href="#">Cannabis Retail</a> Dispensary	C	C	C	C	C	C
<a href="#">Cannabis Cultivation</a> (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<a href="#">Cannabis Cultivation</a> (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>

<u>Cannabis Cultivation</u> (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
<u>Cannabis Cultivation</u> Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Microbusiness</u>	-	C	-	C	C	C
<b>Industrial Uses</b>						
<u>Cannabis</u> Testing / <u>Cannabis Laboratories</u>	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis</u> Manufacturer (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<u>Cannabis</u> Distributor / <u>Cannabis Warehouse</u>	-	-	-	C	C	P <sup>(1)</sup>
<u>Cannabis Processing</u> , Packaging and Labeling	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<b>Residential Uses</b>						
<u>Cannabis Cultivation</u> – Personal (Adult): No more than 6 mature plants	P <sup>(2)</sup>					
<u>Cannabis Cultivation</u> – Personal (Medical): No more than 100 sq. ft.	P <sup>(2)</sup>					
<u>Cannabis Cultivation</u> – <u>Primary Caregiver</u> (Medical Only) <sup>(3)</sup>	P <sup>(2)</sup>					

P = Permitted Use

C = Conditionally Permitted Use

- = Use Not Allowed

(1) For cannabis-related permitted uses, zoning clearance is still required.

(2) Only applicable at residences.

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

- 
- (4) Cannabis Retailer Delivery (office-only) is only permitted in M District (Industrial Zone) as a supplemental use for an existing/proposed cannabis permit, and is not subject to the limit on delivery licenses set forth in this chapter under section 17.360.100 subsection D. 1.

### 17.360.070 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 chapter.

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 chapter after the State begins issuing State licenses and after the 10-month transition period noted in this subsection A 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 chapter shall be required to comply with all operational requirements set forth in this chapter.

3. *Grounds for Revocation.* Once State licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this chapter 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.

a. 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.

a. 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 SMC Title [15](#).

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 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 chapter 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 ensure 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 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 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 on-site 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, nonresidential door locks or window locks.
6. *Emergency Access.* Security measures shall be designed to ensure emergency access in compliance with 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, except for those which only deal with packaged cannabis and have no on-site consumption, 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, 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 shielded to appropriately limit exterior glare to surrounding properties.

J. *Noise*. Use of air conditioning and ventilation equipment shall comply with Chapter 8.25 SMC (Noise Control Ordinance). 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 State laws and regulations.
- b. Applicable City 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. Incident reporting, law enforcement liaison policies.
- i. 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 subsection (K)(1) of this section, 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. (Ord. 1111, 2018)

### **17.360.080 Cannabis commercial cultivation**

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for [cannabis](#) commercial cultivation.

A. *Outdoor Commercial Cultivation Prohibited.* The cultivation of [cannabis](#) for [commercial use](#) may only be conducted within a fully enclosed space.

B. *Type of Permit.* Depending on the size of the facility, and in accordance with the tables in SMC [17.360.060](#), administrative approval or a [conditional use permit](#) shall be required for [cannabis](#) commercial cultivation. For purposes of determining the facility size, square footage shall be defined by calculating the gross square footage of the [structure](#) or portion of the [structure](#) occupied by the [cannabis business](#), not the plant [canopy](#) area. For purposes of these regulations, nursery means a use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of [cannabis](#).

C. *Microbusiness.* In addition to compliance with permit and operating requirements set forth in this chapter for [cannabis cultivation](#), a [cannabis microbusiness](#) which includes cultivation, manufacturing, [distribution](#) and/or retail within one State license shall comply with all permit and operating requirements set forth in this chapter for [cannabis manufacturing](#), [distribution](#), and/or retail (dispensary) and delivery as applicable to the combination of uses within the license. Microbusinesses shall be subject to the [City's](#) limits on the maximum number of [cannabis retail](#) facilities.

D. *Pesticides.* The cultivation of [cannabis](#) must be conducted in accordance with all applicable Federal, State, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the fire code. (Ord. 1111, 2018)

### **17.360.090 Cannabis manufacturing – includes regulations regarding processing, packaging and labeling**

In addition to the general operating requirements set forth in this chapter, this section provides additional operational requirements for [cannabis manufacturing](#).

A. *Extraction Processes.* [Cannabis](#) manufacturers shall utilize only extraction processes that are (1) solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act, and/or (2) use solvents exclusively within a closed loop system that meets the requirements of the Federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a State licensed engineer.

- B. Processing: entities that conduct only trimming, drying, curing, grading or packaging of [cannabis](#) and non manufactured [cannabis products](#). Processing does not involve any cultivation or manufacturing.
- C. Packaging and labeling: entities that only package or repackage medical [cannabis products](#) or label or relabel the [cannabis product](#) container. Can package and label for other licensees.
- D. *Loop Systems*. No closed loop systems shall be utilized without prior inspection and approval of the [City's Building](#) Official and Fire Chief.
- E. *Standard of Equipment*. Extraction equipment, manufacturing, processing and analytical testing devices used by the [cannabis](#) manufacturer must be UL (Underwriters [Laboratories](#)) listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the [City's Building](#) Official and Fire Chief.
- F. *Annual Recertification Required*. Extraction equipment used by the [cannabis](#) manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on site.
- G. *Food Handler Certification*. All owners, employees, volunteers or other individuals that participate in the production of [edible cannabis products](#) must be State certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the [cannabis](#) manufacturer's facility where that individual participates in the production of [edible cannabis products](#).
- H. *Edible Product Manufacturing*. [Cannabis businesses](#) that sell or manufacture edible [cannabis](#) or [cannabis products](#) shall obtain a Sonoma County Health permit. Permit holders shall comply with Health and Safety Code Section [113700](#) 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. (Ord. 1111, 2018)

### **17.360.100 Cannabis retail**

- Type 1: Medical [cannabis retail](#) (dispensary).
- Type 2: [Adult use cannabis retail](#) (dispensary).
- Type 3: [Cannabis retail](#) delivery ([office](#)-only for medical or [adult use](#)).

In addition to the general operating requirements set forth in this chapter, this section provides location and operating requirements for medical [cannabis retail](#) (dispensary), [adult use cannabis retail](#) (dispensary) and retail delivery ([office](#)-only for medical or [adult use](#)).

- A. *Conditional Use*. A [conditional use permit](#) shall be required to operate [cannabis retail](#) Types 1 and 2 above in accordance with the tables in SMC [17.360.060](#).

B. *Delivery Services.* In addition to the requirements established in this chapter for [cannabis retail](#) Types 1, 2, and 3, the delivery of [cannabis](#) and [cannabis products](#) shall be subject to the following requirements:

1. Commercial delivery 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](#).
2. A [cannabis retail](#) facility, [office](#)-only (Type 3), that has a physical location in the [City](#) may also conduct sales exclusively by delivery, and shall have no on-site [retail sales](#) to customers.
3. Applications for any [cannabis retail](#) type shall include a statement as to whether the use will include delivery of [cannabis](#) and [cannabis products](#) located outside the [cannabis retail](#) facility.
4. 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 chapter and State law.

C. *Drive-Through Services.* Drive-through or walk-up window services in conjunction with [cannabis retail](#) Types 1, 2, and 3 are prohibited.

D. *Location Requirements.* [Cannabis retail](#) shall be subject to the following location requirements:

1. No more than two Type 1, two Type 2, and three Type 3 [cannabis retail](#) establishments are [permitted](#) in the [City](#). Type 2 [cannabis retail](#) may only occur at an existing Type 1 medical [cannabis retail](#) establishment that has obtained and maintained a valid [conditional use permit](#), provided such establishment meets the following requirements: comply with all requirements set forth in this chapter; and obtain State licenses for both medical and [adult use](#) commercial sales.
  - a. Such existing establishments are not required to obtain a new [conditional use permit](#) for Type 2 [retail sales](#).
  - b. To the extent that such existing establishments have [conditional use permits](#) that have conditions in conflict with this chapter, the provisions of this chapter shall prevail.
  - c. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10 percent increase in square footage; any greater increase, or a relocation of the facility, shall require [conditional use permit](#) approval.
  - d. Subject to any State permitting, Types 1, 2, and 3 establishments may engage in both medical and nonmedical [cannabis](#) sales.
2. *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](#).

3. *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.

4. *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 nonconforming and subject to the protections and provisions of Chapter [17.160](#) SMC ([Nonconforming Uses](#)).

5. *Visibility of Entrance.* The entrance of a [cannabis retail](#), Types 1 and 2, 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. *Management.* Permit [applicants](#) shall be responsible for providing the names of the person or persons having management or supervision responsibility of the [applicant's](#) business at the time of application.

3. *Recordkeeping.* The [cannabis retail operator](#), all types, shall maintain patient and sales records in accordance with State law.

4. *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.

5. *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 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.

6. *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.
7. *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.
8. *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 this title and any other applicable State regulations.
9. *On-Site 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](#).
10. *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.
11. *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.
12. *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 chapter 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law and as follows:
    - a. [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](#).

b. 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 chapter and State law.

c. 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law.

H. *Restriction on Ownership.* No company or parent company shall simultaneously own or operate more than one Type 1, one Type 2, and one Type 3 facility in the [City](#). (Ord. 1111, 2018)

### **17.360.110 Cannabis special events**

A. *Dual Licensing.* The [City](#) recognizes that State law requires [cannabis businesses](#) to obtain dual licensing at the State and local level for temporary special events that involve on-site [cannabis](#) sales to, and consumption by, patients or qualifying adults with valid identification. Such events shall not be allowed to commence until the [cannabis business](#) can demonstrate that all necessary local permits, State temporary event licenses, agency permits, and as necessary, a temporary use permit or a special events permit, as applicable, have been obtained in compliance with any regulations and deadlines established by the [City](#) and the State.

B. *Temporary Use Permit, Special Events Permit.* Applications for a [cannabis](#) special event shall be filed in a timely manner in accordance with Chapter [17.430](#) SMC (Temporary Use Permits – includes special events), or a special events permit pursuant to Chapter [12.44](#) SMC (Special Events), depending on the nature and location of the event. [Applicants](#) are advised to confirm State allowance for such event prior to filing of a [City](#) application.

Not more than four such events shall be [permitted](#) in any calendar year, and no single [operator](#) shall be [permitted](#) to conduct more than two such events per year. (Ord. 1111, 2018)

### **17.360.120 Special findings**

In addition to the [conditional use permit](#) findings specified in Chapter [17.415](#) SMC, applications subject to a [conditional 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 site and [building](#) design and improvements.
- F. Whether the application will result in an overconcentration of such uses within the community.
- G. Energy conservation and other environmental aspects. (Ord. 1111, 2018)

#### **17.360.130 Grounds for permit revocation or modification**

In addition to the grounds in SMC [17.400.090](#) (Term, adherence to approved plans and conditions, and 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; or
- 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 SMC 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. (Ord. 1111, 2018)

#### **17.360.140 Planning commission interpretation**

This chapter shall supersede and rescind the October 24, 2017, Zoning Ordinance Interpretation approved by the Planning Commission regarding [cannabis](#) uses. (Ord. 1111, 2018)

#### **17.360.150 Recission of urgency ordinance**

Upon its effective date, this chapter shall supersede and rescind Ordinance No. [1107](#), which established temporary [cannabis](#) regulations. Permits that were granted under such ordinance and are not in conflict with this chapter shall remain effective. (Ord. 1111, 2018)

#### **17.360.160 Severability**

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 1111, 2018)

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## City of Sebastopol Planning Commission Staff Report

Meeting Date: November 8, 2022  
Agenda Item: 6A  
To: Planning Commission  
From: John Jay, Associate Planner  
Subject: Zoning Ordinance amendment  
Recommendation: None

Applicant/Owner: 421 Group on behalf of Regen West Inc/Dan Davis  
File Number: 2022-067  
Address: 115 Morris Street  
CEQA Status: Exempt  
General Plan: Light Industrial (LI)  
Zoning: Industrial (M)

**Introduction:**

This is a study session with the Planning Commission to get initial feedback on a proposed Zoning Amendment change to the Comprehensive Cannabis Regulations ordinance, Section 17.360 of the Sebastopol Municipal Code. The applicant has requested an ordinance amendment that would allow Cannabis Retailer Delivery (office-only) [i.e. ‘delivery only retail sales’] as a permitted use within the Industrial (M) district of the City of Sebastopol. The applicant has also submitted for a Conditional Use Permit for the Cannabis Retail Delivery (office-only) in conjunction with the Zoning Amendment at 115 Morris Street, which currently has a permitted cannabis manufacturing use.

**Project Description:**

421 Group on the behalf of Regen West is requesting the City of Sebastopol amend the Cannabis Ordinance Section 17.360 of the Sebastopol Municipal Code. The applicant is requesting that in the Permitted and Conditionally Permitted Cannabis Uses in Commercial, Office and Industrial Zones, Table 17.360-2, be change from not allowing Cannabis Retail Delivery in the Industrial (M) district to allowing it with a building permit. This proposed change also includes a note at the end of that table to read as follows: *“Cannabis Retailer Delivery (office-only) is only permitted in M District (Industrial Zone) as a supplemental use for an existing/proposed cannabis permit, and is not subject to the limit on delivery licenses set forth in this chapter under section 17.360.100 subsection D. 1.”*

**Project Location and Surrounding Land Uses:**

The intent of this agenda item is to allow for the Planning Commission to discuss the proposed Zoning Amendment and provide direction to staff. A proposed ordinance revisions and formal public hearing will be scheduled for a subsequent Commission meeting, as would any required Use Permit requested for the specific facility at 115 Morris Street.

The Use Permit would be for a project located within the Industrial district on Morris Street. Within this district there are a variety of businesses geared towards manufacturing and distribution. Currently the site is permitted to operate a Type 6 (non-volatile) cannabis manufacturing facility. The project was granted this use in 2019 under permit number 2019-060 and was approved by planning staff (as required for cannabis manufacturing facilities).

**General Plan Consistency:**

The project is consistent with the following policies within the General Plan.

**Goal EV 4:** Emphasize Sebastopol's Role as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast. *As a local business who would be offering the products they produce on site to local shops within and outside of Sebastopol.*

**Goal EV 5:** Enhance the City's Existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses. *As a local business within Sebastopol this would allow Regen and other local cannabis businesses to add a delivery option to their facilities.*

**Zoning Ordinance Consistency:**

Currently Cannabis Retail Delivery (office only) is not an allowed use within the Industrial (M) district. For this to be an allowed use, Section 17.360 Comprehensive Cannabis Regulations would need to be amended and approved by City Council. The process for this is outlined in Chapter 17.445 General Plan and Zoning Amendment Procedure. The applicant has provided a Zoning Amendment change to Table 17.360-2, which provides the permitted and conditionally permitted Cannabis uses in the Commercial, Office and Industrial Zones.

**Background**

Currently, the Cannabis Ordinance allows 'Type 3' - Cannabis retail facilities, office-only' (retail delivery only) in the following Zoning Districts: Office Commercial, General Commercial, Commercial manufacturing, and Light Industrial/Office zones, as noted in the table below. The applicant is proposing that the Use Table be modified to allow Cannabis Retailer Delivery (office-only) to have P<sup>(1)</sup> under the M Zone. (Note 1 states "For cannabis-related permitted uses, zoning clearance is still required." This is done through an Administrative Permit issued by the Planning Department).

**Table 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones**

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
<u>Cannabis Retailer Delivery (office-only)</u>	C	C	-	C	-	C
<u>Cannabis Retail Dispensary</u>	C	C	C	C	C	C
<u>Cannabis Cultivation</u> (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Cultivation</u> (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Cultivation</u> (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
<u>Cannabis Cultivation</u> Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Microbusiness</u>	-	C	-	C	C	C
<b>Industrial Uses</b>						
<u>Cannabis Testing / Cannabis Laboratories</u>	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Cannabis Manufacturer</u> (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<u>Cannabis Distributor / Cannabis Warehouse</u>	-	-	-	C	C	P <sup>(1)</sup>
<u>Cannabis Processing, Packaging and Labeling</u>	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C

**Analysis:**

Staff is requesting a study session with the Planning Commission to provide feedback and comments to come back at a future meeting with a comprehensive amendment request. The applicant has proposed to allow Cannabis Retail delivery (office only) within the Industrial (M) district as a permitted use and to be supplemental to an existing or proposed cannabis permit.

Staff has reviewed the supplied documents and has requested the Commission consider the following questions:

- Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?
- Should co-location with a manufacturing use be required and, if so, what type of co-location aspect/criteria (SF/% of sales, what makes a ‘bone fide manufacturing’ business, etc.)
- What level of City approval should be required?
- Should there be a limited number of licenses, or unlimited?
- Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?

*Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?*

The Planning Commission has reviewed a couple of delivery-only retail uses in the past, and one of the questions raised by commissioners was why this was not allowed in the M-zone, as it is essential a warehouse and logistics/shipping operation. Staff concurs with this assessment, as staff believes it is compatible with the purpose of the Manufacturing Zone, especially if co-located and supporting a cannabis manufacturing use.

*Should co-location with a manufacturing use be required and, if so, what type of co-location aspect/criteria should be included?*

The Planning Commission should also consider co-location criteria and how that can affect the level of review for Cannabis Retail Delivery for office only within the Industrial district. The Planning Commission could consider modeling this use like the Alcohol Use Permit requirements, which require a Conditional Use Permit for all alcohol uses within City limits. However, within Section 17.350.080 there is an exemption which allows the Planning Director/staff to approve the alcohol use permit for restaurants or “bona fide” public eating places which offer for sale or dispense for consideration alcoholic beverages including beer or wine incidental to meal service. There are several criteria that must be met to qualify for this, related to ensuring the use is a ‘bone fide’ restaurant, including:

1. The premises contain a kitchen or food-serving area in which a variety of food is prepared and cooked on the premises.
2. The primary use of the premises is for sit-down service to patrons, and the establishment is not a drive-up, drive-through, or fast-food restaurant.
3. The establishment serves food to patrons during all hours the establishment is open for customers.
4. The establishment only serves alcohol in a dining area and not in an alcohol serving area that is separate from the dining area.
5. Adequate seating arrangements for sit-down patrons are provided on the premises, not to exceed a seating capacity of 50 persons.
6. Any take-out service is only incidental to the primary sit-down use and does not include the sale or dispensing for consideration of alcoholic beverage or beer or wine.
7. No alcoholic beverages or beer or wine are sold or dispensed for consumption beyond the premises.
8. No dancing or live entertainment is permitted on the premises except with approval by the Chief of Police and Planning Director, who may impose conditions controlling such activities.
9. An employee alcohol awareness training program and security plan is approved by the Chief of Police.

These criteria can be categorized as follows:

- Ensure the “primary use” is legitimately the primary use, and not a ‘front’ for the use permit licensing, and that the primary use is maintained at all times;
- Limits on overall size of operation (without a full use permit);
- Restrictions on other ancillary uses;
- Health and Safety requirements from the City (many of which are already included in the Cannabis Ordinance as requirements for retail cannabis licensing)

Staff recommends the Commission set parameters to define ‘co-location with a bone fide cannabis manufacturing use’ using these measures. Staff further recommends the Commission provide guidance on if the level of approval should vary based on these factors. Staff would recommend criteria based on the following:

1. Square footage of 20% of the overall manufacturing facility dedicated to delivery only, with a maximum area of 500 square feet for an administrative permit review, to exceed this would require a conditional use permit.
2. Limit the number of deliveries on a weekly basis to 10 to 20 for an administrative permit review, to exceed that amount would require a full use permit approved by the Planning Commission.
3. Delivery only is only incidental to the primary use of manufacturing for the site.
4. The facility shall clearly designate the a “delivery only” section within the supplied application documents.
5. Delivery only is subject to regular business hours or a last delivery out by.
6. Conditions of approval shall be posted within the Delivery only section of the facility.
7. Change of ownership of the business shall require the new owner to apply for a transfer of delivery license.

*What type (level) of approval should be required?*

The applicant is requesting staff-level use permit approval of this use if co-located with a bone-fide cannabis manufacturing use (i.e. to approve this use with a building permit only). Staff feels that there should be discretion from the City and acting bodies to be able to take site by site submittals and condition them appropriately. With that, staff is requesting that the Planning Commission provide feedback on the appropriate review level of a Conditional Use Permit, Planning Director Use Permit; Staff level review/approval (such as with restaurants); or, a permitted by right (building-permit only).

*Should there be a limited number of licenses, or unlimited?*

The current Comprehensive Cannabis Ordinance limits the number of retail delivery-only licenses within the City to three licenses. Two of these have been issued (to the two retail dispensaries, Solful and SPARC), the third has been available since cannabis was legalized (the City has processed one additional delivery license application, which was denied by the Planning Commission due to issues with the location / proximity to residential uses),

The applicant purposes that the number of delivery-only retail licenses issued in conjunction with manufacturing uses (co-location discussed above) be unlimited. While staff believes there is capacity for additional delivery-only licenses within the City

*Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?*

These include the 600 foot distance to any schools, based on the boundary to boundary distance (so, an interior boundary) rather than walking distance. There are several establishments in the M Zone along the north part of Morris Street that are less than 600 feet from the High School fields, which would be excluded from being able to qualify for a permit

unless that threshold were changed for delivery-only retail. The proposed use at 115 Morris currently requesting a Permit is beyond the threshold.

While not a part of the applicant's request, the Commission may wish to provide input on this criteria.

**Environmental Review:**

The Zoning Amendment (the "Project") would be exempt with the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15183, because it is consistent with the General Plan for which an Environment Impact Report (EIR) was certified by Council in 2016, a Zoning Code Amendment consistent with the General Plan shall not require additional environmental review except as might be necessary to examine whether there are project specific significant effects which are peculiar to the project or its site.

**City Departmental Comments:**

- The Planning Department routed this to the various city departments and no comments were received on the Zoning Amendment proposal.

**Public Comment:**

No public comments have been received as of the writing of this staff report.

**Recommendation:**

Staff believes that the following topics should be discussed amongst the commission and to provide staff with direction to return with an appropriate recommendation.

- Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?
- Should co-location with a manufacturing use be required and, if so, what type of co-location aspect/criteria (SF/% of sales, what makes a 'bone fide manufacturing' business, etc.)
- What level of City approval should be required (Permitted 'by right'; Administrative use Permit, Planning Director, Planning Commission)
- Should there be a limited number of licenses, or unlimited?
- Should all of the criteria for location, operation, etc., for delivery-only licenses be applicable to delivery-only in the M zone?

**Attachments:**

Application  
Current Cannabis Ordinance



NOES: None  
ABSTAIN: Chair Oetinger  
ABSENT: None

## 5. PUBLIC HEARINGS:

### A. 2022-077 / 6971 Sebastopol Avenue – Callie Johnston / Chill Baths / Conditional Use Permit

The application is to operate a dog salon, "Chill Baths," at 6971 Sebastopol Avenue in the Downtown Commercial District. The proposed plan is to have two large kennels, two small kennels, and 3.5' barriers at both entry doors to prevent dogs from interacting. The proposed use will not have any overnight boarding.

Associate Planner Jay presented the staff report.

Chair Oetinger asked for Planning Commission questions of staff.

#### **Paul Fritz, Commissioner**

On page 3 it talks about the hours being 8:00am to 6:00pm, and in the condition the hours say 8:00am to 8:00pm, so I want clarify what the proposed hours are.

#### **John Jay, Associate Planner**

The original proposed hours were 9:00am to 6:00pm, and we wanted to provide the applicant with a little more leeway as far as hours go within the downtown core district. A theme with other use permits in the past has been to provide additional hours so that they don't have to come back to do a zoning amendment for one hour on either side of their hours of operation. Within the recommended conditions of approval I think we modified it to 8:00am to 8:00pm.

#### **Paul Fritz, Commissioner**

So the condition is right. Then in the findings, Exhibit A on page 5 says, "the Planning Director finds..." but it should be the Planning Commission. Then Item 2.A. in terms of the General Plan agreement with Policy LU7-9 it talks about being in the General Commercial District and not the downtown core. There was some discussion in the staff report about being able to use the alley, and I wonder if that should be part of the conditions as well, that they are allowed to use the alley for access. I didn't see that in the conditions.

#### **Kari Svanstrom, Planning Director**

I think in that one we were trying to stay away from requiring it be an access, but the understanding that if you do have a nervous dog you can park there at that location and make sure that that was available to them, but we didn't go so far as to make it a condition, because it is part of the development and there is an access point there.

#### **Deborah Burnes, Commissioner**

Could you elaborate a little bit on the staff report findings that with the two other recently approved dog grooming businesses that you find that this isn't a conflict because they're spaced far enough away? I feel like Sebastopol is such a small town that if there's a destination place like a dog groomer or hair dresser, people will go anywhere and it's not about saturation in one area. Was it based on proximity or on dogs and people who are otherwise going out of the area for dog grooming?

**John Jay, Associate Planner**

These three are the only three that I'm aware of in town in my short time being here; they've all kind of come in at once. The one at Gravenstein South is on the southern end of town, the one on Main Street is starting to get into the middle portion of town, and we have the one here tonight, so I think there is adequate distance that they're not all within the same shopping center or same area. We don't have any regulations as far as a certain amount per radius, but I felt like given the geographical distance between the three that it could alleviate some pressure on some of the other ones that may be overbooked with the amount of dogs that are in town now.

**Kari Svanstrom, Planning Director**

One other thing of note is that they're all very small proprietors, so they're all kind of one-person shops.

**Callie Johnston, Applicant**

I believe that John told me that one of them is a self-wash station, so it's not a full service groomer, and then the other one is also a smaller kind of grooming shop. However, I know that there is a necessity for more groomers for Sebastopol and surrounding areas, and the majority of groomers that are established now won't even take any new clients, because they're so overwhelmed.

**Deborah Burnes, Commissioner**

Is the Barking Lot still in town? They used to be here as well, and you're right, they weren't taking on new clients.

**Kari Svanstrom, Planning Director**

I've never heard of that store, and I know most of the businesses in town.

**Kathy Oetinger, Chair**

I think it's outside the district on Main Street.

**Linda Kelley, Commissioner**

For staff, I saw nothing about parking requirements or just even stating what the analysis is based on our requirements in the rules.

**Kari Svanstrom, Planning Director**

A lot of the spaces in downtown, and I believe this is one of them, don't have their own parking, as you know. The City used to have a parking district where you could pay an in-lieu parking fee that helped develop the City parking lots, and so there are no spaces related to this particular site and the businesses within it. However, in 2018 when the City Council adopted the Zoning Ordinance update one thing we did was update the parking regulations so that any use in downtown had the same parking requirement unless it was included as residential use, so within downtown it's all one space per 500 square feet, and there's no change in the parking requirement without a change in use, so all of the uses are considered the same. They all require one per 500, and so unless you're adding a residence there's no parking to be analyzed because it's all the same requirement.

Chair Oetinger asked for further Planning Commission questions of staff. Seeing none, she invited the applicant to speak.

The applicant gave a presentation and was available for questions.

Chair Oetinger asked for questions of the applicant.

**Linda Kelley, Commissioner**

I know that you're going to have a little kenneling available, small and large crates or a little area. What if someone said I need to drop my dog off and I won't be back until the end of my workday? That's not the plan here. Folks are going to come and get their wonderfully groomed dog.

**Callie Johnston, Applicant**

I have ten years experience in this industry, so part of me starting my own business around this was thinking of all of these things that come with it, even the not favorable things that can come with grooming, and so my plan of doing one dog at a time will basically be done like a one-person nail shop, so it will be appointment only, and that's also just something that has to be understood, which I will communicate with my clients, that this isn't your average dog grooming shop. I do not have the availability to hold dogs for extended amounts of time past when their grooming is completed, and this is why I also put four kennels in there, so I do have the availability to hold a dog if necessary, because things happen and maybe someone is stuck in traffic, but the idea is to have them kenneled as little as possible and setting up my appointments back-to-back. And also possibly, if it seems necessary, charging people if their dog is left way past when they're finished being groomed to ensure that each dog coming in can enjoy the calm, stress-free environment as well as for myself, which also should minimize barking and noise. I should definitely have no more than four dogs in there at one time, and the majority of extended barking is when they're kenneled.

**Linda Kelley, Commissioner**

There's that little gated courtyard that goes to the alley around the building. Do you anticipate that folks that will come late there to get their dog? I'm concerned more about we have a restaurant and another business there, and so there's no conflict and that that's the expectation is that they're not to be waiting out there?

**Callie Johnston, Applicant**

Definitely not. No one should ever be waiting outside my door or outside the gates, and this is once again sticking with my plan of one dog at a time and there should never be a crazy influx of people coming in at one time.

**Linda Kelley, Commissioner**

Out in front do you feel there's enough parking for someone to park AND drop off? Are there are any traffic flow concerns?

**Callie Johnston, Applicant**

I personally never have any issues parking on Main Street across from Sunshine Café, otherwise the Hop Monk parking lot is pretty large and there seems to always be space in there, so I don't foresee it being a major issue of people trying to find parking to make it in.

**Deborah Burnes, Commissioner**

You brought up one of my issues, which is barking. If people don't pick their dogs up on time and you're kenneling them, would the other businesses be able to hear the noise?

**Callie Johnston, Applicant**

Firstly, I've let all of my neighbors know that I will be doing dog grooming. They all have dogs and are all excited. No one gave me any concern for barking. During the day the street right there masks a lot of sound, and this is once again why I've thought out this plan

especially for the location, kenneling the least amount that I can and having the minimal amount of dogs as possible in there.

**Deborah Burnes, Commissioner**

I get you're a really small shop and there's one dog at a time, so this is a two-part question. Will you be checking people in and out? If someone is late to pick up their dog and you kennel it, then that dog is in the back and you bring another dog in will you have someone helping in the front to deal with the person picking up their dog while you groom the next dog?

**Callie Johnston, Applicant**

No, it would be only me, and this is why I have more than one or two kennels. I think giving myself four kennels is enough. If a dog is coming in and I have a dog in there, I can put a dog in a kennel and then help the customer and rearrange how I need to.

**Deborah Burnes, Commissioner**

Are you looking to potentially expand in the future and bring on another groomer?

**Callie Johnston, Applicant**

That is for sure a possibility. For now I'd like to maintain a very personal and calm environment, and that makes it most possible with just me being in there. However, I do see this taking off very quickly, and so yes, having another groomer is possible. That would then make it two dogs at a time, still never taking dogs past what I'm grooming in the moment.

**Deborah Burnes, Commissioner**

Are the other groomers in town all fairly competitively priced, and would your pricing be competitive with them?

**Callie Johnston, Applicant**

I've looked at a lot of the groomers around here, but I didn't necessarily look at their pricing. I will make my pricing very fair. I'm going to charge people for the time that it takes me to groom their dog, and the price will always fluctuate based on the status of the dog, the size of the dog, and if the dog is good or bad, but it would still be competitive pricing. They're also paying for a personal experience.

**Evert Fernandez, Vice Chair**

The location that you selected seems to me a little awkward for what you're doing. I had similar concerns as Commissioner Burnes about somebody coming in to get their dog while you're grooming another dog. I'm trying to picture how that process works.

**Callie Johnston, Applicant**

If I'm working on a dog and someone walks into the shop, this is why I have the kennels, so I can safely place them in a safe location and talk to another customer. I'm not necessarily going to take that other dog right away. It would probably be when there's an opening since it will pretty much be appointments only. It's funny you would think it is an awkward location, because I thought it was the best location, which is what pushed me to move forward with this, because it's zoned downtown and it's in the downtown area, and I probably see like ten dogs walking downtown on a daily basis. It's extremely helpful being in a downtown location. I don't see it causing any issues, especially because I'm not taking 16 dogs at one time. This one-on-one thing is with the hopes of avoiding all the unwanted things that can come from having a grooming shop.

**Evert Fernandez, Vice Chair**

Is it a long-term lease? Is this a place where you plan to be for a while? What’s your flexibility?

**Callie Johnston, Applicant**

I believe I signed a one-year lease, and I definitely have the hopes of being there for a long period of time. The one-on-one format is not just for the dogs, but for myself as well, so I can maintain longevity with this, because working in fast paced grooming shops and very large boarding kennels can be very hectic and stressful, so the way this shop is planned is for the best interests of me, the customer, and the dog.

Chair Oetinger asked for further Planning Commission questions of the applicant. Seeing none, Chair Oetinger opened public comment.

**Omar Figueroa**

I fully support this project. I welcome these entrepreneurs and applaud them for stating a small business in challenging economic times. We need more small businesses to fill out the empty places downtown, and I recommend that you unanimously approve this application.

Chair Oetinger asked for further public comment. Seeing none, she closed the public hearing.

The Commission discussed the application as follows:

Commissioner Fritz made a motion to approve a conditional use permit for 6971 Sebastopol Avenue, subject to his recommended modification to Exhibit A.

Commissioner Kelley seconded the motion.

AYES: Chair Oetinger, Vice Chair Fernandez, and Commissioners Burnes, Fritz, and Kelley.

NOES: None

ABSTAIN: None

ABSENT: None

**6. REGULAR AGENDA ITEMS:**

**A. ZONING ORDINANCE AMENDMENT STUDY SESSION –**

The Planning Commission will hold a study session to discuss a proposed Zoning Ordinance change to allow cannabis retail delivery-only in the Industrial (M) Zone and only as a supplemental use to other permitted/proposed cultivation, manufacturing, or distribution facilities. No decision will be made at this meeting on the Zoning Amendment or Conditional Use Permit request for this property. The public hearing for the decision on those items will be held at a later time and will be separately noticed.

Associate Planner Jay and Director Svanstrom presented the staff report.

Chair Oetinger asked for Planning Commission questions of staff.

**Paul Fritz, Commissioner**

In the staff report, page 5, there's a discussion about the number of licenses that seems to drop off, and I wondered what that thought was. What is staff's position about the number of licenses?

**John Jay, Associate Planner**

We weren't really sure as far as having it on one end of the spectrum, whether it's three or unlimited or in between. There's a limit we would definitely look at imposing, but we're not sure what that limit is and wanted to get the Planning Commission's feedback as far as a rough number rather it just being three, which is currently in place, or if it's unlimited as long as their co-location requirements are met.

**Linda Kelley, Commissioner**

Staff report page 5 says, "Ten to 20 deliveries on a weekly basis" for an administrative permit, and you'd need a full use permit if you were going to have more than that. What was the basis for recommending that?

**John Jay, Associate Planner**

I just pulled a number on if they were operating five days a week, a couple of deliveries every day, does that seem appropriate to have a staff level approval on that? Going over that amount I felt would require some additional review from the Planning Commission, because we didn't want to open up a large delivery facility like a small Amazon or large box store type delivery service, and I thought that 10-20, though not arrived at through a scientific method, felt appropriate to do at a staff level.

**Kari Svanstrom, Planning Director**

We were looking at if that would translate to the low side if it's a five day a week operation with one full van in the morning and one in the afternoon. If it's 20, then you could do like three hours or so, and I think that's more or less similar to what Solful is doing, a two-hour delivery window. You don't get into a traffic issue that might warrant a larger review.

**Linda Kelley, Commissioner**

Are you aware of how many deliveries SPARC and Solful do on a weekly basis?

**Kari Svanstrom, Planning Director**

I don't know how many individuals, but I do know that Solful has three or four different time slots, so if you place your order by a certain time you'll get it within one of the three or four delivery time windows they have per day. Solful and SPARC are only open as retail centers. They could open earlier, but they both open around 10:30am or 11:00am, so they have a different operational model than a manufacturer may have.

**Linda Kelley, Commissioner**

Is it too late, Chair Oetinger, to disclose that I had a short discussion with a member of the applicant's team?

**Kathy Oetinger, Chair**

Thank you. I also did as well.

**Evert Fernandez, Vice Chair**

I visited the site and felt that their operation is set up very well and this concept does make sense. I was impressed and satisfied with the way that they run their business.

**Kathy Oetinger, Chair**

I spoke with Craig Litwin on the phone and discussed ideas. I asked if these deliveries would be picked up by a third party and delivered, or whether they were taken to the post office, and my understanding is they are delivered in their truck to their customer, and that sat well with me that they would be hand delivered rather than Fed Ex trucks coming in. Staff, the question of the 10-20 deliveries does seem arbitrary, but I'm wondering if people are ordering product that is manufactured, can they also purchase other ancillary products that they would sell with them that you might find at a normal retail store? Would that be appropriate for them to also sell other items that they didn't manufacture but that complement or go with their product?

**Kari Svanstrom, Planning Director**

That's a good conversation to be part of the study session. I think John and I assumed that they would be doing that; if they asked for a retail license it would be more than just their product. The reality is unless it's restricted in granting a delivery-only retail license they would not be restricted to just their manufactured product.

**Kathy Oetinger, Chair**

Yes, that's where the size of the retail portion comes in versus the manufacturing, because it requires space for warehousing.

**Kari Svanstrom, Planning Director**

Correct, and that's where we put in a square footage that is twice the size of what the particular use on Morris Street conditional use permit would be asking for.

**Kathy Oetinger, Chair**

It's confusing, because the volume of the things they sell in addition to their product, the upsell part of their business, could actually take more space than the product itself.

**Kari Svanstrom, Planning Director**

That's where the staff report suggests what is the percentage of space dedicated? It's easier from an administrative standpoint to regulate a size or a percentage of the business rather than sales. For a retail delivery, if it's outside City limits the City does not get the sales tax for the base, but we do still get the Sebastopol-specific sales tax. If it's within the City, then we get all of the local sales tax associated with it.

**Kathy Oetinger, Chair**

Are there other businesses with that discretionary option of a staff, system, or Commission approval where the numbers are critical?

**Kari Svanstrom, Planning Director**

We have a couple of different uses where the City has been more proactive in putting it into our policy due to concerns of potential overconcentration or oversaturation, and that's always a concern for the business owners, but how much does the City want to be protectionist versus the capitalist system? The businesses that we do have at least policies, if not specific numbers, there is the overconcentration from alcohol use permits, the vacation rental ordinance has that as well, and I do know that in 2018 tasting rooms were set to be a planning-level permit, however Council changed that to Planning Commission because of the example set by Healdsburg and Sonoma where they went too far with those things, and Sonoma has now put a moratorium on tasting rooms. One thing we appreciated with this application was the proposal that it be required to be in association with a manufacturing use, so there does need to be a significant community investment in order to get that delivery license.

**Deborah Burnes, Commissioner**

Is there any issue with security and theft around the building, because cannabis is a high-value product, and how does that affect the businesses around it? My other concern is safety for drivers making deliveries.

**John Jay, Associate Planner**

The application process for cannabis requires submittal of a security plan that must be approved by the police department and is reviewed by City staff.

**Kari Svanstrom, Planning Director**

The only issue the City has had with our current cannabis retailers was a couple of years ago at SPARC, and that was a bunch of teenagers that were caught right away. I'm not aware of any in our manufacturing zones. Their operations are pretty strictly controlled with the track and trade, the security cameras, and the security plan. I don't think anything has changed since then. Security has not become the issue many had feared, and cannabis dispensaries are more boutique and like normal stores.

**Evert Fernandez, Vice Chair**

This is something we need to continue to look at and see where the industry is going, whether we want to support it or not, and get ahead of it. Keep in mind that some of the rules we pass that are going to apply to the businesses in Sebastopol would not apply to deliveries being made in Sebastopol from outside the City.

**Kari Svanstrom, Planning Director**

Under state law you can't limit delivery as long as it's a public address with access via a public street, you can only regulate the types of business that are in the town. There are quantity limits set by the state in terms of how much you can sell to a single customer.

The applicant gave a presentation and was available for questions.

Chair Oetinger asked for Planning Commission questions of the applicant.

**Linda Kelley, Commissioner**

I asked about the amount of deliveries per week with just a procedural approval use permit. I'm wondering how you respond to that limitation?

**Mitcho Thompson, Regen West**

If we were to become a legitimate business we would probably have the same caps as other businesses, so I'd be interested in knowing what those are. If Solful has three or four deliveries, that would be more than we would be doing, but we don't really know. We're a small manufacturer and want to focus on herbal products produced by local farmers and don't intend to make it an Amazon type warehouse. You brought up the safety concern. A fully loaded van is certainly a huge target if it's only going out two times a day, more attractive than smaller deliveries, but we're not looking at cars going in and out of our little place. This is a way to supplement what we're doing and actually bring us towards being able to mail statewide and then hopefully someday federally. These are things we're doing to keep our business viable, because although you talked about cannabis being a high-priced commodity, it is not anymore, and that's one of the reasons we're doing this, because the price has dropped considerably on what we manufacturer. I think the number of 20 deliveries is a little low, but I don't know, and I'm open to whatever the Planning Commission decides.

**Kari Svanstrom, Planning Director**

I wanted to clarify that one thing staff is grappling with is it's permitted, there are limits, and if you want to go beyond that it's allowed, but it requires a use permit from the Planning Commission. We're trying to establish what those two might be, not trying to limit with an overall cap or anything like that. The question I have for Mitcho and Andrew is where do you see yourself or others if you're doing manufacturing? Are you just delivering your own product, or are you doing other products as well? That's part of how much retail versus just supporting your manufacturing.

**Mitcho Thompson, Regen West**

That's a broader question, because part of our plan is to bring some of these small farms into the marketplace with their own brands that we would certainly manufacture, but we may not limit ourselves if there are other local manufacturers and we'd band together. I think it would not just be my own product line; it would certainly be other farms' products in whatever form they are.

**Kathy Oetinger, Chair**

When you say other products, are you talking about other agricultural cannabis products? Would you also be talking about hand lotions or pipes or t-shirts?

**Mitcho Thompson, Regen West**

I don't think we'd be doing pipes, but we would certainly be doing hand lotions, cannabis soaps, bath oils, because our permit allows us to do topicals. Those would be products that we would use from what we've made, or we could make them for other people like small growers.

**Kathy Oetinger, Chair**

More specifically, a branded logo t-shirt, even if it were produced locally, is that the kind of thing you would expand to or you already offer?

**Mitcho Thompson, Regen West**

I would love to be able to offer that; other businesses do. Having our brand out there on nice hoodies, I could see that. That's a little different than selling pipes. We would probably sell vapor cartridges though, because that's something we do manufacture.

**Andrew Longman, 421 Group**

And we're limited on the state level by the Department of Cannabis Control for what we can sell. We're not allowed to go beyond branded merchandise such as clothing, bags, pens, key chains, etc.

**Linda Kelley, Commissioner**

Why is 421 Group asking for unlimited delivery operations, co-location, and manufacturing areas?

**Andrew Longman, 421 Group**

What we're asking for is the ability for a local manufacturer to get their product to market without the burden of this crazy distribution system that has unfolded in the current cannabis market. It's been an absolute challenge to get paid for the products that we make and sell.

**Mitcho Thompson, Regen West**

We do have distribution, and that helps us figure out how to do this. We already have state mandates and safety protocols in place, and we have our own vehicle, so there's already a

pretty overreaching set of mandates that we have to follow to maintain that distribution, and so it sets us up to be able to do deliveries efficiently and safely.

**Linda Kelley, Commissioner**

Who are you going to be delivering to, and is that individuals who use your online site and order it, and then it goes to a patient or someone for recreational use, is that what we're talking about?

**Andrew Longman, 421 Group**

Yes, exactly. Someone will place an order through our system online or through a phone call and it will be delivered to a physical address per the Department of Cannabis Control regulations, and that physical address would not be a school or publicly owned land.

**Linda Kelley, Commissioner**

Do you have any comments regarding staff's seven recommended parameters on page 5 of the staff report that the Planning Commission is being asked to address, such as co-location, square footage of 20%, etc.?

**Mitcho Thompson, Regen West**

The space required is actually more generous than the space we're asking for. We just need an office space. We will certainly not be delivering to schools, as Andrew pointed out, and there are places we are restricted from delivering to.

**Kari Svanstrom, Planning Director**

To clarify the school question that's in the staff comments, currently there is a requirement that there be a 600-foot buffer zone to any schools, and this is a question for the Planning Commission to address is general; it doesn't only apply to this particular application.

**Andrew Longman, 421 Group**

If it were a brick and mortar store, sticking to that 600 feet is critical, but since we're talking about shelf space that is not open to the public and trucks leaving that area and coming back later, no public access, it may be less critical to have those 600 feet.

**Linda Kelley, Commissioner**

The state doesn't prohibit deliveries from going through different jurisdictions, so you could deliver as far as Marin County. Would that possibly be in the mix?

**Mitcho Thompson, Regen West**

That would not be a bad thing. To deliver a truckload of goodies to the Marin Civic Center for a big event or something, I would say why not?

**Andrew Longman, 421 Group**

It comes down to the logistics and where that price point is. At a certain point, if we go far enough out we would start to lose money.

**Paul Fritz, Commissioner**

We don't have any limitation on cultivation sites or manufacturing sites or anything else, it's just the retail that we limit?

**John Jay, Associate Planner**

Yes, I believe so. I think the cultivation is based on square footage within our zoning code, but retail would be the three licenses that were noted earlier.

**Kari Svanstrom, Planning Director**

To answer the earlier question, there are about a dozen cannabis businesses in Sebastopol, and it looks like five of them are manufacturers.

Chair Oetinger asked for further Planning Commission questions. Seeing none, she opened the public hearing.

**Omar Figueroa**

Please permit all licensed Sebastopol cannabis manufacturers and distributors the ability to add delivery to their allowed uses in industrial zones. The economy and the supply chain are being strained. On top of this, the cannabis industry is financially distressed and any support you can give our local businesses to diversify their revenue streams is good for our local economy and to help them survive. I want to address the misconception that somehow permitting what is being proposed here would result in a whole bunch of cannabis businesses opening up in town and starting Amazon type fulfillment centers. That is not going to happen and is not realistic. The cannabis economy is under complete financial distress. The prices are dropping, the profits are low given the tax burdens, the margins are extremely thin, and we're not going to see those effects. That would have happened back in 2016-2019, but now that's not the economic reality. So please do not limit how many deliveries these businesses can make. Limiting the number of deliveries does not make any sense, it increases administrative burdens, and it reduces competition. Please allow any Sebastopol cannabis delivery provider to remain flexible with their delivery fulfillment similar to other businesses. Let the market decide. I urge you to expedite this process to help our local cannabis businesses succeed.

**Zac Guerinoni**

I am one of the other cannabis manufacturers in Sebastopol. I own Ahti Farms and I would like to echo what Omar and Mitcho and Andrew have said previously. The economy for cannabis is not what it was two years ago, or six months ago. We are in an absolute free fall, and unfortunately we'll probably remain in that state for the next 18-24 months while the market balances out, so anything that the City can do to help us small businesses succeed, including delivery and direct to consumer, would be greatly helpful.

Chair Oetinger asked for further public comments. Seeing none, she closed public comments.

The Commission discussed the application as follows:

1) *"Should retail delivery-only cannabis uses be allowed in the Industrial (M) zone?"*

**Paul Fritz, Commissioner**

Yes, I think delivery-only uses could be allowed in the Industrial zone. It seems like it should have been from the beginning; I'm not sure why it wasn't.

**Deborah Burnes, Commissioner**

Yes.

**Linda Kelley, Commissioner**

Yes, as long as it's a co-location with manufacturing.

**Evert Fernandez, Vice Chair**

Yes, I agree with that.

**Kathy Oetinger, Chair**

And I do as well.

2) *"Should co-location with a manufacturing use be required, and if so, what type?"*

**Paul Fritz, Commissioner**

I'm not super concerned about co-location. I could be okay with allowing retail delivery-only in the Industrial zone, but I don't have a strong feeling about whether or not it's co-located. If you have an existing business, adding the retail should be completely allowed. The question is if you only wanted to do retail-only delivery; I would be okay with that in the Industrial zone.

**Kari Svanstrom, Planning Director**

When you get into further discussion and actually writing policy, you can certainly bifurcate that where if it's co-located it has one level of approval, and if it's a standalone it's treated just like the regular retail outlets in town, which required a conditional use permit.

**Deborah Burnes, Commissioner**

I don't think you need to have a manufacturer. If it stands alone on its own, I'm okay with that.

**Linda Kelley, Commissioner**

I'd be fine with either. It just seemed like it was presented to use as a co-location and that made perfect sense. I would be fine with a standalone delivery-only too. When we get to how many, that's another story.

**Evert Fernandez, Vice Chair**

Yes, standalone is fine for me.

**Kathy Oetinger, Chair**

I would say it's fine too, and so we just have a business coming in and being a warehouse in the manufacturing district. This is not really a warehousing district, so at some point that could become an issue, but I'm not very worried about it, considering the industry today.

3) *"What level of City approval should be required?"*

**Paul Fritz, Commissioner**

If it's a manufacturing facility are there any instances where it does not need to come to the Commission? Are there certain situations where that is a staff-level only review for a manufacturing facility?

**Kari Svanstrom, Planning Director**

Most manufacturing are staff-only, so most of these folks went through the Planning Department only for their manufacturing use. The distribution requires a use permit by the Planning Commission.

**Paul Fritz, Commissioner**

I'm okay if it's a staff-level review for the manufacturing, as a manufacturing facility that wants to add delivery. I'm okay with that to be maintained at a staff level, and maybe this is where we talk about a threshold, a certain number of deliveries a week is staff level, and beyond that would be a use permit. That's something I'd probably entertain.

**Kari Svanstrom, Planning Director**

Commissioner Fritz, it's the distributor or the cannabis warehouse, both require conditional use permits, and the definition of a warehouse is the procurement, sale, and transport in bulk, but it does not include adult-use delivery. In talking with our cannabis operators, including Zac Guerinoni, Resourcery folks, and Craig Litwin, there's a very big difference between the big manufacture-to-manufacture distribution that some people might be doing and what our businesses are doing, which I would describe more as self-distribution where they're simply trying to bring in their own product from farms and then transport their own product out to people. That's the only industrial use in the Manufacturing zone.

**Paul Fritz, Commissioner**

If it's co-located with a manufacturing business, I'm okay with a staff-level approval of that, but I'd be open to discussion of a threshold beyond which it would need to come to the Planning Commission. I'm open to discussion on exactly what that threshold is.

**Deborah Burnes, Commissioner**

I think I'm going to abstain from speaking to the subject of staff-level approval for now.

**Linda Kelley, Commissioner**

I agree with Commissioner Fritz.

**Evert Fernandez, Vice Chair**

I don't have enough information for that. I'm concerned about limiting deliveries, because that means we're limiting deliveries from businesses in Sebastopol and hampering them, so I wouldn't be supportive of those types of limits. At this point staff approval for manufacturing makes sense, but beyond that, I'm not sure.

**Kathy Oetinger, Chair**

I could see staff-level approval for almost anything that we would set conditions for, and then anything beyond that you would require it to go the Planning Commission, but I don't know what those levels are at this point. I'm not that interested in creating restrictions and making it difficult for businesses to succeed.

4) *"Should there be a limited number of licenses, or unlimited?"*

**Paul Fritz, Commissioner**

If it's a co-location with a manufacturing, if we're not limiting the number of manufacturing facilities, I'm okay with not limiting. I think every manufacturing facility could have a delivery as well, so I would not be for limiting the number of delivery licenses.

**Deborah Burnes, Commissioner**

This is a tough one for me. I think I would be more on limiting both the manufacturing and the delivery, but if we were not going to limit the manufacturing, then I also wouldn't limit the delivery. When you're looking at the diversification of a town as we look at alcohol permits and is there an oversaturation, hearing the examples of Healdsburg and Sonoma where they become too tasting room heavy, do we want to be cannabis heavy? I don't know. I'd prefer to limit both of them, but I wouldn't just limit the delivery if the manufacturing is not limited.

**Linda Kelley, Commissioner**

We're looking at only for the Industrial zone, so if there's manufacturing in an area that's not industrial, that's not what we're covering here, correct?

**Kari Svanstrom, Planning Director**

That's correct, and in fact per our code we don't allow manufacturing in commercial zones and residential zones. The Manufacturing zone was the proposal. Right now the only places we allow manufacturing is the Commercial Industrial, which is most of The Barlow.

**Linda Kelley, Commissioner**

And what is the zoning for the manufacturing near south of the post office?

**Kari Svanstrom, Planning Director**

South of the Benedetti site there are two parcels: one is the Abbott Avenue building, and Zac Guerinoni's use is in that building along with some other uses, and then there is a vacant parcel that is in between the carwash and that building. Those are both zoned Manufacturing and the building does include a manufacturing use.

**Linda Kelley, Commissioner**

So that's an Industrial zone?

**Kari Svanstrom, Planning Director**

Correct.

**Linda Kelley, Commissioner**

This is a hard one for me, because I worked on the first ordinance and we were trying to be very protective of supporting our local businesses, and so I've always leaned toward trying to limit a little bit more. It might be time to open it up. I don't want to create something we can't easily pull back. I am afraid of a larger manufacturing business coming onto Morris Street, and I don't want it to just be cannabis out there. I'd like it to be thriving manufacturing, but I don't also want to necessarily limit it, so at this point I'm fine with not limiting it in the Industrial zone, but because we want to preserve our manufacturing it should be a co-location with manufacturing use rather than just a delivery-only. I hate not having more discretion if it's more appropriate in are they supporting the community and not just coming in? Not that I don't want to support those kinds of businesses either, but I'd like to direct it to being more like the businesses that we already have, and that was because we had an ability to examine and limit, and that's more or less a conditional use permit, so I tend to err on that rather than just opening it wide up.

**Evert Fernandez, Vice Chair**

I also have concerns about keeping an eye on how things are going, but I don't think there should be an arbitrarily number limit, and that may discourage some legitimate businesses from coming to Sebastopol. I also would like to have some discretion, so my thinking is you look at it on a case-by-case basis. Staff can have some discretion and maybe there is some wording. I feel comfortable that if something came up and if Director Svanstrom has a concern about it that she'll alert the Commission, but sometimes things get lost in the future. My thinking is not to limit, but to perhaps set some parameters with the Planning Department that maybe they would in certain situations have the option to bring it to the Commission for review, but I don't want to set an arbitrary number as far as a limit is concerned.

**Kathy Oetinger, Chair**

We heard from our applicant that they're trying to compete, and if the delivery is too far it's not going to pencil out and they lose money. I wonder how many businesses you could have selling local products that could be shipped to retail places all over the country in a distribution system, how many local distribution systems, how many companies do we need driving vehicles in a reasonable distance? It seems like at some point if we have unlimited

levels of that service we're doing a disservice to the companies that are trying to compete with those local affordable deliveries. So does it pencil out if we divide it between a lot of companies? Even for a good product there's only so much market and so much margin, so I'm not sure whether to treat it like our restaurants that are not limited on how many of them can deliver and how often they can do it. and now we're looking at another type of business that's trying to compete, and I'm not sure how big that market is or how profitable it is for them, and whether opening it up does a disservice.

**Kari Svanstrom, Planning Director**

We will need to recommend something to City Council eventually. They will be the ultimate decider. I wasn't involved with the first Cannabis Ordinance and don't know if it was Council that set the number of retail or if it was a recommendation from the Planning Commission.

**Linda Kelley, Commissioner**

It was a Council subcommittee that sort of created the ordinance, and then it went to Planning, and then it ultimately was approved by City Council.

**Kari Svanstrom, Planning Director**

We can certainly leave it at this. Listening to the comments, I would tend to recommend something where there isn't a limit or co-location up to a certain size, so that it isn't an issue for our existing small businesses. So you could set the existing number and then you're not limiting anyone to begin with, or you could not limit with co-location up to a certain size to ensure it doesn't become so competitive that someone is moving in just for a delivery license and that would negatively impact manufactures. As it is, I would say delivery-only should be aligned with delivery in any other zone where it should just be a use permit, and that would give the Planning Commission discretion over that.

**Paul Fritz, Commissioner**

We don't limit anything else, do we? We get an alcohol use permit and we get to decide if there's an overconcentration or whatever, but I'm not sure why we're singling out cannabis businesses and trying to limit them.

**Kari Svanstrom, Planning Director**

It's interesting on the delivery front. On a retail front, I don't know whether two or three or five, or whatever is the right number, but I do know having been to locations in Denver where they don't limit them, it's pretty horrible just in terms of overconcentration, and they do have some of the issues. It changed a couple of neighborhoods pretty significantly. I don't think California is going to get there; I think we've taken more of the ultra-cautious road. Part of the licensing conversation may also get into what are the thresholds before it requires a use permit, so not that you're not going to allow it, but you do have some discretion over it.

**Paul Fritz, Commissioner**

I get the retail side of it. Delivery is a different thing than having a storefront. I can see how you might want to have limitations on a storefront, but I don't see a delivery service having the same kind of neighborhood or quality of life issues necessarily. As Omar said, let the market decide. If people want to buy from certain people, it's going to sort itself out. We only have a limited number of people who are making cannabis purchases on any given day, that I don't know that we would be completely overrun with delivery services in our community.

**Kari Svanstrom, Planning Director**

You can certainly invite the applicant or others to chime in on this. The only thing I can foresee is if cannabis is legalized nationally I'd want us to be poised for it, but in a way that supports the manufacturing in the Manufacturing zone, because that's where you do get support for the local industry, like Mitcho's business supporting local farmers. And if there were no control would you end up with someone like Element 7 who came to the City Council and wanted to be the biggest cannabis retail business in California, and would you want that for Sebastopol, because we have a Formula Business Ordinance? I'd be concerned we might get so much delivery in the Manufacture zone that you don't have a manufacturing base or that diversification anymore, because our manufacturing zones are fairly limited.

**Kathy Oetinger, Chair**

The other thing that comes to mind, are they selling retail to customers who aren't local, because anything can be ordered online and it would come from the post office? It doesn't sound like that's what they're doing, but I could see it expanding to that, so along with those other deliveries I'm guessing your retail could be anywhere, because there's no storefront, the size, and whether there is co-manufacturing.

**Kari Svanstrom, Planning Director**

Andrew, you and Omar are more immersed in this business than the Commissioners or myself and are invited to give some input.

**Andrew Longman, 421 Group**

With the signing of SB 1326 recently for interstate transport of cannabis products once it's federally legalized, I think that would create a lot of opportunity for our local manufacturers who do support our local farmers. I think there is a preference for cannabis from our region and the products that people like Mitcho make, and I think there would be an opportunity there eventually.

**Kari Svanstrom, Planning Director**

Do you have any thoughts on standalone delivery-only in the Manufacturing zone?

**Andrew Longman, 421 Group**

I guess I've been looking at it strictly through the lens of diversification for these manufacturers, so to think about it on a policy level like that, I don't have an opinion right now. I would have to think about that, but it's an interesting thought on whether to or not and what those downsides would be.

**Kari Svanstrom, Planning Director**

It seems we have Commission consensus on those questions on the co-location with some limits, and I know Vice Chair Fernandez had the question about what level of discretion. Right now for manufacturing permits it's generally just a zoning clearance that we're doing. We are making sure that everyone is qualified, that they have all the requirements, which is pretty numerous in terms of odor control, security, transfer of ownership, age limitations, lighting, staff training, etc., so that's mostly what we are doing when we are permitting the manufacturing facilities, but right now I don't believe we have discretion the way we do with an alcohol use permit to say we think there might be an overconcentration or there might be an issue with this particular operator, to bring it to the Planning Commission. It sounds like that's where we're going with the co-location, to allow delivery at that same level. I'm going to go to some potential criteria that John and I have written.

1) "Square footage of 20% of the overall manufacturing facility dedicated to delivery-only with a maximum area of 500 square feet for an administrative permit review. To exceed this would require a conditional use permit."

**Kathy Oetinger, Chair**

It depends on the business model, how much it is and how many there are, as to whether this makes any sense to me. I know it's theoretical.

**Kari Svanstrom, Planning Director**

Right, and again, you can exceed this, but it would require that next level of discretion. And you're right, Andrew, this 500 square feet is double what you're asking for, and it's also far less than 20% of your manufacturing facility.

**Andrew Longman, 421 Group**

Yes, we're asking for 77 square feet.

**Kari Svanstrom, Planning Director**

Because it's co-location, it doesn't include any vehicle storage or anything like that, which is also used for the manufacturing, so it's actually pretty generous in terms of a staff-level approval.

**Paul Fritz, Commissioner**

That seems reasonable.

**Kari Svanstrom, Planning Director**

And the 500 square feet stops the Amazon type from coming in, and if you think about the trip generation and the discussion we've had with distribution use permits with the Planning Commission in the past, that was often a concern regarding the number of delivery trips and the traffic generated.

2) "Limit the number of deliveries on a weekly basis to 10 to 20 for an administrative permit review. To exceed that amount would require a full use permit approved by the Planning Commission."

**Kari Svanstrom, Planning Director**

You may not need to limit the number of deliveries if you're making sure that it's co-located and it's a certain percentage in size limit of the facility. I think staff would be fine with not limiting the number of deliveries. John, any thoughts about limiting deliveries versus not?

**John Jay, Associate Planner**

I think that fine. The main thing we wanted to accomplish is to not allow these large facilities to come in and become delivery-only out of a huge space. I think getting rid of #2, or however you guys feel, is fine with me.

**Deborah Burnes, Commissioner**

I don't think we need to limit deliveries.

**Linda Kelley, Commissioner**

I'm fine with not limiting it as well, but I think the delivery business and how they organize doesn't mean that there are necessarily more trips, I think it's as many trips as they can get into delivery trucks, so it's a lot less impact. I don't think we need to limit that.

**Evert Fernandez, Vice Chair**

I'm fine. I'm not looking to limit.

**Kathy Oetinger, Chair**

I am also fine with taking #2 out.

3) *"Delivery-only is only incidental to the primary use of manufacturing for the site."*

**Kari Svanstrom, Planning Director**

I don't know if we need to discuss this in particular, because there's no actual metric or requirement to it; it's discretionary. I would more put it in the intent or the purpose so that it's clear. It could be a characteristic or criteria, but it's really trying to make sure of the intent that it's a Manufacturing zone and we want to support manufacturers.

**Kathy Oetinger, Chair**

I agree that that's the intent of wanting to do that, but I can imagine that same single person in that office with that computer could also take orders from all five companies in town, but the orders come through and they get sent or delivered in separate packages. That's the modern world, even for a small town with specialty products. I guess that would perhaps come to us to consider as a variance. I'm imagining how to make it profitable.

**Paul Fritz, Commissioner**

Limiting the square footage to 20% for a staff-level approval is the intent of #3. I don't think we need to do anything beyond that.

**Deborah Burnes, Commissioner**

I agree.

**Linda Kelley, Commissioner**

Number three is fine.

**Evert Fernandez, Vice Chair**

I'm fine with #3.

**Kathy Oetinger, Chair**

And so am I.

4) *"The facility shall clearly designate a 'delivery only' section within the supplied application documents."*

**Kari Svanstrom, Planning Director**

They have to designate the section so we can understand the square footage. It's more administrative and it's easier to put it in the code. That way people know that it's part of the process.

**Kathy Oetinger, Chair**

I think we can skip over discussion on that.

5) *"Delivery-only is subject to regular business hours or a last delivery out by."*

**Kari Svanstrom, Planning Director**

Do you want to limit delivery hours?

**Paul Fritz, Commissioner**

I'm good with limiting delivery to business hours only.

**Linda Kelley, Commissioner**

Regular business hours. I don't know if the manufacturer wants to do delivery later, but I know as a convenience for folks that are working that some of the delivery services, as long as it gets ordered during business hours, there is delivery sometimes up until 9:00pm, so I don't necessarily want #5. I could go with a last delivery by.

**Deborah Burnes, Commissioner**

I'm fine with it being during regular business hours and the last delivery out by.

**Evert Fernandez, Vice Chair**

I'd like to hear from the applicants as to whether it makes sense to limit it, or what would make sense for them to work with.

**Andrew Longman, 421 Group**

Considering our operation being seven days a week as it is and our business hours being 7:00am to 9:00pm, I don't see a need to go beyond that at the moment. But we're also in the very preliminary stage of development, so I guess it's to be determined.

**Evert Fernandez, Vice Chair**

I'm hesitant to put a limit or a timeframe on that as an arbitrary; I think the business should determine it. Like Commissioner Kelley was saying, some days they could have regular business hours and then they're closed and delivery might take place after that, because otherwise you're going to have businesses be like we're open until midnight, but not really. I don't know what difference when the delivery is made makes. They're going to deliver it to whatever the customers' needs are, and that may change over time, so I'd rather they have the flexibility to determine that rather than set something and create yet another hurdle where they have to come back and get permission to expand something that may not make a difference.

**Kathy Oetinger, Chair**

I'm in agreement with that. I think 7:00am to 9:00pm was appropriate.

**Andrew Longman, 421 Group**

I have the regulations from the Department of Cannabis Control open, and we're limited to 6:00am to 10:00pm.

**Evert Fernandez, Vice Chair**

Would it make more sense just to say that the delivery hours are the same as the state regulations?

**Kari Svanstrom, Planning Director**

Yes, that way if they change them we don't need to go back and revise our code. It sounds like everyone is more or less okay with whatever the state mandates.

6) *"Conditions of approval shall be posted within the delivery-only section of the facility."*

**Kari Svanstrom, Planning Director**

This is a standard thing that we have for all use permits, so even if it's not a use permit I think it is something you'd want to have.

**Kathy Oetinger, Chair**

Yes, just to have it posted so people know what the rules are.

7) *"Change of ownership of the business shall require the new owner to apply for a transfer of delivery license."*

**Kari Svanstrom, Planning Director**

We also do require a license transfer. It's how we track both alcohol permits and cannabis permits, because the state asks us for that, and it allows us to do the check on that, so please let's keep that.

**Kathy Oetinger, Chair**

Yes. The issue of the schools and a 600-foot distance, because this isn't a retail it seems like it shouldn't apply for this kind of a business because there's no storefront. I don't think its proximity to schools should matter.

**Linda Kelley, Commissioner**

Is there any state language around distance to any schools? I don't remember when we put that in where we got that language from, and certainly the distance to schools and parks and all that have to do with the visibility. However, the liquor store is across the street from SPARC, and it was like what's the difference? However, we did put that in there and I'm wondering if Andrew knows if that's the state regulation?

**Andrew Longman, 421 Group**

I believe it's 600 feet. I'm double-checking right now.

**Kari Svanstrom, Planning Director**

And is it 600 feet in a walking pattern?

**Andrew Longman, 421 Group**

I don't recall if it's distance of travel or parcel-to-parcel, but I'll be right back to you about that.

**Kari Svanstrom, Planning Director**

This is something we can just get a consensus that if the state allows it are you okay changing it? And there is a cannabis manufacturing use in one of those buildings, and that's kind of where if we're not going to limit it. It would still limit those uses up there from doing delivery-only, so I think it's worth a quick check.

**Kathy Oetinger, Chair**

The issue of the storefront and retail aren't the same as a liquor store being 600 feet from the school, or even on the path home, because it doesn't have the same concerns for influence and the nuisance factor.

**Kari Svanstrom, Planning Director**

I don't think any of our cannabis businesses have the word "cannabis" or "marijuana" in their names at all. It's pretty discrete in that way, especially in the manufacturing. The question on this one is if the state doesn't require this, are you okay changing this? I'm hearing Chair Oetinger say it doesn't matter because it's not a storefront. Do others agree with that?

**Paul Fritz, Commissioner**

I'm okay with it.

**Linda Kelley, Commissioner**

Would this apply to standalone delivery as well as co-location? That's where I need to know if there was a distinction in the rules at the state level, because of the types of products or services each category can provide; so I would be fine since it's not retail, and if the state didn't care about it for standalone or for a co-location, which I'm not quite sure how the state uses that word, I would be fine to not have to put in a distance.

**Andrew Longman, 421 Group**

I actually asked the Department of Cannabis Control this question and got an official response saying, "Pursuant to the Business and Professions Code 2654(b) local jurisdictions may specify a different radius than what is listed in the DCC regulations."

**Linda Kelley, Commissioner**

Is that for retail or for any cannabis business?

**Andrew Longman, 421 Group**

I believe I asked that question specifically for retail, but I'd have to pick through my feed real quick to confirm.

**B. PLANNING COMMISSIONER TRAINING –**

Planning Commission training was postponed.

**7. SUBCOMMITTEE UPDATES**

None.

**8. PLANNING DIRECTOR'S REPORT**

**A. Cancellation of November 22, 2022 meeting**

Director Svanstrom provided updates.

The Commission asked questions of Director Svanstrom.

**9. ADJOURNMENT:** Chair Oetinger adjourned the meeting at 9:07 p.m. The next regularly scheduled Planning Commission meeting will take place on Wednesday, December 13, 2022 at 6:00 p.m.

## Chapter 17.360

### COMPREHENSIVE CANNABIS REGULATIONS

Sections:

- 17.360.010 Purpose.
- 17.360.020 Application of regulations.
- 17.360.030 Additional definitions.
- 17.360.040 Limitations on use.
- 17.360.050 Personal cannabis cultivation.
- 17.360.060 Cannabis businesses.
- 17.360.070 General operating requirements.
- 17.360.075 General operating requirements - Manufacturing with co-located retail (office only).
- 17.360.080 Cannabis commercial cultivation.
- 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.
- 17.360.100 Cannabis retail.
- 17.360.110 Cannabis special events.
- 17.360.120 Special findings.
- 17.360.130 Grounds for permit revocation or modification.
- 17.360.140 Planning Commission interpretation.
- 17.360.150 Rescission of urgency ordinance.
- 17.360.160 Severability.

#### 17.360.010 Purpose.

This chapter provides the location and operating standards for personal cannabis cultivation and for cannabis businesses to ensure neighborhood compatibility, minimize potential environmental impacts, provide safe access to medicine and provide opportunities for economic development. (Ord. 1111, 2018)

#### 17.360.020 Application of regulations.

The provisions of this chapter shall become effective 30 days after its adoption. (Ord. 1111, 2018)

### 17.360.030 Additional definitions.

“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.

“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 Health and Safety Code Section [11018](#), 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 Health and Safety Code Section [11018.5](#). 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 chapter, 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 three classifications: medical dispensary retail, adult use dispensary retail, or office-only cannabis retail.

“Cannabis distribution/warehouse” means the procurement, sale, and transport of medical cannabis or adult use cannabis, and medical cannabis products or adult use cannabis products, between legally established cannabis businesses. This does not include patient delivery or adult use delivery.

“Cannabis manufacturing” means the production, preparation, propagation, or compounding of medical cannabis or adult use cannabis, or medical cannabis products or adult use cannabis products, using nonvolatile solvents, or no solvents, either directly or indirectly or by extraction methods, or independently by mean 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 relabels its container. This does not include the manufacturing of either medical or adult use cannabis products using volatile solvents, which is not permitted in the City.

“Cannabis microbusiness” means a cannabis cultivation business of less than 10,000 square feet in combination with medical cannabis distribution, medical cannabis manufacturing – level 1, and/or medical cannabis retail (dispensary) and delivery, combined within one State license.

“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 three 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.
3. Type 3: “Office only, cannabis retail” means the sale and delivery of either medical cannabis or adult use cannabis, and/or medical cannabis products or adult use cannabis products, to qualified customers via online, the phone or by mail. No sales of cannabis are made on site. Except as permitted by State law, all cannabis products shall be stored in a secured fashion. Such use shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. Such use’s premises are closed to the public. The intent of this use-type is to serve as an office to coordinate the transport of cannabis obtained from other licensees to qualified patients or qualified adult customers with valid identification. Such use-type may conduct sales exclusively by delivery.

“Cannabis processing” means a licensee that conducts only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.

“Cannabis packaging and labeling” means entities that only package or repackage cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.

“Cannabis testing laboratory” means a laboratory, facility, or entity in the State that offers or performs tests of medical cannabis or adult use cannabis and/or medical cannabis products or adult use cannabis products, and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the State.

2. Licensed by the Bureau of Cannabis Control.

“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 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 [Business and Professions Code](#).

“Primary caregiver” shall have the same definition as set forth in 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 Health and Safety Code Section [11362.5](#) et seq., and as they may be amended from time to time. (Ord. 1111, 2018)

### 17.360.040 Limitations on use.

A. *Compliance with SMC.* Personal cannabis cultivation and cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations set forth in the SMC, 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. (Ord. 1111, 2018)

### 17.360.050 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 (Chapter [17.25 SMC](#)) 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 100 square feet per residence regardless of the number of residents.

2. *Primary Caregiver 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 100 square feet per patient, up to a total of 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 subsection [E](#) of this section.

B. *Adult Use Cannabis Maximum Limitation.* The personal cultivation of adult use cannabis is limited to no more than six 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 subsection [E](#) of this section.

C. *Residency Requirement.* Cultivation of cannabis for personal use may occur only 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 SMC.

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 noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, 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 as may be necessary to ensure that odors do not constitute a nuisance.
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 Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State Fire Marshal shall be kept in the area of cultivation. (Ord. 1111, 2018)

### 17.360.060 Cannabis businesses.

Cannabis businesses shall be permitted only in compliance with the provisions of zoning districts and allowable uses (Chapter [17.25 SMC](#)) and shall be subject to the following standards and limitations:

A. *Land Use.* For purposes of this chapter, cannabis businesses shall include the following land use classifications, which are further defined in SMC [17.360.030](#), Additional definitions:

1. Cannabis – cultivation.
2. Cannabis – testing/lab.
3. Cannabis – manufacturer (nonvolatile, includes infusions).
  - i. Processing.
  - ii. Packaging and labeling.
4. Cannabis – cannabis retail (dispensary) and cannabis retail (office-only).
5. Cannabis – cannabis distributor/warehouse.
6. Cannabis – microbusiness.

B. *Where Allowed.* Cannabis businesses shall be located in compliance with the requirements of zoning districts and allowable uses (Chapter [17.25 SMC](#)) and as designated on Tables 17.360-1 and 17.360-2. 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 chapter shall not be established or maintained except as authorized by the land use permit required by this chapter. For those business uses not subject to a conditional use permit requirement, an administrative permit is required.

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

Table 17.360-1. Permitted and Conditionally Permitted Cannabis Uses in the Residential Districts

Use	R1	R2	R3	R4	R5	R6	R7	MHP
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	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
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(1)</sup>	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 17.360-2. Permitted and Conditionally Permitted Cannabis Uses in the Commercial, Office and Industrial Zones

Use	CO	CG	CD	CM	M	O/LM
<b>Commercial Uses</b>						
Cannabis Retailer Delivery (office-only)	C	C	-	C	<del>P/C<sup>(4)</sup></del>	C
Cannabis Retail Dispensary	C	C	C	C	C	C
Cannabis Cultivation (up to 5,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (5,001 – 10,000 sq. ft.) indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Cultivation (10,001+ sq. ft.) indoor only	-	-	-	C	C	C
Cannabis Cultivation Nursery, indoor only	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Microbusiness	-	C	-	C	C	C
<b>Industrial Uses</b>						
Cannabis Testing / Cannabis Laboratories	-	C	-	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
Cannabis Manufacturer (nonvolatile and infused products)	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
Cannabis Distributor / Cannabis Warehouse	-	-	-	C	C	P <sup>(1)</sup>
Cannabis Processing, Packaging and Labeling	-	-	-	P <sup>(1)</sup>	P <sup>(1)</sup>	C
<b>Residential Uses</b>						
Cannabis Cultivation – Personal (Adult): No more than 6 mature plants	P <sup>(2)</sup>	P <sup>(2)</sup>				
Cannabis Cultivation – Personal (Medical): No more than 100 sq. ft.	P <sup>(2)</sup>	P <sup>(2)</sup>				
Cannabis Cultivation – Primary Caregiver (Medical Only) <sup>(3)</sup>	P <sup>(2)</sup>	P <sup>(2)</sup>				
P = Permitted Use						

Use	CO	CG	CD	CM	M	O/LM
<p>C = Conditionally Permitted Use                      - = Use Not Allowed</p> <p>(1) For cannabis-related permitted uses, <del>zoning clearance</del> <u>Administrative permit</u> is still required.</p> <p>(2) Only applicable at residences.</p> <p>(3) No more than 100 sq. ft. per patient, up to 500 sq. ft. Maximum of 200 sq. ft. permitted for outdoor.</p> <p>(4) <u>Permitted with an administrative permit when such uses are co-located with manufacturing use and comply with criteria listed in Section 17.360.095. Retailer delivery-only uses that are not co-located with a manufacturing use are subject to Section 17.360.100. <del>Subject to 3 license limit and CUP approved by Planning Commission, or must be co-located and conform with required standards, not limit</del></u></p>						

(Ord. 1111, 2018)

### 17.360.070 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 chapter.

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 chapter after the State begins issuing State licenses and after the 10-month transition period noted in this subsection A 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 chapter shall be required to comply with all operational requirements set forth in this chapter.
3. *Grounds for Revocation.* Once State licenses and agency permits become available, failure to demonstrate dual licensing in accordance with this chapter 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.
  - a. 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.

a. 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 SMC Title [15](#).

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 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 chapter 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 ensure 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 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 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 on-site 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, nonresidential door locks or window locks.
6. *Emergency Access.* Security measures shall be designed to ensure emergency access in compliance with 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, except for those which only deal with packaged cannabis and have no on-site consumption, 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, 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 shielded to appropriately limit exterior glare to surrounding properties.

J. *Noise.* Use of air conditioning and ventilation equipment shall comply with Chapter [8.25](#) SMC (Noise Control Ordinance). 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 State laws and regulations.
- b. Applicable City 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. Incident reporting, law enforcement liaison policies.
- i. 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 subsection [\(K\)\(1\)](#) of this section, 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. (Ord. 1111, 2018)

### 17.360.080 Cannabis commercial cultivation.

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis commercial cultivation.

- A. *Outdoor Commercial Cultivation Prohibited.* The cultivation of cannabis for commercial use may only be conducted within a fully enclosed space.
- B. *Type of Permit.* Depending on the size of the facility, and in accordance with the tables in SMC [17.360.060](#), administrative approval or a conditional use permit shall be required for cannabis commercial cultivation. For purposes of determining the facility size, square footage shall be defined by calculating the gross square footage of the structure or portion of the structure occupied by the cannabis business, not the plant canopy area. For purposes of these regulations, nursery means a use that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- C. *Microbusiness.* In addition to compliance with permit and operating requirements set forth in this chapter for cannabis cultivation, a cannabis microbusiness which includes cultivation, manufacturing, distribution and/or retail within one State license shall comply with all permit and operating requirements set forth in this chapter for cannabis manufacturing, distribution, and/or retail (dispensary) and delivery as applicable to the combination of uses within the license. Microbusinesses shall be subject to the City's limits on the maximum number of cannabis retail facilities.
- D. *Pesticides.* The cultivation of cannabis must be conducted in accordance with all applicable Federal, State, and local laws and regulations governing the use of pesticides. Any fumigation or insecticidal fogging shall comply with the fire code. (Ord. 1111, 2018)

### 17.360.090 Cannabis manufacturing – Includes regulations regarding processing, packaging and labeling.

In addition to the general operating requirements set forth in this chapter, this section provides additional operational requirements for cannabis manufacturing.

- A. *Extraction Processes.* Cannabis manufacturers shall utilize only extraction processes that are (1) solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug, and Cosmetic Act, and/or (2) use solvents exclusively within a closed loop system that meets the requirements of the Federal Food, Drug, and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a State licensed engineer.
- B. *Processing:* entities that conduct only trimming, drying, curing, grading or packaging of cannabis and nonmanufactured cannabis products. Processing does not involve any cultivation or manufacturing.
- C. *Packaging and labeling:* entities that only package or repack medical cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.
- D. *Loop Systems.* No closed loop systems shall be utilized without prior inspection and approval of the City's Building Official and Fire Chief.
- E. *Standard of Equipment.* Extraction equipment, manufacturing, processing and analytical testing devices used by the cannabis manufacturer must be UL (Underwriters Laboratories) listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City's Building Official and Fire Chief.
- F. *Annual Recertification Required.* Extraction equipment used by the cannabis manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on site.
- G. *Food Handler Certification.* All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products must be State certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the cannabis manufacturer's facility where that individual participates in the production of edible cannabis products.
- H. *Edible Product Manufacturing.* Cannabis businesses that sell or manufacture edible cannabis or cannabis products shall obtain a Sonoma County Health permit. Permit holders shall comply with Health and Safety Code Section [113700](#) 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. (Ord. 1111, 2018)

17.360.095 General operating requirements / additional criteria for Manufacturing with co-located retail delivery (office only).

In addition to the general operating requirements set forth in this chapter, this section provides additional requirements for cannabis retail delivery only when co-located with an allowed manufacturing use.

- A. The intent of co-location of Cannabis Retailer Delivery (office-only) ~~Retail Delivery only~~ with manufacturing uses is to support the manufacturing use on the site. the intent is for the co-located retail component to be ~~is~~ incidental to the primary use of a bone fide manufacturing use on the site.
- B. The co-located Cannabis Retailer Delivery (office-only) are subject to following criteria are subject to an Administrative Permit Review;
1. 20% Square footage of the overall manufacturing facility dedicated to delivery only, with a maximum area of 500 square feet. A Conditional Use Permit approved by the Planning Commission shall be obtained to exceed this limit.
  2. The facility shall clearly designate ~~the~~all “delivery only” ~~spaces~~section on any supplied application materials. Hallways and shared use space such as overall business administrative offices (not to include delivery-only staff offices), restrooms, etc. shall not be included in this limit.
  3. ~~Retail Delivery~~ only is subject to regular business hours and shall be consistent with State Department of Cannabis Control standards.
  4. Conditions of Approval shall be posted within the ~~Retail Delivery~~ only section of the facility.
  5. Change of ownership of the business shall require the new owner to apply for a transfer of delivery license.

17.360.100 Cannabis retail.

- Type 1: Medical cannabis retail (dispensary).
- Type 2: Adult use cannabis retail (dispensary).
- Type 3: Cannabis retail delivery (office-only for medical or adult use).

In addition to the general operating requirements set forth in this chapter, this section provides location and operating requirements for medical cannabis retail (dispensary), adult use cannabis retail (dispensary) and retail delivery (office-only for medical or adult use).

A. *Conditional Use.* A conditional use permit shall be required to operate cannabis retail Types 1 and 2 above in accordance with the tables in SMC [17.360.060](#).

B. *Delivery Services.* In addition to the requirements established in this chapter for cannabis retail Types 1, 2, and 3, the delivery of cannabis and cannabis products shall be subject to the following requirements:

1. Commercial delivery 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.
2. A cannabis retail facility, office-only (Type 3), that has a physical location in the City may also conduct sales exclusively by delivery, and shall have no on-site retail sales to customers.
3. Applications for any cannabis retail type shall include a statement as to whether the use will include delivery of cannabis and cannabis products located outside the cannabis retail facility.
4. 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 chapter and State law.

C. *Drive-Through Services.* Drive-through or walk-up window services in conjunction with cannabis retail Types 1, 2, and 3 are prohibited.

D. *Location Requirements.* Cannabis retail shall be subject to the following location requirements:

1. No more than two Type 1, two Type 2, and three Type 3 cannabis retail establishments are permitted in the City. Type 2 cannabis retail may only occur at an existing Type 1 medical cannabis retail establishment that has obtained and maintained a valid conditional use permit, provided such establishment meets the following requirements: comply with all requirements set forth in this chapter; and obtain State licenses for both medical and adult use commercial sales.
  - a. Such existing establishments are not required to obtain a new conditional use permit for Type 2 retail sales.
  - b. To the extent that such existing establishments have conditional use permits that have conditions in conflict with this chapter, the provisions of this chapter shall prevail.
  - c. To the extent that such existing establishments have conditions limiting square footage, the Planning Director may approve up to a 10 percent increase in square footage; any greater increase, or a relocation of the facility, shall require conditional use permit approval.
  - d. Subject to any State permitting, Types 1, 2, and 3 establishments may engage in both medical and nonmedical cannabis sales.
2. *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](#).

3. *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.

4. *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 nonconforming and subject to the protections and provisions of Chapter [17.160 SMC](#) (Nonconforming Uses).

5. *Visibility of Entrance.* The entrance of a cannabis retail, Types 1 and 2, 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. *Management.* Permit applicants shall be responsible for providing the names of the person or persons having management or supervision responsibility of the applicant's business at the time of application.

3. *Recordkeeping.* The cannabis retail operator, all types, shall maintain patient and sales records in accordance with State law.

4. *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.

5. *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 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.

6. *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.
7. *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.
8. *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 this title and any other applicable State regulations.
9. *On-Site 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.
10. *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.
11. *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.
12. *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 chapter 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law and as follows:
  - a. 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.

b. 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 chapter and State law.

c. 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) 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 Chapter [8.04](#) SMC (Use of Tobacco in Public Places – Smoking Control) and State law.

H. *Restriction on Ownership.* No company or parent company shall simultaneously own or operate more than one Type 1, one Type 2, and one Type 3 facility in the City. (Ord. 1111, 2018)

### 17.360.110 Cannabis special events.

A. *Dual Licensing.* The City recognizes that State law requires cannabis businesses to obtain dual licensing at the State and local level for temporary special events that involve on-site cannabis sales to, and consumption by, patients or qualifying adults with valid identification. Such events shall not be allowed to commence until the cannabis business can demonstrate that all necessary local permits, State temporary event licenses, agency permits, and as necessary, a temporary use permit or a special events permit, as applicable, have been obtained in compliance with any regulations and deadlines established by the City and the State.

B. *Temporary Use Permit, Special Events Permit.* Applications for a cannabis special event shall be filed in a timely manner in accordance with Chapter [17.430](#) SMC (Temporary Use Permits – includes special events), or a special events permit pursuant to Chapter [12.44](#) SMC (Special Events), depending on the nature and location of the event. Applicants are advised to confirm State allowance for such event prior to filing of a City application.

Not more than four such events shall be permitted in any calendar year, and no single operator shall be permitted to conduct more than two such events per year. (Ord. 1111, 2018)

### 17.360.120 Special findings.

In addition to the conditional use permit findings specified in Chapter [17.415 SMC](#), applications subject to a conditional 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 site and building design and improvements.
- F. Whether the application will result in an overconcentration of such uses within the community.
- G. Energy conservation and other environmental aspects. (Ord. 1111, 2018)

### 17.360.130 Grounds for permit revocation or modification.

In addition to the grounds in SMC [17.400.090](#) (Term, adherence to approved plans and conditions, and 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; or
- 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 SMC 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. (Ord. 1111, 2018)

### 17.360.140 Planning Commission interpretation.

This chapter shall supersede and rescind the October 24, 2017, Zoning Ordinance Interpretation approved by the Planning Commission regarding cannabis uses. (Ord. 1111, 2018)

### 17.360.150 Rescission of urgency ordinance.

Upon its effective date, this chapter shall supersede and rescind Ordinance No. [1107](#), which established temporary cannabis regulations. Permits that were granted under such ordinance and are not in conflict with this chapter shall remain effective. (Ord. 1111, 2018)

### 17.360.160 Severability.

If any section, subsection, sentence, clause, phrase or word of this chapter 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 chapter. (Ord. 1111, 2018)

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**The Sebastopol Municipal Code is current through Ordinance 1142, and legislation passed through May 17, 2022.**

Disclaimer: The City Clerk's Office has the official version of the Sebastopol Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.ci.sebastopol.ca.us](http://www.ci.sebastopol.ca.us)

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Senior Planner Barry Bergman of W-Trans traffic consultants gave a presentation.

Chair Fernandez asked for Planning Commission questions of staff or the traffic consultant.

**Evert Fernandez, Chair**

The report said the two-way street would be presented as an option. How did that option come about?

**Barry Berman, W-Trans**

That one predates me.

**Paul Fritz, Vice Chair**

When we did the General Plan update years ago one of the action items was to investigate a two-way street system, and full disclosure, I've been pushing the City to apply for this grant for a number of years, so I'm excited about this and think it's a good opportunity for us to further explore the two-way street idea, and that's why it's incorporated into this grant at this time, because it is part of our General Plan.

**Kari Svanstrom, Planning Director**

I will note that W-Trans did do an initial feasibility red flag kind of memo a few years ago on the two-way street idea, but that is as far as it went at that time. The funding to do a larger, more comprehensive study and coordinate with Caltrans and others like the County would be a much bigger initiative to do that. That memo didn't say that it was infeasible; it discussed some of the issues and some of the advantages of that. This would go into much greater detail and will consider how the City has developed and take into account the hotel and other things that have happened since then.

**Paul Fritz, Vice Chair**

Caltrans has their own planning documents that recommend investigating going back to two-way street systems, so it supports some of Caltrans' own thinking about the street network in downtown Sebastopol.

**Kari Svanstrom, Planning Director**

This has been in our General Plan since 2016. It was obviously not one of the low hanging fruit like the rezoning and some of the Housing Element things that we have done; it is one of the longer ranges. In terms of the bigger picture for in-town I've had some discussion with Steve Weinberger, the principal of W-Trans, about this project and the other traffic issues in Sebastopol. Another component the City is also looking at—but will not be a part of this—as part of other development projects that are under review or that the City Council has received, is we have three locations in town. There are the two-way or other pedestrian biking transit solutions for downtown to make downtown more walkable. This grant would go further in trying to look at the urban design and making sure the downtown areas are walkable, safe, and pedestrian-oriented, as a main street should be. The other traffic components of our General Plan are that the likely intersection improvements along the Highway 116 corridor are at Covert Lane and Highway 116 coming into town on the north side for potentially a round-around or signal, and we need to think about if we're getting close to those triggers. Another location is Healdsburg and Murphy, and of course the Planning Commission just had a pre-application preliminary review for a 20-plus-unit project at that intersection. Also our General Plan notes either roundabout or signal, and because the land there is very limited it would more likely be a signal. The third location is Fircrest and Highway 116, and according to W-Trans is one of the last locations to need improvements, because there are signals in some areas down there that assist that. So that's the large overview of our Circulation Element goals in our General Plan, those three

locations, then the downtown core, and then obviously the Bodega Avenue improvements are underway to install bicycle lanes and sidewalk caps and deal with some of the roadway conditions out there.

**Evert Fernandez, Chair**

For historical perspective, the Fircrest Highway 116 roundabout was looked at some years ago, and there was quite a bit for and against, so it might be useful to look at that, because nothing has changed in that area and really it had to do with how much space do you need around there? I looked at the site with all the different criteria and presentation and numerous times it mentioned consideration for disadvantaged communities, so I wonder if having more bike lanes opens it up to individuals for whom that is their mode of transportation, and are there realistic opportunities to present that? Has that been looked at? Are there any considerations? Is that even a possibility that some of the areas could be considered for strategies to help?

**Barry Berman, W-Trans**

Are you asking whether there are disadvantaged communities?

**Evert Fernandez, Chair**

Yes, and that would be presented as part of the application.

**Barry Berman, W-Trans**

I've worked on a few projects in Sebastopol and I've noticed how it varies depending on which year's date you use, so part of it is a matter of what the data shows in a given year, but there are certain pockets that have shown up as disadvantaged. If it's not something that shows up in the census, then we can go to alternative things like looking at where those clusters of below market rate housing are located, where there may be things that are below the census tract level that still show up as pockets of disadvantaged. The way that these grants work is that it's not necessarily if it's located in that area as long as you can demonstrate benefit for the community and their involvement in the process.

**Evert Fernandez, Chair**

I wanted to encourage that; it would be great if there were opportunity for that.

**Kari Svanstrom, Planning Director**

Usually census tract does not work for us, because it is beyond the City limits, so it's a whole lot of land where there are larger homes and things like that, but there certainly are pockets.

**Evert Fernandez, Chair**

I know we are working with the County, and as part of their goals have bypass strategies for Sebastopol. I don't know if that's realistic or not. Is that still one of their goals somewhere or is that long gone?

**Barry Berman, W-Trans**

That's not something that I am aware of. I know that's something we want to include, that they would be certainly involved in the discussions.

**Evert Fernandez, Chair**

Commissioner Kelley might know a little bit more about that, because she has brought it up in the past. My other question is under Circulation on page 3-3 where it says with respect to drivers and bicyclists, "It has been suggested that by creating a greater sense of uncertainty and making it unclear who has priority that it would reduce their speed." It

sounds like you want to make it riskier, and that way people would slow down and be more careful.

**Kari Svanstrom, Planning Director**

I'll get started, and I'm sure Barry can talk about this as well. There are a lot of different theories that have been tried about how to do traffic calming, the idea of slowing people down. Our Arts Committee, for instance, is looking at doing artworks, for example, on Petaluma Avenue right as you enter downtown—we're also going to have one on the east side of town—having some way of denoting that this is not just the state highway, this is a town, so slow down; you're going to be interacting with pedestrians and bicycles, etc. They used to use speed bumps, and that has progressed to a lot of the intersections in town using bulb-outs where the curb comes out; that's a little bit of what this is talking about. It's jutting that pedestrian space out in a way that protects the pedestrians, so we're not talking about making something unsafe, but in a way where it's not just a straight four-lane street. Steve was saying that at one point the lanes of Highway 116 were 18 feet wide each; that's a freeway width. You want lanes on an arterial that are 11-12 feet wide; you don't want lanes that big, because the cars will think it's a freeway because it's still the same amount of room, and they won't slow down. You put in vertical elements, trees, pedestrian bulb-outs, flashing beacon crosswalks, those types of things that start to make that a shared space and not just vehicle priority space is what this is talking about, so that's part of some of the elements to be looked at when he talks about urban design in the downtown and how that works.

**Barry Berman, W-Trans**

The kinds of things Kari mentioned, the treatments vary depending on the type of roadway. The discussion I've heard more in thinking about lower volume streets is should we put a center line down the street, and if you put a center line down the street then people feel like they can fly down it as long as they are they still within their lane, but if you remove the center line, people are a little more cautious. But on collector arterial roadways where you've got higher speed and higher volume traffic, narrowing lanes is a pretty common one to a point, but yes, safety remains a primary concern. There are certain standards that we still want to adhere to at a minimum.

**Evert Fernandez, Chair**

I want to make it clear that this is to apply to, then do research and investigate. No decisions are being made regarding how we're going to do it. We will have multiple public comments to get ideas from individuals. Nothing has been set or decided upon. This is simply to be able to get the funding to go through this process and get public input, and there will be plenty of opportunity for that.

**Deborah Burnes, Commissioner**

Having been on Main Street for many years, I'm not an advocate of going to a two-way street. A more beneficial solution would be looking at this bypass. One of my concerns is that with approving all the new housing developments and everything we've been doing, things are spinning fast and it doesn't feel like we have the infrastructure in place to support all of this, so while I'm an advocate of housing and low-income housing and bringing on all these changes, we really need to look at the infrastructure, and traffic is a major issue. A lot of merchants are hearing that their customers are just not coming to Sebastopol anymore because the traffic is incredible, even down Highway 12. I would like to echo the City bypass, which I think would be great and kind of stepping back to look at the bigger picture so we can have the infrastructure to support all of this. Will you be looking at that? Can we make sure we add that and all the aspects of converting from a one-way street to a two-way street?

**Barry Berman, W-Trans**

Absolutely. Looking at alternatives is not just a matter of changing the directionality and looking at safety issues and existing conditions. We will also be looking at what is planned growth five to 20 years out, and what does that do to future traffic operations? If we remove a lane or change an intersection, how does that model? That's all part of the alternatives analysis.

**Deborah Burnes, Commissioner**

And maybe going to merchants up and down Main Street when you're looking at this, because it's a very interesting situation with the two-way versus one-way street on Main Street.

**Barry Berman, W-Trans**

Representatives of local businesses are going to be critical stakeholders in that outreach process.

**Linda Kelley, Commissioner**

In the 2000s the bypass kept getting on the regional plan, but it never had enough traction. There was discussion about a bypass between Highway 12 and up by Guerneville using where the sewer line up to the mountains is placed, but there was concern that installing a bypass would be growth-inducing with all the convenience stores and vehicle supportive businesses, and encroaching into the open space like that. I don't know if it is still in the planning documents for the County traffic projects. Businesses were resistant to a bypass, because they were afraid people wouldn't stop, but people don't stop when there is terrible traffic either. I agree that we should look at a bypass as an option, but it is not an easy thing. My question is are we looking at the new bike lane on Petaluma Avenue that changed the avenue to one-lane down by Palm going north? Will any analysis be done as to whether that has been helpful or if there are any problems? Are we reevaluating that, or have there been any complaints?

**Kari Svanstrom, Planning Director**

I know the Council got an earful when the lanes were first reduced, but from both sides of the aisle; people who were thankful for it and folks who wanted the lanes to stay. I believe that W-Trans and Steve did take a look at the impacts after that was done. I don't have the details for that tonight, but it did not significantly impact the overall traffic flow, because it does go back to two lanes once you get to downtown. It's one lane coming into town, and it was really just extending that one lane a little bit farther before opening it up into two lanes; it wasn't two lanes, then one lane, and then two lanes again. It took a while for people to get used to it, but I don't believe the overall impact was that significant.

**Linda Kelley, Commissioner**

I just don't see a lot of usage of it, and some drivers, unfortunately, use that as a path. I know it's a little off topic, but we're looking at what we need to do to help move traffic flow through downtown.

Chair Fernandez asked for further Planning Commission questions of staff or the traffic consultant. Seeing none, Chair Fernandez opened public comment.

**Eric Spillman, Sevenfold Creative**

I've been involved with the core project over the years, and basically this outline looks really good and considered many things that would help Sebastopol re-envision its downtown and circulation. One of the healthiest things we can do is the traffic engineers

and professionals be open rather than coming up with the most fluid and correct model. It takes a lot of time to get around and circle to a destination with one-way traffic. Two-way traffic provides people going by the same businesses twice a day versus once. It would be interesting to find out the benefits and drawbacks through this study.

**Lisa Pierce**

There are many ways to improve the downtown, such as widening the sidewalks. One simple and low-cost idea for traffic calming would be reducing the speed limit on Main Street to perhaps 15 miles per hour and enforce it; it could even be a way for the City to make some money.

**Emily Shartin, Sonoma County Bicycle Coalition**

The Bike Coalition is pleased to hear about this grant opportunity and the chance to improve bicycle infrastructure in the downtown, and we look forward to being involved in the future. The Bike Coalition is working with Bike Sebastopol, a group of citizens that is working on building community and culture around cycling and is involved in local policy and infrastructure conversations. I hope Sebastopol will involve this group in any of these discussions going forward.

**Jan**

I'm very excited about this and working with folks from Bloom. Go to Bloomtown.org for updates; we're going to try to keep the community engaged. My question is how do we support this grant other than letters of support; perhaps further documentation of issues in the City? How does this active community engagement get realized? The Bloom people who are participating in meetings are very talented and a cross section of our community.

**Steve Pierce**

Given that this is a climate related grant, do we have any idea about the greenhouse gas emissions reductions that would be part of this, or would that be part of a later study that the grant would fund? Would we be including any kind of effects on all the adjoining roads that might be used as shortcuts in a two-way street scenario? How wide a circle are we going to cast from the downtown on the actual implications or feasibility? I walk in town almost every day and love the new crosswalks with the lights, but I've had some near incidents of being hit and have seen people hit at the crosswalk in front of the car supply place that crosses over to the CVS parking area, so whatever is done, safety improvements need to be included there.

Chair Fernandez asked for further public comments. Seeing none, Chair Fernandez closed public comment and asked for Planning Commission questions of staff and the traffic consultant.

**Evert Fernandez, Chair**

How to support the grant? Once the grant is awarded, the support is from individual citizens coming to these meetings and giving their input.

**Kari Svanstrom, Planning Director**

If we had positive support from local business owners or organizations in the downtown area for the grant part of it. We're also asking the Planning Commission for a letter of support. Knowledge from local business owners and people who are in downtown everyday would be helpful.

**Barry Berman, W-Trans**

Getting a diverse set of support letters representing a range of interests in the community would be really helpful. Disadvantaged communities are something Caltrans is looking closely at, so if there are any organizations, maybe a manager of an affordable housing complex near the area, or a group that serves low-income individuals within that area, that could be beneficial. Certainly the business community, and any other constituent groups showing a broad range of support would be helpful.

**Evert Fernandez, Chair**

Again, this is just to qualify for the grant, so we're not making any decisions. If we get the funds, then we'd be able to look at these things, and then we'll open up a discussion on that. One of the other questions regarded climate and greenhouse gas. Can you talk a little more about that?

**Barry Berman, W-Trans**

That's not something that is emphasized with this grant as much. There are other grants within the program that are more climate focused. I think it's something that would support the grant if we can show, for example, that there would be a mode shift and we would reduce vehicle transportation and increase active transportation where you increase transit ridership, that kind of thing. It's not something we need to quantify for the purposes of this.

**Kari Svanstrom, Planning Director**

I live on the north side of town, and whenever I have to go to somewhere around Palm Drive Hospital and I have to go all the way down to where it's two-way, just to get right back up, I think about the extra mileage, the extra traffic, the extra turns, and the greenhouse gas and the VMT. Will there be an opportunity in the grant to look at some of that? There are the pass-through trips in Sebastopol, which if we could get rid of some of that would reduce greenhouse gas and VMT as people are waiting in traffic. The other side of it is all of the very short local trips, which are probably double what they actually need to be because of the one-way system. Would the grant be looking at those types of things as it is analyzing the traffic patterns?

**Barry Berman, W-Trans**

Typically when we look at traffic we're looking more at operations, so vehicle delay, safety, things like that; you're talking about a different analysis. We'll have to see if there's a good tool that's available for that kind of thing. I could think of a few ways to go about it, but that's worth exploring.

**Kari Svanstrom, Planning Director**

I think before implementing something like this it would need to go through CEQA, and that is one of the analyses of what would be the DMT be? What would the greenhouse gas be? One of the questions I saw in the chat is what is the relationship to the Bicycle and Pedestrian Master Plan that is being updated in the next year? Barry, I don't know if W-Trans has thought about this or not, although I know Steve is aware of the Bicycle and Pedestrian Master Plan, but it seems like that is really good timing in terms of taking that comprehensive look. Our current Bicycle and Pedestrian Master Plan is from about 2010, and we've implemented a lot of it. What's next then? Some of that in my mind is the street connectivity and how this might play into that.

**Barry Berman, W-Trans**

Once everything gets completed on Bodega—I don't think it's all funded at this point—I think that completes just about all the bike lanes that were in that plan. What's interesting is that in the last ten years or so there's been a big shift in the whole bicycle facilities

planning to try and create what they call “low level of traffic stress streets,” so creating things like buffers between bike lanes and travel lanes and looking for opportunities to add more protection for bicyclists. So I may not be necessarily putting a new bike lane at this location, it may be a matter of enhancing existing facilities and how that fits in with whatever is done on the streets. Maybe there are a couple of extra feet that could be found for restriping a lane or things like that that where there may be some opportunities to enhance it.

**Evert Fernandez, Chair**

Another question regarding looking at traffic flow, but also keeping in mind what it will cause for shortcuts or surface streets. I’m assuming that definitely will be part of that process, not just saying this is going to increase flow, but what effect it would have on other side streets?

**Barry Berman, W-Trans**

Whoever is doing the analysis would go out and identify a whole set of intersections, because like you said, one could affect the next and the next, etc., so there might be 10-20 intersections that all get analyzed, and when you start doing different scenarios it moves things around, and then you start seeing what those consequences look like.

**Paul Fritz, Vice Chair**

I wanted to follow up on what Kari was talking about earlier about having to go all the way down south and then circle back around at Petaluma Avenue and how that adds to the traffic, and the one thing that stands out in particular, and something that has changed relatively recently, is the popularity of The Barlow. If you’re coming from the north part of town, to get to The Barlow you have to make a lot of loops to get there. You have to go all the way down to Bodega, down Sebastopol Road, and back up Petaluma or Morris. These one-way streets create additional traffic just because you have to loop back around on yourself to get to your destination. I have some other comments about the grant itself. I realize we’re not seeing the full documentation, and traffic is obviously important and we need to know what the traffic implications are, but a big issue of the downtown is it’s not a great place. The sidewalks are too narrow and the traffic there often moves way too fast, particularly when you get south of Bodega, and I think traffic calming there is going to be super important, because it just doesn’t feel like a place that people want to hang out, because it feels more like a highway. We need to think about what we want to be. Do we want to be a place that moves traffic through efficiently, or do we want to be a place where people actually want to spend some time? I just want to make sure the grant has a good amount of emphasis on the urban design and place-making component and not get too caught up in just analyzing the traffic circulation. One issue I talk about a lot is you can walk down Main Street on a Friday or Saturday and hardly see a soul, and then you get to The Barlow and there are hundreds of people there, so how to bring some of that vitality to downtown is an important aspect of this grant. Also, Caltrans published a document about ten years ago called “Main Street California” that talks about when your Main Street is a Caltrans highway it’s a different animal, and they had a lot of good quotes, one of which is, “Livable main streets convey a sense of place and enable communities to thrive,” and that’s an important aspect of this. If we want to create a Main Street that’s really a center and focal point, and something the community can be proud of, and it helps our downtown businesses to thrive, efficient throughput of cars may not be the thing that makes our downtown thrive. I want to make sure we really focus on the pedestrian and alternative methods of transportation in the grant. People are willing to walk farther on Main Street if it’s a pleasant walk, so they wouldn’t mind if they had to park a few blocks away. I want to make sure urban and place-making is incorporated into this grant application, because people are willing to get out of their cars and walk or bike more if they feel comfortable and

safe. In response to Emily Shartin of Sonoma County Bicycle Coalition, letters of support are important and the Bike Coalition would be a great support for this application, and anyone else who represents some organization in town; and as Barry said, having a variety of different types of groups supporting this application goes a long way with Caltrans, so hopefully someone can reach out to the Downtown Association and the Chamber of Commerce and other organizations involved in the downtown to ask for letters of support.

**Barry Berman, W-Trans**

Regarding those support letters, if there is anyone who would be a good speaker on behalf of public health and the benefits of walking and making a more pedestrian-friendly downtown, that would certainly be favorable for this.

**Paul Fritz, Vice Chair**

That's a good idea. In the report you talk about a Complete Streets idea, making sure we talk about wanting to make a complete street, not just a vehicle-oriented street. One thing that is a big problem downtown, which is partially captured in looking at regional partnerships with the County and the Transportation Coalition, is the through traffic of primarily the gravel trucks. A lot of big, loud trucks go through downtown, making it an unpleasant experience and impacting the quality of life, so looking to partner with these other organizations to figure out how to get more control of large trucks coming through the downtown and have less of them.

Vice Chair Fritz made a motion to enable the Planning Commission Chair to sign a letter of support for the Caltrans Transportation Grant.

Commissioner Oetinger seconded the motion.

Chair Fernandez asked for further Planning Commission comments or questions. Seeing none, he asked for a vote on the motion.

AYES: Chair Fernandez, Vice Chair Fritz, and Commissioners Burnes, Oetinger, and Kelley.

NOES: None

ABSTAIN: None

ABSENT: None

**6. PUBLIC HEARINGS:**

**A. Zoning Ordinance Amendment 2022-067**

1. 421 Group, on behalf of Regen West for a Zoning Ordinance amendment to allow cannabis retail delivery only in the Industrial (M) Zone. However, this zoning modification would apply to all Manufacturing Zoning District properties. The Planning Commission will hold a public hearing and provide a recommendation to the City Council for final decision on this amendment.

Associate Planner Jay presented the staff report.

Chair Fernandez asked for Planning Commission questions of staff.

**Paul Fritz, Vice Chair**

Section 360.075, Item B is worded strangely. It says, "The co-located cannabis retail delivery office only are subject to following criteria, are subject to an administrative permit review." Are we saying that they are subject to the criteria below as well as being subject to an administrative permit review?

**Kari Svanstrom, Planning Director**

We can work on that wording to make it clearer. The intent is that we would require an administrative permit; that's how we confirm that they are meeting all the criteria, and if they don't meet those criteria they wouldn't be considered a co-located with manufacturing use; it would be like a bonafide delivery and it would need to go to the Planning Commission for a use permit. The wording could be, "are subject to the following criteria *and* will be evaluated through the administrative permit review process," or something like that. Or we could make it that an administrative permit is required as one of the criteria, and then that would eliminate most of the second part of that sentence.

Chair Fernandez asked for further Planning Commission questions of staff. Seeing none, Chair Fernandez opened public comment and invited the applicant to speak.

The applicant gave a presentation and was available for questions.

The Planning Commission had no questions for the applicant.

**Evert Fernandez, Chair**

Before opening public comment I wanted to reiterate that this isn't an amendment that we would approve that suddenly opens delivery in Sebastopol, because that's already allowed by the State for outside entities coming in and making deliveries. Basically what this would do if enacted would be to say that local businesses can, but I want to make sure it's clear that it doesn't mean that no deliveries could be made.

**Kari Svanstrom, Planning Director**

And we do have three delivery-only licenses that aren't associated with manufacturing use in town, two of which have been issued to Solful and SPARC, and we have a third license for delivery-only that has never been approved and issued. That may have happened if delivery were allowed within the manufacturing zone. The question of if it's delivery and no storefront, that seems appropriate for the manufacturing zone, but until now unless this amendment were passed, delivery-only is not allowed in the manufacturing zone, so it's also kind of already allowed in Sebastopol, just not in this particular zone.

Chair Fernandez opened public comment.

**Yarrow Kubrin**

I'm a 20-year Sebastopol resident. I was on the Sonoma County Growers Alliance, and founding member of the Sonoma Country chapter of the California Cannabis Industry Association. I've held committee positions with the National Cannabis Industry Association, and I'm on the board of the Sonoma County Cannabis Alliance. With respect to this noticing requirement, cannabis is over regulated in California and I don't know why a business has to notify their neighbors if they're making deliveries if they already have the ability to make deliveries for wholesale and the only difference is the recipients, because there is already distribution allowed from this place, so they can already do business-to-business cannabis deliveries. Again, that seems like a lot of administrative burden. The California cannabis industry suffers from over-taxation and a lack of access to retail. It was a big deal to even get another dispensary approved beyond SPARC for Solful; I spoke in favor of Solful as well.

I have no financial interests with The Resourcery or Solful. The direct-to-consumer model increases access and means less traffic in downtown. The argument that there are already a couple of delivery licenses would really be a restriction on trade and the opportunity that regulated cannabis businesses can garner from the facilities that they've already established, which are very expensive to set up. We have two very successful dispensaries in town. I don't see this as something that's going to negatively impact neighbors or where there needs to be a large administrative burden or hurdle to the existing business merely to be able to bolt on this additional capacity. And again, with a distribution license they're already able to make B-to-B deliveries, the only question is whether they can make B-to-C deliveries. If we're going to support cannabis we destigmatize it by treating it like most other businesses, which means we lower the regulatory hurdle, and I invite the Planning Commission to think about this in a way that's consistent with the way that we regulate other businesses. To my knowledge, The Resourcery hasn't had any issues there and this is an easy no-brainer, and you support other cannabis businesses in doing that, because this is a standard that would be applied to Industrial and not just to The Resourcery. I'm a zoning geek with 20 years real estate experience and 20 units of real estate in college, and I can't think of a single compelling argument why an industrially zoned property couldn't easily accommodate delivery vehicles. Thank you.

**Zac Guerinoni, Ahti Farms**

I am the co-founder of Ahti Hash, one of the licensed manufacturers here in Sebastopol. There's not much to follow up with after Yarrow and Andrew; they pretty much nailed everything on the head. The cannabis industry is clearly in dire need of some support, and allowing a direct-to-consumer option for the existing licensed business would be a huge help. Thank you.

Chair Fernandez asked for further public comments. Seeing none, Chair Fernandez closed public comment.

Chair Fernandez made a motion to approve Zoning Ordinance Amendment 2022-067.

Vice Chair Fritz seconded the motion.

Chair Fernandez asked for further Planning Commission comments. Seeing none, he asked for a vote on the motion.

AYES: Chair Fernandez, Vice Chair Fritz, and Commissioners Burnes, Kelley, and Oetinger.

NOES: None

ABSTAIN: None

ABSENT: None

**7. REGULAR AGENDA ITEMS**

**A. Proposed Fiscal Year 2023-24 Parks Budget**

Director Svanstrom presented the staff report.

Chair Fernandez asked for Planning Commission questions of staff.

**Evert Fernandez, Chair**

We've looked at this before, so is this just more updates?

**Kari Svanstrom, Planning Director**

We do our budget on a yearly basis, but our Capital Improvement Plan does look out a couple of years. Capital projects are multi-year projects because they're large and span more than one year, What we're doing right now is we are required to submit our budget for fiscal year 2023-24, so from July 1<sup>st</sup> of this year to June 30<sup>th</sup> of next year, and we use this as an opportunity to update projects that are delayed and request they be pushed to a later year. What we're doing tonight is a check-in before I submit the budget. It then goes to the Budget Subcommittee, which will go through and talk about all the capital improvements and City department budgets, and they give their recommendations to City Council and the Council discusses it and adopts it in a May-June timeframe. Once Council has had its first hearing on the Capital Improvement Plan you will see all of those projects coming back to you to have a hearing on General Plan consistency, so in June you'll see what the final Council recommendation is for the parks projects as well as all the other capital projects in the City.

**Evert Fernandez, Chair**

For example, you mentioned the Ives Park pool exterior shower, and the budget shows that \$75,000 of it is unfunded. Let's say you spend the money for pre-design, and then if you don't get the rest of it funded does that design expire and you have to do a new one? How do you determine what to move forward with, particularly with items that are not completely funded?

**Kari Svanstrom, Planning Director**

There are two kinds of projects. The shower is probably a smaller one, in that it is \$100,000; for a city budget it's not that huge. It's not the Calder Creek restoration, which is a multi-million project, so the funding is kind of foreseeable; in this case we do have this money in the reserves. For a smaller project like this it's okay to do the design knowing that you're going to be able to fund it in the next year or so. Our job as staff and City grant writers is to start to identify funding sources for some of these, and if we can do it without the park fund, that's always helpful. With respect to the Ives Park exterior shower, I spoke with folks at the Community Development Commission since they thought this would potentially be available for homeless folks with tokens to come and get showers. In speaking with them, there aren't any funding sources at the County level for that. I think one that is a little more questionable, because it is not in the master plan, this Commission has recommended that this not be funded with parks money, which is why the funding that is identified for it is not in the parks funding. The larger projects like Calder Creek, yes, you do have to get to a certain level before you can go out for grants, you do have to spend some money upfront, and that's what CUSP is trying to help us with. I think Barry Bergman just talked in his presentation about the Caltrans grant; that would get you to about 30% design. It's basically you've gotten to the point where you know it's realistic, and the construction details still need to be worked out, but it's enough that you have the feasibility and some of the general design done, and the community participation and voter confidence from the City Council, and that's where we're at with the Calder Creek project. We know we don't have funding for it and we're going to have to go after grant money. We have a few ideas of where that money might come from, but we need to do this initial work, which CUSP is trying to get us dollars right now. That's how you attempt to do the really big projects, and sometimes, like the Ives Park Master Plan, it is a long time and you end up doing some updates, and there is the trick of not doing a bunch of design work that's going to get changed in a few years. The Americorps Trail is one where they probably didn't do quite enough design before submitting for the grant, which is why it's taking a bit more time.

**Evert Fernandez, Chair**

I don't know if it's realistic to consider putting together a budget that takes into consideration what impacts it would have on future project maintenance, just to have an idea of what resources the City is committing to in the future.

**Kari Svanstrom, Planning Director**

I think it is realistic, and it might be in our General Plan to make sure that we're doing that. I spent a decade doing planning and public architecture that was all public and park facilities, and there is definitely a component of what kinds of surfaces and materials you use in terms of it might be more expensive up front, but from a maintenance standpoint they're a lot easier to take care of, and that is definitely a critical factor. But yes, that's the other component, do we need that or not?

**Kathy Oetinger, Commissioner**

I was looking at the South Main Street parklet, and the description says, "Develop design features for parklet in the downtown area." Is that particular to this site, or if we develop components and styles, would those same design elements be used at a future parklet at another site, or is the design element feature just for this site?

**Kari Svanstrom, Planning Director**

The City is actually handling this in a two-fold approach. Right now we are working on design guidelines for parklets, so this is not just for Caltrans streets but for City streets too, and people can propose them and the Design Review Board would review them just like residential or commercial design guidelines. We had one meeting on those design guidelines with our Design Guideline Subcommittee, and a second meeting scheduled for the end of February. That will go to Council in late March, and then come to the Planning Commission for final review and adoption. That's why the design work cost is almost as much as the parklet, because it's the more comprehensive approach. Then the construction of the one would be for that one particular location. The idea is they may have some of the same elements, but you could vary them so they don't all look the same. Because it's a parklet, it's being funded through the Building and Facility fund.

Chair Fernandez asked for further Planning Commission questions of staff. Seeing none, Chair Fernandez opened public comment. Seeing none, Chair Fernandez closed public comment.

The Commission discussed the application as follows:

**Paul Fritz, Vice Chair**

I think it all looks reasonable. We've seen most of these projects in some capacity previously and it's good to see them moving forward through the process, and I'm glad some of these have money to move forward. I don't have any changes at this point.

Vice Chair Fritz made a motion to approve the proposed fiscal year 2023-24 Parks Budget as presented.

Commissioner Oetinger seconded the motion.

Chair Fernandez asked for further Planning Commission comments. Seeing none, he asked for a vote on the motion.

AYES: Chair Fernandez, Vice Chair Fritz, and Commissioners Burnes, Kelley, and Oetinger.

NOES: None

ABSTAIN: None

ABSENT: None

**8. SUBCOMMITTEE UPDATES** – None.

**9. PLANNING DIRECTOR’S REPORT**

**A. Public Meeting Update (Starting in March)**

**B. Liaison List**

Director Svanstrom and Associate Planner Jay provided updates.

The Commission asked questions of Director Svanstrom and Associate Planner Jay.

**9. ADJOURNMENT:** Chair Fernandez adjourned the meeting at 8:44 p.m. The next regularly scheduled Planning Commission meeting will take place on Wednesday, February 28, 2023 at 6:00 p.m.

RESOLUTION NO. 2023-01

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEBASTOPOL  
RECOMMENDING THE CITY COUNCIL ADOPT AMENDMENTS TO THE ZONING ORDINANCE TO ALLOW  
CANNABIS RETAIL DELIVERY (OFFICE-ONLY) AS A PERMITTED USE WITHIN THE INDUSTRIAL (M) DISTRICT

1. Whereas, the City of Sebastopol completed a comprehensive General Plan update with adoption of a new General Plan on November 15, 2016; and
2. Whereas, the new General Plan includes policies and actions related to Economic Vitality, including;
  - a. *Policy EV 4: Emphasize Sebastopol's Roles as a Market, Service, and Tourism Hub for the West County and as a Gateway to the Coast.*
  - b. *Policy EV 5: Enhance the City's existing Businesses, Encourage Startup Businesses, and Support Home-based Businesses. And,*
3. Whereas, the Zoning Ordinance amendment includes other clarifying and policy changes identified by the Planning Department staff, the Planning Commission, and City Council; and
4. Whereas, the Planning Commission conducted a study session at a duly-noticed public meeting on November 8, 2022, to review the draft Zoning Ordinance, accepted public comment, and provided direction to staff related to the applicant's request; and
5. Whereas, the Planning Commission held duly-noticed public hearings on the draft Zoning Ordinance on February 14, 2023, to review the draft Zoning Ordinance modifications, accepted public comment, and, following a public hearing, adopted a resolution recommending City Council adopt the proposed ordinance; and
6. Whereas, pursuant to the California Environmental Quality Act (CEQA, codified at Public Resources Code § 21000 *et seq.*) and the State CEQA Guidelines (14 CCR, § 15000 *et seq.*), on November 15, 2016, the City Council certified and adopted an Environmental Impact Report (EIR) for the Sebastopol General Plan (the "Project"; State Clearinghouse No. 2016032001); and
7. Whereas, pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same Project unless substantial changes are proposed; and

8. Whereas, the Planning Commission finds that no substantial changes have occurred, and concurs with the staff determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of the Zoning Ordinance amendment; and
9. Whereas, the Planning Commission finds that the Zoning Ordinance amendment is categorically exempt from the California Environmental Quality Act (CEQA), Class 5, minor alterations in Land Use Limitation exemption, in that it does not change existing land use categories in the General Plan, nor does it change existing Zoning Map classifications, and would not change density allowance on any property in the City; and further that it is exempt from the requirements of CEQA pursuant to Section 15061(b) (3) of the CEQA Guidelines in that it represents an evolution 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.
10. Whereas, the Planning Commission finds that the Zoning Ordinance amendments are compatible with the general objectives of the General Plan, in that the amendments are consistent General Plan policies and standards, thereby enhancing consistency between the General Plan and Zoning Ordinance; and
11. Whereas, the Planning Commission finds that the amendments will be in conformity with public convenience, general welfare, and good land use practice, in that the revisions are also intended to clarify the regulations and facilitate ease of use and understanding, as well as to establish appropriate standards and procedures; and
12. Whereas, the Planning Commission finds that the amendments will not be detrimental to the public health, safety and general welfare, and will not adversely affect the orderly development of property, in that they will harmonize the General Plan and Zoning Ordinance, better express the City's policies, and generally promote good land use planning and regulation.
13. Whereas, the Planning Commission finds that the amendments will not adversely affect the orderly development of property, in that the amendments will provide additional business opportunities within this district.

**NOW, THEREFORE, the Planning Commission of the City of Sebastopol hereby recommends the City Council of the City of Sebastopol adopt the amendments to the zoning Ordinance to allow Cannabis Retail Delivery (Office-only) as a Permitted Use within the INDUSTRIAL (M) Zoning District.**

**Approved on February 14, 2023 by the following vote:**

AYES: Chair Fernandez, Vice Chair Fritz, Commissioners Burnes, Kelley, Oetinger

NOES:

ABSTAIN:

ABSENT:

Certified:  \_\_\_\_\_

Kari Svanstrom, Planning Director