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PAID

JAN 24 2020

CITY OF MORGAN HILL

*Received by
City Clerk's office* AB

January 24, 2020

VIA HAND DELIVERY

Irma Torrez, City Clerk
City of Morgan Hill
17575 Peak Ave
Morgan Hill, CA 95037

Dear Ms. Torrez,

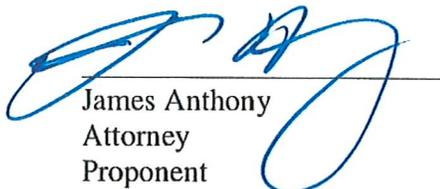
Attached please find a copy of the text of a proposed initiative and Notice of Intent to Circulate Petition, which sets forth the reasons for the proposed petition. Douglas Chloupek, Chair of MH Voters for Public Health & Safety, and myself, James Anthony, are the proponents of the foregoing initiative measure. Enclosed is a check for \$200 to cover the filing fee for the petition.

Pursuant to California Elections Code Sections 9202 and 9203, this is a request that a ballot title and summary be prepared. It is my understanding that the City Attorney will prepare a title and summary within 15 days and that you will provide the summary to us upon receipt from the City Attorney.

Douglas and I have signed and attached hereto Declarations required pursuant to Elections Code Section 9608.

Please contact my offices if you require any additional information or have any questions. Thank you for your assistance, and for all your public service, always.

Sincerely yours,


James Anthony
Attorney
Proponent


Douglas Chloupek
Chair, MH Voters for Public Health & Safety
(MHVPHS)
Proponent

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, James Anthony, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signature for this initiative to be used for any purpose other than qualification of the measure for the ballot.



James Anthony
Proponent

Dated this 24th day of January, 2020.

DECLARATION PURSUANT TO ELECTIONS CODE SECTION 9608

I, Douglas Chloupek, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signature for this initiative to be used for any purpose other than qualification of the measure for the ballot.



Douglas Chloupek
Proponent

Dated this 24th day of January, 2020.



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Notice of Intent to Circulate Petition (Election Code §9202)

Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Morgan Hill for the purpose of prohibiting commercial cannabis cultivation, volatile manufacturing, microbusiness, and delivery businesses from locating in the City, and also regulating and permitting up to three each of store-front retail, non-volatile manufacturing, distribution, and testing laboratory businesses in the City.

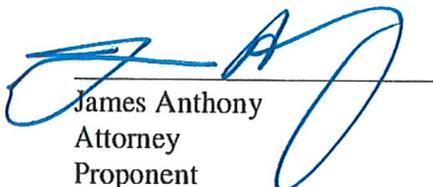
A statement of reasons of the proposed action as contemplated in the petition is as follows:

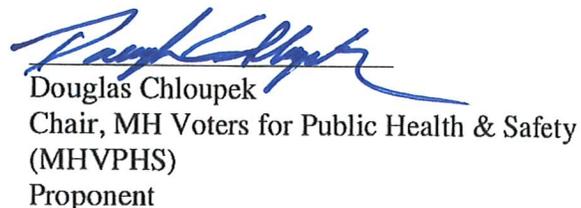
The purpose of this ordinance is to preserve and enhance public health and safety while balancing the need for some regulated cannabis business. It will prohibit commercial cannabis cultivation, volatile manufacturing, micro business, and delivery businesses from locating in the City. It will regulate and permit up to three each of storefront retail, non-volatile manufacturing, distribution, and testing laboratory businesses. It will add additional regulations on top of the comprehensive statewide regulatory program.

The purpose of the ordinance is to strictly regulate and control some cannabis businesses while prohibiting others. The Chief of Police will be responsible for evaluating and selecting permit applicants to prioritize public safety. Zoning shall be strictly controlled and cannabis businesses de-concentrated and spread out by permit category so as to reduce any possible concentration effects. Proximity restrictions will be imposed to provide buffer zones between cannabis businesses and schools, day cares, youth centers, and residences to protect sensitive uses. It will provide regulated retail access for medical use, and for responsible over-21 adult use, to effectively combat the underground market both in the City and by unlicensed delivery. Only Morgan Hill licensed retail shall be allowed to deliver from the City which is the strictest delivery regulation allowed under state law which bars prohibiting licensed delivery from outside.

All cannabis businesses will be required to follow strict state and local security requirements. These shall be adhered to at all cannabis business locations under the supervision of the Chief of Police. The intent of the ordinance is to allow some responsible cannabis businesses in Morgan Hill while preserving public health and safety.

Respectfully submitted by Proponents pursuant to Election Code §9202.


James Anthony
Attorney
Proponent


Douglas Chloupek
Chair, MH Voters for Public Health & Safety
(MHVPHS)
Proponent

THE PEOPLE OF THE CITY OF MORGAN HILL ORDAIN AS FOLLOWS:

INITIATIVE SECTION I - PURPOSE AND APPLICATION

The people of the City of Morgan Hill find and declare:

It is the purpose and intent of this Initiative to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically-ill persons and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to adult-use cannabis for persons over the age of 21 as authorized by the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA” or “Proposition 64”, passed by California voters in 2016), while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Initiative to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution and transportation of cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City of Morgan Hill and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this Initiative to require all commercial cannabis operators to obtain and renew annually a permit to operate within the City of Morgan Hill. Nothing in this Initiative is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or federal law. The provisions of this Initiative are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approvals required under state, City, or other law. Cannabis, Cannabis Products, Cannabis Consumption, Cannabis Accessories, and Cannabis Businesses shall be strictly and exclusively controlled by this Initiative, by Chapter 5.48, by Section 18.92.090, and by any non-conflicting state law and regulations including without limit those promulgated by the Bureau of Cannabis Control, The California Department of Public Health, and the California Department of Food and Agriculture, notwithstanding any other provision of this Morgan Hill Municipal Code.

INITIATIVE SECTION II – City of Morgan Hill Municipal Code Title 5 BUSINESS LICENSES GENERALLY is amended to add a new Chapter to read as follows:

Chapter 5.48 COMMERCIAL CANNABIS ACTIVITY.

Section 5.48.010. Purpose, Intent, and Exclusive Application.

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of medically-ill persons and provide access to cannabis for medicinal purposes as recommended by their health care provider(s), and to provide access to adult-use cannabis for persons over the age of 21 as authorized by the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA” or “Proposition 64”, passed by California voters in 2016), while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative

impacts. As such, it is the purpose and intent of this Chapter to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution and transportation of cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City of Morgan Hill and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this Chapter to require all commercial cannabis operators to obtain and renew annually a permit to operate within the City of Morgan Hill. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approvals required under state, City, or other law. Cannabis, Cannabis Products, Cannabis Consumption, Cannabis Accessories, and Cannabis Businesses shall be strictly and exclusively controlled by this Chapter 5.48, by Section 18.92.090, and by any non-conflicting state law and regulations including without limit those promulgated by the Bureau of Cannabis Control, The California Department of Public Health, and the California Department of Food and Agriculture, notwithstanding any other provision of this Morgan Hill Municipal Code.

Section 5.48.020. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter “MAUCRSA”), and any subsequent state legislation and/or regulations regarding same, the City of Morgan Hill is authorized to adopt ordinances that establish standards, requirements, and regulations for the licensing and permitting of commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Morgan Hill to all commercial cannabis activity.

Section 5.48.030. Cannabis Cultivation and Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized in this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, delivery, distribution or transportation (other than as provided under Bus. & Prof. Code Section 26090(e)), of cannabis or cannabis products is expressly prohibited in the City of Morgan Hill.

Section 5.48.040. Compliance with State and Local Laws.

It is the responsibility of the owners and operators of the commercial cannabis business to ensure that it is always operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state or local law with respect to the operation of a commercial cannabis business. It shall be the responsibility of the owners and the operators of the commercial cannabis business to ensure that the commercial cannabis business is, at all times, operating in a manner compliant with all

applicable federal, state and local laws, including the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), and any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions that violate federal or state law regarding the operation of a commercial cannabis business.

Section 5.48.050. Definitions.

All definitions pertaining to cannabis regulation that appear in Business and Professions Code Section 26001, as codified by Senate Bill 94, and the Medical and Adult Use Cannabis Regulation and Safety Act of 2017 (MAUCRSA), are hereby incorporated by reference. Definitions appearing in this ordinance are either those that are not covered by state law, pre-date Proposition 64 and the MAUCRSA, or are outside the scope of Section 26001. All definitions found in Section 18.92.090 are also incorporated herein by reference whether restated below or not.

- A. “Cannabis Accessories” means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.
- B. Cannabis Consumption means ingesting cannabis or cannabis products in any form and by any means.
- C. “Cannabis Retail (Non-Storefront)” means a cannabis business that sells cannabis products for either medical or recreational use exclusively through delivery from a licensed physical location that is not open to the public and is operated in accordance with state and local laws and regulations.
- D. “Cannabis Retail (Storefront)” means a cannabis business that sells, on premises or by delivery, cannabis products for either medical or recreational use from a licensed physical location and is operated in accordance with state and local laws and regulations.
- E. “Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- F. “Distribution” shall be defined in accordance with the MAUCRSA, Business and Professions Code section 26001, and other applicable State laws. Distribution shall include the commercial acts of shipping, storing, and warehousing medical cannabis.

- G. “Distributor” has the same meaning as that appearing in Section 26070 of the Business and Professions Code.
- H. “Commercial cannabis business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.
- I. “Commercial cannabis business permit” means a regulatory permit issued by the City of Morgan Hill pursuant to this Chapter, to a commercial cannabis business and is required before any commercial cannabis activity may be conducted in the City. The initial permit and annual renewal of a commercial cannabis business is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the commercial cannabis activity at issue.
- J. “Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- K. “Limited-access area” means an area in which cannabis is stored or held and is only accessible to some licensee and authorized personnel.
- L. “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.
- M. “Manufacturing site” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Morgan Hill and, a valid state license as required for manufacturing of cannabis products.
- N. “Non-volatile solvent” means any solvent used in the extraction process that is not a volatile solvent as defined by state law. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide (CO₂) used for extraction and ethanol used for extraction or post-extraction processing.
- O. “Microbusiness” shall have the same meaning as that contained in Section 26070(a)(3) of the Business and Professions Code.
- P. “Package” means any container or receptacle used for holding cannabis or cannabis products.
- Q. “Patient” or “qualified patient” shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended,

and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.22.

- R. "Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.
- S. "Processing" means a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis and nonmanufactured cannabis products.
- T. "Retailer" shall have the same meaning as the definition appearing in Section 26070(a)(1) of the Business and Professions Code.
- U. "State license" means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same to engage in commercial cannabis activity. A state license alone will not authorize the holder to operate a cannabis business, as state law also requires a permit or other authorization issued by a local jurisdiction.
- V. "Topical cannabis" means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- W. "Transport" means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same. Transport can only be performed by licensed distributors and does not include deliveries of cannabis or cannabis products.

Section 5.48.060. Commercial Cannabis Business Permit Required to Engage in Commercial Cannabis Business.

- A. No person may engage in any commercial cannabis business or in any commercial cannabis activity within the City of Morgan Hill including cultivation, manufacturing, processing, laboratory testing, transporting, dispensing, distribution, or sale of cannabis or a cannabis product unless the person (1) has a valid commercial cannabis business permit from the City of Morgan Hill; (2) has a valid State of California Seller's Permit; and (3) is currently in compliance with all applicable state and local laws, including Section 18.92.090 as amended, and regulations pertaining to the commercial cannabis business and the commercial cannabis activities, including the duty to obtain any required state licenses.

- B. No permit shall be issued pursuant to this Chapter for commercial cannabis cultivation, which is prohibited. It is a violation of this Chapter for any person or entity to engage in any indoor, mixed-light or outdoor commercial cannabis cultivation of any kind.

Section 5.48.070. Evidence of Cannabis Employee Background Check Required.

- A. Any person who is an owner, manager, supervisor or employee or who otherwise works within a commercial cannabis business must be legally authorized to do so under applicable state law.
- B. Commercial cannabis business owners and operators shall be required to have all owners, operators, managers, supervisors or employees submit, when required by state law, to a Live Scan, and provide additional background information as determined by the Chief of Police prior to working at the permitted location. Failure to comply with this requirement or be approved by the Chief of Police shall disqualify the individual from being authorized to work in the City.
- C. The criminal background checks completed by commercial cannabis business owners, operators, managers, supervisors or employers must at a minimum identify the following:
 - 1. Whether the individual applying for employment has ever been convicted of a violent felony as defined by California Penal Code 667.5, or equivalent offenses in other states;
 - 2. Whether the individual applying for employment has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or equivalent offenses in other states; or
 - 3. Whether the individual applying for employment has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, not including cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.
- D. Evidence of a conviction of any of the offenses enumerated in Section 5.48.070(c)(1-3) shall be grounds for denial of employment. The Chief of Police shall have 10 calendar days to make this determination after which time the applicant shall be deemed approved. Employers who wish to hire an individual notwithstanding this rule shall apply to the Chief of Police, who at his/her sole discretion may issue a written waiver.

- E. Violation of this section shall be grounds for immediate suspension of the business' operating permit, pending a hearing before the Chief of Police and the Chief of Police within 30 days for a final determination of the status of the permit.

Section 5.48.080. Personnel Prohibited from Holding a License or from Employment with a Cannabis Business Permittee.

Any person, including but not limited to any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, in which any of the following actions or notices have been issued for non-compliance, shall be prohibited from holding a cannabis commercial license or from employment with a cannabis business permittee in the City of Morgan Hill:

- A. The applicant has had a license suspended or revoked in the previous three years that was not subsequently restored by any City, county, City and county or any other state cannabis licensing authority;
- B. The applicant was notified that it was conducting commercial cannabis activity in violation of Title 18 or other City of Morgan Hill ordinances, codes and requirements, and failed to cure the violation in a timely manner;
- C. Evidence that the applicant is delinquent in payment of federal, state or local taxes and/or fees, and took no steps to cure the delinquency when notified by the appropriate agencies;
- D. As of July 1, 2019, the applicant was conducting commercial cannabis activity in the City of Morgan Hill in violation of local and state law.
- E. No person shall be issued a commercial cannabis permit to operate who enters into either a verbal or written agreement to lease, sublease, or any other agreement for any terms of use of the premises granted by a property owner, commercial broker or any third party, that is in violation of Section 5.48.060 unless that property is leased at fair market value. Any such lease, sublease or agreement shall not contain terms or conditions requiring the cannabis permit licensee to pay the property owner, commercial broker, or any third party a percentage of gross receipts, royalties, equity, or other unreasonable compensation as determined by the City. In addition, all leases, subleases, or other agreements must be based on a monthly rate.

Section 5.48.090. Number and Type of Authorized Commercial Cannabis Businesses Permitted.

- A. Three (3) Cannabis Retail (Storefront) operators shall be permitted.

- B. Three (3) Cannabis Distribution operators shall be permitted.
- C. Three (3) Cannabis Non-Volatile Solvent Manufacturing operators shall be permitted.
- D. Three (3) Cannabis Testing laboratory operators shall be permitted.

Section 5.48.100. Initial Application Procedure.

- A. The Chief of Police shall adopt the procedures given here to govern the application process and the issuance of any commercial cannabis business permit(s). The Chief of Police is required to use the following detailed objective review criteria to be evaluated on a 1,000-point system. The review criteria ("Review Criteria") are as follows: Business Plan and Operation, 150 pts; Management Experience, 100 pts; Safety and Security Plan, 100 pts; Community Benefits Proposal, 100 pts; Minority, Veteran, or Woman owned status, 50 pts; Environmental Plan, 50 pts; Labor and Employment Practices, 50 pts; Local Ownership, 150 pts (to be awarded in full for a minimum of either a) 25% equity ownership in the company, or b) 10% or more equity ownership in the company by the majority shareholder of a company with more than 1,000 shareholders, by verified City of Morgan Hill residents); additionally an in-person Interview with the Chief of Police reviewing the above criteria, 250 pts.
- B. The Chief of Police or his/her designee(s) shall within 45 days of the effective date of this ordinance prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, and start to solicit applications for a two-week application period. The Review Criteria shall constitute the substantive sections of the application. Applicant responses to each section shall be not longer than two (2) pages per 50 points of total possible points for the associated Review Criteria. Upon the close of the application period he/she shall conduct initial evaluations of the applications for completeness. Only complete applications that have been verified as fully compliant with all zoning requirements by the Development Services Director pursuant to Section 5.48.110(a) and all applicable sections of the Morgan Hill Municipal Code shall be scored. All other applications shall be disqualified as either incomplete or zoning non-compliant, and not scored. Before the interview portion, the Chief of Police or his/her designee(s) shall score all the other application sections. Only the top six (6) highest scoring applicants in each business category shall be interviewed, and have up to an additional 250 points added on the basis of that interview.
- C. At the time of filing an application with the Chief of Police, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process. The application must include a valid copy of a signed lease or other proof of legal right to occupy the proposed property; any application that does not include this documentation, and, as required by Section 5.48.240, the

signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the commercial cannabis business on the owner's property, will be disqualified.

- D. After the initial review, ranking, and scoring under the Review Criteria, the Chief of Police or his/her designee(s) will make a final determination in accordance with this section.
- E. The application procedure process shall include a component on community benefits. Any community benefits that a commercial cannabis business agrees to provide shall be incorporated into the terms and conditions under which the commercial cannabis business will operate with the City's approval, if and when an operating permit is issued. Such terms and conditions shall be in addition to the requirements of this Chapter. Community benefits shall include, but not be limited to: in-kind donations; sponsorship of community events; support, financial or otherwise, for special community events such as fairs, afterschool programs, youth centers, Boys and Girls Clubs, local schools whether public or private; school athletic programs; school clubs; community centers, senior centers and senior living facilities, and parks and recreation.
- F. The City reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other justification provided, or a failure to comply with other requirements in this Chapter, an application RISKS BEING REJECTED for any of the following reasons:
 - 1. The application was received after the designated time and date of the deadline.
 - 2. The application did not contain the required elements, exhibits, or was not organized in the required format.
 - 3. The application was considered not fully responsive to the request for a permit application, i.e. was substantially incomplete.

Section 5.48.110. Permittee Selection Process.

The Chief of Police shall adopt a procedure guideline using the Review Criteria by which the top applicants in each category of each commercial cannabis business shall be evaluated in a final determination by the Chief of Police.

- A. Upon receiving the applications from the applicants, the Chief of Police shall transmit the locations and business types to the Development Services Department in the exact time order in which they were filed with the City by the applicants. The Development Services Director shall have

ten (10) days to review the locations and verify that they meet all zoning requirements.

- B. The Chief of Police or his designee shall score all the application based on the Review Criteria within 45 days of the close of the application period and shall within the following 30 days interview the top six (6) applicants in each category, adding additional points on that basis.
- C. The Chief of Police shall evaluate the final candidates and shall select the top candidates in each category of the commercial cannabis businesses, as provided in the procedure outlined above and per the final scoring of the Review Criteria. The three (3) applicants in each permit category that scored the highest after the interview portion shall be awarded permits, provided that they are in different eligible zoning districts. This is to ensure that businesses in each permit category are deconcentrated and spread out in different eligible zoning districts. Only the highest scoring applicants in each permit category in three (3) different zoning districts shall be awarded a permit for each category. If two or more of the highest scoring applicants in the same permit category are in the same zoning district, only the highest scoring one shall be awarded a permit; the others shall be disqualified, and the next highest scoring applicant in a different zoning district shall be awarded a permit, and so on for each permit category.
- D. The Chief of Police's decision as to the selection of the prevailing candidates shall be final, pending an appeal, in the event an appeal is filed.
- E. Issuance of a commercial cannabis business permit does not create a land use entitlement. The commercial cannabis business permit shall only be for a term of twelve (12) months and shall expire at the end of the twelve (12) month period unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit, have been complied with, and until a state license is available and obtained by the permitted operator as set forth in Section 5.48.060.
- F. If an application is denied, a new application may not be filed for one (1) year from the date of the denial.
- G. Each person granted a commercial cannabis business permit shall be required to pay the permit fee established by resolution of the City Council, to cover the costs of administering the commercial cannabis business permit program created in this Chapter.

Section 5.48.120. Expiration of Commercial Cannabis Business Permits.

Each commercial cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Commercial cannabis permits may be renewed as provided in Section 5.48.130.

Section 5.48.130. Renewal of Cannabis Business Permits.

An application for renewal of a commercial cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.

- A. The renewal application shall contain all the information required for new applications or as determined by the Chief of Police which may be modified from time to time in accordance to 5.48.410.
- B. The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- C. An application for renewal of a commercial cannabis business permit shall be rejected if any of the following exists:
 - 1. The application is filed less than sixty (60) days before its expiration.
 - 2. The commercial cannabis business permit is suspended or revoked at the time of the application.
 - 3. The commercial cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application, assuming it has already officially been occupied, opened, and commenced operations.
 - 4. The commercial cannabis business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter.
 - 5. The permittee fails or is unable to renew its State of California license.
 - 6. If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, of the City Ordinance, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the commercial cannabis business permit.
- D. The Chief of Police or his/her designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the Chief of Police or his/her designee(s) is authorized to impose

additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the Chief of Police or his/her designee(s) shall be handled pursuant to Sections 5.48.160 through 5.48.180.

- E. If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.

Section 5.48.140. Revocation of Permits.

Commercial cannabis business permits may be revoked for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to Sections 5.48.100 or 5.48.110, or pursuant to any policy, procedure or regulation in this Chapter.

Section 5.48.150. Effect of State License Suspension, Revocation, or Termination.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial cannabis business, such revocation or termination shall also revoke or terminate the ability of a commercial cannabis business to operate within the City of Morgan Hill. At the Police Chief's discretion, the cannabis business owner may re-apply for a local permit at such time as it can demonstrate that the grounds for revocation of the license by the state no longer exist, or that the underlying deficiency has otherwise been cured.

Section 5.48.160. Appeals.

Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the Chief of Police or his/her designee(s), the appeal shall be conducted as prescribed in this Chapter.

Section 5.48.170. Written Request for Appeal.

- A. Within ten (10) calendar days after the date of a decision of the Chief of Police or his/her designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- B. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

Section 5.48.180. Appeal Hearing Process.

- A. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Manager. The City Manager shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set forth by the City.
- B. The appeal shall be held within a reasonable time after date of filing, but in no event later than fifteen (15) working days from that date. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
- C. At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- D. If the decision of the City Manager is to grant the appeal, then the applicant may move forward as though approved initially.
- E. If the decision of the City Manager is to deny the appeal, then the applicant may file a second appeal with the City Clerk within ten (10) days of being notified of the denial. The second appeal shall be heard by the City Council.
- F. The second appeal shall be held within a reasonable time after the date of filing, but in no event later than fifteen (15) working days from that date. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
- G. If the decision of the City Council is to grant the appeal, then the applicant may move forward as though approved initially.
- H. If the decision of the City Council is to deny the appeal, then that decision shall be final.

Section 5.48.190. Change in location; updated registration form.

- A. Any time the dispensing, manufacturing, transportation, testing, or distribution location specified in the regulatory permit is changed, the applicant shall re-register with the Chief of Police or his/her designee(s). The fees for re-registration shall be established by resolution of the City Council, to cover all costs incurred by the City in the re-registration process.
- B. Within fifteen (15) calendar days of any other change in the information provided in the registration form or any change in status of compliance with the provisions of this Chapter, including any change in the commercial cannabis business ownership or management members, the applicant shall file an updated registration form with the Chief of Police or his/her designee(s) for review along with a registration amendment fee

which shall be established by resolution of the City Council, to cover all costs incurred by the City in the registration amendment process.

Section 5.48.200. Transfer of Cannabis Business Permit.

- A. The owner of a cannabis business permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to the permit from the Chief of Police or his/her designee stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Chief of Police or his/her designee in accordance with all provisions of this Chapter (as though the transferee were applying for an original cannabis business permit). The proposed transferee's application shall be accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the application fee).
- B. The Chief of Police or his/her designee shall conduct a hearing to determine whether the transferee passed the background check required for permittees and meets all other requirements of this Chapter.
- C. Commercial cannabis business permits issued through the grant of a transfer by the Chief of Police or his/her designee shall be valid for a period of one year beginning on the day the Chief of Police or his/her designee approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.
- D. Changes in ownership of a permittee's business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the Chief of Police or his/her designee through the transfer process contained in this subsection (a). Failure to comply with this provision is grounds for permit revocation.
- E. A permittee may change the form of business entity without applying to the Chief of Police or his/her designee for a transfer of permit, provided that either:
 - 1. The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or
 - 2. If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and in compliance with Section 5.48.020, provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed

on the City permit application) of the original permittee entity are the same as the new business entity.

Although a transfer is not required in these two circumstances, the permit holder is required to notify the Chief of Police in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.

- F. No commercial cannabis business permit may be transferred when the Chief of Police or his/her designee has notified the permittee that the permit has been or may be suspended or revoked.
- G. Any attempt to transfer a commercial cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.

Section 5.48.210. City Business License.

Prior to commencing operations, a commercial cannabis business shall obtain a City of Morgan Hill business license.

Section 5.48.220. Building Permits and Inspection.

Prior to commencing operations, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), the Morgan Hill Fire Department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

Section 5.48.230. Certification from the Development Services Director.

Prior to commencing operations, a commercial cannabis business must obtain a certification from the Development Services Director or his/her designee(s) certifying that the business is located on a site that meets all of the requirements of sections 5.48.250, 5.48.310, and 18.92.090, as amended.

Section 5.48.240. Right to Occupy and to Use Property.

As a condition precedent to the City's issuance of a commercial cannabis business permit pursuant to this Chapter, any person intending to open and to operate a commercial cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from the property owner, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the commercial cannabis business on the owner's property.

Section 5.48.250. Location and Design of Cannabis Businesses.

All cannabis businesses shall comply with the requirements of Section 18.92.090 of this Code.

Section 5.48.260. Limitations on City's Liability.

To the fullest extent permitted by law, the City of Morgan Hill shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any commercial cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the commercial cannabis business permit:

- A. Execute an agreement, in a reasonable form approved by the City attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Morgan Hill, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the commercial cannabis business permit, the City's decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the commercial cannabis business or any of its officers, employees or agents.
- B. Maintain two million dollars of general liability insurance coverage limits.
- C. Reimburse the City of Morgan Hill for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City of Morgan Hill may be required to pay as a result of any legal challenge related to the City's approval of the applicant's commercial cannabis business permit, or related to the City's approval of a commercial cannabis activity. The City of Morgan Hill may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

Section 5.48.270. Records and Recordkeeping.

- A. Each owner and operator of a commercial cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each commercial cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the

request), provided on a per- month basis. The statement shall also include gross sales for each month, and all applicable taxes and fees paid or due to be paid. On an annual basis, each owner and operator shall submit to the City an independent financial audit of the business's operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review - as determined by the Chief of Police or his/her designee(s).

- B. Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding a financial interest in, as defined in state law, the commercial cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the Chief of Police or his/her designee(s) upon a reasonable request.
- C. Each commercial cannabis business shall maintain a record of all persons, patients, collectives and primary caregivers served by the commercial cannabis business, only to the extent required by MAUCRSA.
- D. All commercial cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth MAUCRSA.
- E. Each commercial cannabis business shall allow the City of Morgan Hill officials to have access to the business's books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City 's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City 's software and hardware.

Section 5.48.280. Security Measures.

- A. A permitted commercial cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. Except as may otherwise be determined by the Chief of Police or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:

1. Alarm system (perimeter, fire, and panic buttons).
2. Remote monitoring of alarm systems by licensed security professionals.
3. Perimeter lighting systems (including motion sensors) for after-hours security.
4. Perimeter security and lighting as approved by the Chief of Police and Development Services Director or his/her designee(s).
5. Preventing individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business.
6. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
7. Except for live growing plants which are being cultivated at a cultivation operation, all cannabis and cannabis products shall be stored in a secured and locked burglary-resistant enclosure, vault, or vault equivalent when the business is not in operation. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
8. Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Chief of Police or his/her designee(s). In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the Chief of Police or his/her designee(s). Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the Chief of Police or his/her designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business

and shall be capable of enlargement via projection or other means. Internet Protocol address information shall be provided to the Morgan Hill Police Department by the commercial cannabis business, to facilitate remote monitoring of security cameras by the Department or its designee.

9. Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
10. Panic buttons shall be installed in all commercial cannabis businesses with direct notification to the Morgan Hill Police Department dispatch and shall be configured to immediately alert dispatch for the Morgan Hill Police Department.
11. Having a professionally installed, maintained, and monitored real-time alarm system by a security company licensed by the State of California Bureau of Security and Investigative Services.
12. Security personnel shall be on-site during operating hours or alternative security as authorized by the Chief of Police or his/her designee(s), and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the Chief of Police or his/her designee(s), with such approval not to be unreasonably withheld. Firearms may be carried by security personnel while they are on duty if authorized by the Chief of Police.
13. Each commercial cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
14. To ensure that Cannabis Retail (Storefront) facilities are accessible only to persons 21 years of age or older (or validly documented medical cannabis patients), all entrance areas are to be under the control of a designated responsible party that is either (a) an employee of the commercial cannabis business; or (b) a licensed security professional who shall verify eligibility at the entrance point.
15. Each commercial cannabis business shall have an accounting software system in place to provide point of sale data as well as audit trails or both product and cash, where applicable.

16. Each commercial cannabis business shall demonstrate to the Chief of Police or his/her designees, compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.
 17. Each commercial cannabis business shall have a professionally installed video surveillance system, access control and intrusion alarm systems designed to protect the inventory, facility, and employees. Each business shall have network security protocols that are certified by Underwriters Laboratories.
 18. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
 19. Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.
- B. Each commercial cannabis business shall identify a designated security representative/liaison to the City of Morgan Hill, who shall be reasonably available to meet with the Chief of Police or his/her designee(s) regarding any security related measures or and operational issues. The designated security representative/liaison shall, on behalf of the commercial cannabis business, annually maintain a copy of the current security plan on the premises of the business, to present to the Chief of Police or his/her designee upon request that meets the following requirements:
1. Confirms that a designated Manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.
 2. Identifies all Managers of the commercial cannabis business and their contact phone numbers.
 3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.
 4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
 5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the commercial cannabis business, the parking lot, and any adjacent property under the business' control.

6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free of individuals loitering or causing a disturbance; (b) are cleared of employees and their vehicles one-half hour after closing.
- C. As part of the application and permitting process each commercial cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, any hazardous materials that may be used by the business, and any currency.
- D. The commercial cannabis business shall cooperate with the City whenever the Chief of Police or his/her designee(s) makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- E. A commercial cannabis business shall notify the Chief of Police or his/her designee(s) in the same manner and on the same timeline as required to notify state licensing agencies, after discovering any of the following:
 1. Significant discrepancies identified during inventory.
 2. Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
 3. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the commercial cannabis business.
 4. Any other breach of security.
- F. Compliance with the foregoing requirements shall be verified by the Chief of Police or his/her designee prior to commencing business operations.

Section 5.48.290. Restriction on Alcohol & Tobacco Sales.

- A. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business.
- B. No person shall cause or permit the sale or tobacco products on or about the premises of the commercial cannabis business.
- C. No person shall consume cannabis, cannabis products, tobacco or alcohol on the premises of any commercial cannabis business.

Section 5.48.300. Fees and Charges.

- A. No person may commence or continue any commercial cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a commercial cannabis activity. Fees and charges associated with the operation of a commercial cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
- B. All commercial cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Each commercial cannabis business shall cooperate with City with respect to any reasonable request to audit the commercial cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.
- C. Prior to operating in the City and as a condition of issuance of a regulatory permit, the operator of each cannabis facility shall enter into an operational or community benefit agreement with the City setting forth the terms and conditions under which the cannabis facility will operate that are in addition to the requirements of this chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety and welfare.

Section 5.48.310. General Operating Requirements.

- A. Commercial cannabis businesses operation shall be limited to not earlier or later than 6:00 a.m. through 10:00 p.m. as specified by State law. No person under the age of 21 shall operate, or be issued a permit for, a commercial cannabis business of any kind.
- B. Restriction on Consumption. Cannabis shall not be consumed by anyone on the premises of any commercial cannabis business as per state law.
- C. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial cannabis business permit, or on any of the vehicles owned or used as part of the commercial cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.
- D. Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale)

and other information which may be deemed necessary by the City. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Police Chief or his/her designee(s) prior to being used by the permittee.

- E. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- F. Emergency Contact. Each commercial cannabis business shall provide the Chief of Police or his/her designee(s) with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- G. Signage and Notices.
 - 1. In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the City of Morgan Hill Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.
 - 2. No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 - 3. Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
 - 4. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
 - 5. Signage shall not depict any image of cannabis or cannabis products. No banners, flags, billboards or other prohibited signs may be used at any time.
 - 6. In accordance with state law and regulations or as stipulated in the City of Morgan Hill regulatory permit, holders of a commercial

cannabis business permit shall agree that, as an express and ongoing condition of permit issuance and subsequent renewal, the holder of the permit shall be prohibited from advertising any commercial cannabis business located in the City of Morgan Hill utilizing a bus shelter, placard, aircraft, or other similar forms of advertising. This paragraph is not intended to place limitations on the ability of a commercial cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.

H. Minors.

1. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business and shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty- one (21) years of age.
2. Notwithstanding Section 5.48.310(h)(1), persons aged 18 to 20 years shall be allowed on the premises of a commercial cannabis business if they can produce a physician's recommendation. In that event, such persons can lawfully purchase cannabis for the sole purpose of addressing the medical need that is the subject of the physician's recommendation.
3. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.

- I. Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment, or any other equipment which the Chief of Police or his/her designee(s) determine is a more effective method or technology:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
 2. An air system that creates negative air pressure between the commercial cannabis business's interior and exterior, so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.
- J. Display of Permit and City Business License. The original copy of the commercial cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the commercial cannabis business in a location readily visible to the public.
- K. Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor, employee, contract employee or who otherwise works in a commercial cannabis business, and who is required to submit to a Live Scan by state cannabis licensing law, must submit fingerprints and other information deemed necessary by the Chief of Police or his/her designee(s) for a background check by the City of Morgan Hill Police Department. Pursuant to California Penal Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a commercial cannabis business or a related work permit unless they have first cleared the background check, as determined by the Chief of Police or his/her designee(s), as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Morgan Hill to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis business permit is submitted.
- L. Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises. The cannabis business shall notify the Morgan Hill Police Department if anyone continues to loiter around the building or premises after all reasonable action has been taken to remove the individual(s) and the action has failed to do so in a timely manner.
- M. Permits and other Approvals. Prior to the establishment of any commercial cannabis business or the operation of any such business, the person

intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

- N. Each commercial cannabis operator shall establish minimum training standards for all employees. The Chief of Police shall have the discretion to require other training for the business operations should the City identify deficiencies or non-compliance issues with City or state requirements.

Section 5.48.320. Other General Operating Requirements.

The Chief of Police or his/her designee may develop other commercial cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare.

Section 5.48.330. Operating Requirements for Cannabis Retail (Storefront) Facilities.

- A. No more than the number of cannabis retailers allowed by this Chapter may operate within the City of Morgan Hill at any one time and shall be issued a permit by the City of Morgan Hill.
- B. Retailers shall verify the age and all necessary documentation of each individual to ensure the customer is not under the age of eighteen (18) years. If the potential customer is 18 to 20 years old, retailer shall confirm the customer's possession of a valid doctor's recommendation and/or H&S 11362.71 identification card (Medical Marijuana Card). For adult-use purchases, retailers shall verify that all customers are 21 years of age or older for the purchase of cannabis or cannabis products.
- C. Individuals must show their government-issued identification, and, in the case of medical cannabis facilities, their physician's recommendation, or a cannabis card issued pursuant to Health and Safety Code Section 11362.71 in order to gain access into the retailer. The government-issued identification and, if applicable, doctor's recommendation or cannabis card must also be shown at the point of sale station at the time of purchase. Doctor recommendations are not to be obtained or provided at the retail location.
- D. Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities. Security personnel may be allowed to carry firearms if authorized by the Chief of Police.
- E. Retailers may have only that quantity of cannabis and cannabis products to meet the daily demand readily available for sale on-site in the retail

sales area of the retailer. Additional product may be stored in a secured, locked area to which customers, vendors, and visitors shall not have access.

- F. Retailers authorized to conduct retail activities shall only serve customers who are within the licensed premises, or at a delivery address that meets the requirements of this division.
1. The sale and delivery of cannabis goods shall not occur through a pass-through window or a slide-out tray to the exterior of the premises.
 2. Retailers shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.
 3. All cannabis goods sold by a retail business shall meet current California statewide packaging standards, including those regarding “child resistance,” as set forth in Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) as amended and related regulatory regulations.
 4. Retailers shall record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.
 5. A retail licensee who is engaged in retail sale shall hire or contract for security personnel who are at least 21 years of age to provide security services for the licensed retail premises. All security personnel hired or contracted for by the licensee shall be licensed by the Bureau of Security and Investigative Services and shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code.
- G. Access to Retailer Premises.
1. Access to the premises of a retail licensee/permittee shall be limited to individuals who are at least 21 years of age.
 2. Notwithstanding Section 5.48.330(i)(1), individuals who are at least 18 years of age and in possession of a valid physician’s recommendation shall be granted access to the premises of a retail

licensee/permittee for the sole purpose of purchasing medicinal cannabis consistent with the physician's recommendation.

- H. Authorized Sales. A retailer shall only sell adult-use cannabis and adult-use cannabis products to individuals who are at least 21 years of age. A retailer shall only sell medicinal cannabis or medicinal cannabis products to individuals who are at least 18 years of age, but not yet 21, if those individuals are in possession of a valid physician's recommendation. Medicinal cannabis sales to individuals 21 years of age and older are unrestricted.
- I. Limited Access Areas. A retailer shall establish limited-access areas and permit only authorized individuals to enter the limited-access areas. Authorized individuals include individuals employed by the retailer as well as any outside vendors, contractors, or other individuals conducting business that requires access to the limited access area. All individuals granted access to the limited access area shall be at least 21 years of age, and if not employed by the retailer, shall be escorted at all times by an employee of the licensee/permittee. A retailer shall maintain a log of all individuals who are not employees who are granted access to the limited access area. These logs shall be made available to the Chief of Police or his/her designee upon request.
- J. Operating hours of the Cannabis Retail (Storefront) facility shall be limited to the hours of 6:00 a.m. through 10:00 p.m. as set forth in the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") as amended and related state administrative regulations.
- K. Cannabis Retail (Storefront) Security Requirements. All provisions incorporated within Section 5.48.280 of this Chapter (Security Measures), are directly applicable to and binding on all commercial cannabis businesses, including all Cannabis Retail (Storefront) businesses.

Section 5.48.340. Operating Requirements for Cannabis Retail (Non-Storefront and Storefronts Operating Delivery).

- A. Cannabis Retail (Non-Storefront and Storefronts operating Delivery) License Owners and Operators are required to verify the age and the necessary documentation of each medical customer to ensure the customer is not under the age of eighteen (18) years, and to verify that the potential customer has a valid doctor's recommendation.
- B. All Cannabis Retail (Storefront), and Cannabis Retail (Non-Storefront) that conduct deliveries into or within the City of Morgan Hill shall be required to obtain a permit from the City of Morgan Hill to conduct retail sales regardless if they are located in the City or another local jurisdiction.

- C. Operating hours of the Cannabis Retail (Non-Storefront) License shall be limited to the hours of 6:00 a.m. through 10:00 p.m. seven days a week as set forth in Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) as amended and related state administrative regulations.
- D. The commercial Cannabis Retail (Non-Storefront) operator shall only sell cannabis or cannabis products to a natural person 21 years of age or older, or a natural person 18 years of age or older who possesses a physician’s recommendation for cannabis medical use only.

Section 5.48.350. Cannabis Retail (Non-Storefront) Vehicle Requirements.

Prior to commencing operations, a Cannabis Retail (Non-Storefront, or Storefront operating a delivery service as part of that permit) operator shall provide the following information to the City.

- A. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
- B. The year, make, model, color, license plate number, and Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
- C. Proof of insurance as required in Section 5.48.260 (b) for any and all vehicles being used to deliver cannabis goods.
- D. The licensee shall provide the City with the information required by this section in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
- E. The licensee shall provide the City with any changes to the information required by this section in writing within thirty (30) calendar days.

Section 5.48.360. Operating Requirements for Distributors.

- A. A distributor shall not store non-cannabis goods or non-cannabis accessories that are to be sold to another party on any licensed premises. Additionally, a distributor shall not distribute non-cannabis goods or non-cannabis accessories at a licensed premise. For the purposes of this section, non-cannabis goods are any goods that do not meet the definition of cannabis goods as defined in Title 16, Section 5000(c) of the California Code of Regulations.
- B. After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor’s licensed premises to select a representative sample for laboratory testing, unless the batch has already been tested by a previous distributor in compliance with state law.

- C. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- D. The distributor shall ensure that the batch size from which the sample is taken meets the requirements of state law, specifically the testing provisions within the California Code of Regulations.
- E. A distributor or an employee of the distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video-recorded, and the recording kept available to state and local authorities for a minimum of 180 days, pursuant to 'title 16, Section 5305 of the California Code of Regulations.
- F. A distributor shall not transport cannabis or cannabis products to a licensed retail facility until and unless it has verified that the cannabis or cannabis products have been tested and certified by a testing lab as being in compliance with state health and safety requirements pursuant to Title 16, Sections 5705, 5710 and 5714 of the California Code of Regulations.

Section 5.48.370. Operating Requirements for Testing Labs.

- A. Testing Labs shall be required to conduct all testing in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to state and local law. Each Testing Lab shall be subject to additional regulations as determined from time to time as more regulations are developed under this Chapter and any subsequent State of California legislation regarding the same.
- B. Testing Labs shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- C. All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.
- D. Testing labs shall destroy any harvest batch whose testing sample indicates noncompliance with health and safety standards required by the bureau unless remedial measures can bring the cannabis or cannabis products into compliance with quality standards as specified by law and implemented by the bureau.
- E. Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by state law and that the testing laboratory employee transports the sample to the testing laboratory.

- F. Except as provided by state law, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with state law, and shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- G. A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing lab shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis or cannabis products received.

Section 5.48.380. Operating Requirements for Cannabis Non-Volatile Solvent Manufacturing: Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products.

- A. Cannabis manufacturing shall only be permitted pursuant to Section 5.48.020 of this code or any subsequent created manufacturing state license as defined in MAUCRSA and may be permitted to operate only within those zone districts as defined in Section 18.92.090 of the City of Morgan Hill Municipal Code.
- B. Any compressed gases used in the manufacturing process shall not be stored on any property within the City of Morgan Hill in containers that exceeds the amount which is approved by the Morgan Hill Fire Department and authorized by the regulatory permit. Each site or parcel subject to a commercial cannabis business permit shall be limited to a total number of tanks as authorized by the Morgan Hill Fire Department on the property at any time.
- C. Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- D. If an extraction process uses a professional grade closed loop CO₂ gas extraction system every vessel must be certified by the manufacturer for its safe use as referenced in Section 5.48.380(f). The CO₂ must be of at least ninety-nine percent purity.

- E. Closed loop systems for compressed gas extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number, when and if the prohibition on them is ever lifted in Morgan Hill.
- F. Certification from an engineer licensed by the State of California, or by a certified industrial hygienist, must be provided to the Chief of Police for a professional grade closed loop system used by any commercial cannabis manufacturing manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:
 - 1. The American Society of Mechanical Engineers (ASME);
 - 2. American National Standards Institute (ANSI);
 - 3. Underwriters Laboratories (UL); or
 - 4. The American Society for Testing and Materials (ASTM)
- G. The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.
- H. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the Fire Department and meet any required fire, safety, and building code requirements specified in the California Building Reference Codes.
- I. Cannabis Manufacturing Facilities may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.
- J. Cannabis Manufacturing Facilities creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- K. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.
- L. Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

Section 5.48.390. Operating Requirements for Out-of-City-Originating Cannabis Retail (Non-Storefront) Delivery Services.

Prior to commencing operations, a cannabis out-of-City-originating delivery service shall comply with the following requirements:

- A. Obtain from the City a permit authorizing the delivery of cannabis and cannabis products within the City limits and a business tax license pursuant to Title 5 of this Code. Copies of this permit and this business tax license shall be retained by all drivers in the delivery vehicle when operating in Morgan Hill.
- B. The retail business operating the delivery service shall provide the Chief of Police with evidence of a valid state license for a commercial cannabis business on whose authorization the delivery service is performing the delivery function.
- C. The retail business operating the delivery service shall furnish to the Chief of Police the year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.

Section 5.48.400. Permissible Delivery Locations and Customers.

Out-of-City-originating cannabis delivery businesses permitted to engage in delivery of cannabis and cannabis products inside the City of Morgan Hill are subject to the following requirements:

- A. A cannabis business must be authorized by the City of Morgan Hill to deliver cannabis goods to a residential or business address within the city limits by the issuance of a delivery permit;
- B. A licensed cannabis business shall not deliver cannabis goods to an address located on publicly owned land or any address on land or in a building leased by a public agency.
- C. A licensed cannabis business shall comply with all requirements of state and local law pertaining to the cannabis permit and all subsequent policies, procedures and regulations which may be amended by the Chief of Police or his/her designee from time to time in order to enforce this Chapter.

Section 5.48.410. Promulgation of Regulations, Standards and Other Legal Duties.

- A. The Chief of Police or his/her designee is authorized to establish any additional rules, regulations and standards that do not conflict with this Chapter governing the issuance, denial or renewal of commercial cannabis business permits, the ongoing operation of commercial cannabis businesses and the City's oversight, or concerning any other subject

determined to be necessary to carry out the purposes of this Chapter, and must ensure and demonstrate by clear and convincing evidence that such rules, regulations, and standards do not overly burden the operation of commercial cannabis businesses rendering it infeasible.

- B. Regulations shall be published on the City's website.
- C. Regulations promulgated by the Chief of Police or his/her designee shall become effective upon date of publication unless challenged by appeal in which case they shall be stayed pending final adjudication when they shall be considered finally adopted. Commercial cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards finally adopted by the Chief of Police or his/her designee.
- D. Testing Labs, Distribution facilities, Delivery Services and Special Events shall be subject to state law and shall be subject to additional City regulations as determined from time to time as more regulations are developed under Section 5.48.020 of this Chapter and any subsequent State of California legislation regarding the same.

Section 5.48.420. Community Relations.

- A. Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred (100) feet of the commercial cannabis business.
- B. During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from each commercial cannabis business holding a permit issued pursuant to this Chapter shall attend meetings with the Chief of Police or his/her designee(s), and other interested parties as deemed appropriate by the Chief of Police or his/her designee(s), to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from each such commercial cannabis business shall meet with the Chief of Police or his/her designee(s) when and as requested by the Chief of Police or his/her designee(s).
- C. Commercial cannabis businesses to which a permit is issued pursuant to this Chapter shall develop a City approved public outreach and educational program for youth organizations and educational institutions that outlines the risks of youth addiction to cannabis, and that identifies resources available to youth related to drugs and drug addiction.

Section 5.48.430. Fees Deemed Debt to the City of Morgan Hill.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Morgan Hill that is recoverable via an authorized administrative process as set forth in the City ordinance, or in any court of competent jurisdiction.

Section 5.48.440. Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Morgan Hill, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.

Section 5.48.450. Inspection and Enforcement.

- A. The Chief of Police, or his/her designee(s) charged with enforcing the provisions of the City of Morgan Hill Municipal Code, or any provision thereof, may enter the location of a commercial cannabis business at any time, without notice, and inspect the location of any commercial cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
- B. It is unlawful for any person having responsibility over the operation of a commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial cannabis business under this Chapter or under state or local law.
- C. The Chief of Police or his/her designee(s) charged with enforcing the provisions of this Chapter may enter the location of a commercial cannabis business at any time during the hours of operation and without notice to verify that all cannabis inventory has been properly tested according to state law and regulatory requirements and has the proper official Certificates of Analysis. Any samples obtained by the City of Morgan Hill shall be logged, recorded, and maintained in accordance with established procedures by the City of Morgan Hill's Chief of Police or these regulations.

Section 5.48.460. Compliance with State Regulations.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of Morgan Hill in compliance with all provisions MAUCRSA and any subsequent state legislation.

Section 5.48.470. Violations Declared a Public Nuisance.

Each and every alleged violation of the provisions of this Chapter is hereby deemed prima facie evidence of public nuisance subject to administrative citation and rebuttal at hearing before an independent hearing officer.

Section 5.48.480. Each Violation a Separate Offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of Morgan Hill. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Morgan Hill may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the commercial cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the Chief of Police, or his/her designee(s), may take immediate action to temporarily suspend a commercial cannabis business permit issued by the City, pending a hearing before the Chief of Police, or his/her designee(s).

Section 5.48.490. Criminal Penalties.

Each and every violation of the provisions of this Chapter may in the discretion of the District Attorney or City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the County jail for a period of not more six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 5.48.500. Remedies Cumulative and Not Exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

INITIATIVE SECTION III – City of Morgan Hill Municipal Code Section 18.92.90 (Marijuana) of Chapter 18.92 (Supplemental Standards) of Title 18 (Zoning) is hereby amended to read as follows (additions in underline, deletions in strikeout):

18.92.090 - ~~Marijuana.~~ Cannabis.

~~Marijuana cultivation, marijuana delivery, and marijuana distribution facilities, as defined in Chapter 9.16 (Marijuana), are prohibited uses in all zoning districts in the city of Morgan Hill.~~

A. **Purpose.** The purpose of this section is to regulate the manufacturing, testing, distribution, cultivation, microbusiness, and retail sale of adult-use and medical cannabis that is grown in accordance with State law to promote the health, safety and general welfare of the residents and businesses within the City. The City is authorized to regulate this activity pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). (Bus. & Prof. Code, section 26000 et seq.) To this end, this Section and the General Plan shall each be read and interpreted to harmoniously conform with each other, and any activity discouraged by the General Plan but allowed in this Section shall be deemed to be in conformance with the General Plan as amended.

B. **Definitions.** For the purposes of this section, certain terms are defined as follows:

1. “Bureau of Cannabis Control” means the lead state agency in charge of regulating commercial cannabis licenses for medical and adult-use cannabis in California. The Bureau is responsible for licensing retailers, distributors, testing laboratories, microbusinesses, and temporary cannabis events.
2. “Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.
3. “Cannabis Business” means a person, partnership, corporation, company, association, collective, or cooperative which engages in commercial cannabis use(s) of manufacturing, testing, distribution or retail.
4. “Cannabis Retail (Non-Storefront)” means a cannabis business that

sells cannabis products for either medical or recreational use exclusively through delivery from a licensed physical location that is not open to the public and is operated in accordance with state and local laws and regulations.

5. “Cannabis Retail (Storefront)” means a cannabis business that sells, on premises or by delivery, cannabis products for either medical or recreational use from a licensed physical location and is operated in accordance with state and local laws and regulations.
6. “Commercial Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming, or otherwise processing of marijuana plants or any part thereof, excluding only personal cultivation as allowed pursuant to the Compassionate use Act of 1996 and MAUCRSA.
7. “Commercial Daycare Center” means a child day care facility licensed by the state, the county, or the city, other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers, and includes child care centers licensed pursuant to California Health and Safety Code Section 1596.951.
8. “Dispensary” and “Dispense” shall be defined in accordance with the MAUCRSA and other applicable State laws. Dispensing shall include the acts of advertising, offering for sale, selling, providing, giving away, and delivering any adult-use and/or medical cannabis products to any individual, customer, qualified patient, primary care provider, or end user.
9. “Distribution” shall be defined in accordance with the MAUCRSA, Business and Professions Code section 26001, and other applicable State laws. Distribution shall include the commercial acts of shipping, storing, and warehousing medical cannabis.
10. “Fully enclosed and secure structure” means a space within a building, which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors and is inaccessible to minors.
11. “Manufacturing” or “manufacturing operation” means all aspects of the extraction process, infusion process, and packaging and labeling processes, including processing, preparing, holding, and storing of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients.

12. “MAUCRSA” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA). (Bus. & Prof. Code, section 26000 et seq.)
13. “Microbusiness” means a business that contains cannabis cultivation (on an area less than 10,000 square feet), manufacturing, distribution, and retail sale, or any combination of the four activities.
14. “Physical Location” means a physical place of business, facility, office, or warehouse owned or operated by a Distribution Permittee for the distribution or storage of cannabis.
15. Testing Facility” and “Testing Laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:
 - a. Accredited by an accrediting body that is independent from all other person involved in commercial cannabis activity in the state.
 - b. Licensed by the Bureau of Cannabis Control.
16. “Youth center” means any public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, or similar amusement park facilities. It shall also include a park, playground or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on City, county or state parks. This definition shall not include any private martial arts, yoga, ballet, music, art studio or similar studio of this nature, nor shall it include any private tutoring center or heritage school, private gym, athletic training facility, pizza parlor, dentist office, doctor’s office primarily serving children or a location which is primarily utilized as an administrative office or facility for youth programs or organizations.

C. Commercial Cannabis Cultivation Prohibited. All commercial cannabis cultivation within the City is prohibited.

D. Cannabis Microbusiness Prohibited. All cannabis microbusinesses within the City are prohibited.

- E. Cannabis Retail (Non-Storefront; also known as Delivery Only) Prohibited.** All Cannabis Retail (Non-Storefront) businesses within the City are prohibited; delivery is allowed only by Cannabis Retail (Storefront) facilities fully licensed and permitted by the state and the city.
- F. Cannabis Volatile Solvent Manufacturing Prohibited.** All Cannabis Volatile Solvent Manufacturing businesses within the City are prohibited.
- G. Cannabis Business.** A cannabis business may be established under this section only under the following conditions:
1. Cannabis businesses must be located in the zoning districts as identified below, and no more than one business of each permit use category shall be located in each particular zoning district designation at any given time so that any three businesses of the same permit use category would have to be each in a different zoning district as will be enforced by the Chief of Police in ultimately issuing permits per section 5.48.110 of this Code:
 - a. Cannabis Retail (Storefront) uses must be located in the following districts: CG (General Commercial), IG (General Industrial) and IL (Light Industrial) and must meet all of the requirements for development in these zones. In CG they shall be in shopping centers consisting of contiguous parcels in aggregate no smaller than 14 acres and no larger than 18 acres. In IG they shall be in free standing buildings only on parcels, or contiguous (including if separated only by a road) parcels under common ownership, of not less than 1 acre and not more than 7 acres at the time of establishment. They shall be deemed listed Permitted Uses in Table 18.24-1 in Section 18.24.020 subject to the sensitive use proximity and other limitations herein and the pre-operational requirement of a valid city-issued commercial cannabis business permit.
 - b. Cannabis Non-Volatile Solvent Manufacturing uses, and Testing Facility or Laboratory uses, must be located in the following districts: CI (Commercial Industrial), IO (Office Industrial), IC (Campus Industrial), IL (Light Industrial), and IG (General Industrial) and must meet all of the requirements for development in these zones. They shall be deemed listed Permitted Uses in Table 18.26-1 in Section 18.26.020 subject to the sensitive use proximity and other limitations herein and the pre-operational requirement of a valid city-issued commercial cannabis business permit.
 - c. Cannabis Distribution uses must be located in the following districts: CI (Commercial Industrial), IO (Office Industrial), IC

(Campus Industrial), IL (Light Industrial), and IG (General Industrial) and must meet all of the requirements for development in these zones. They shall be deemed listed Permitted Uses in Table 18.26-1 in Section 18.26.020 subject to the sensitive use proximity and other limitations herein and the pre-operational requirement of a valid city-issued commercial cannabis business permit.

2. A cannabis business shall be located no closer than 600 feet from any building containing any of the following sensitive uses in existence at the time the cannabis business permit application is filed with the City, measured in a straight line from the building containing the sensitive uses to the closest property line of the lot on which the cannabis business is located:
 - a. A school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12), unless the State licensing authority specifies a lesser distance;
 - b. A commercial daycare center licensed by the State, County or City, unless the State licensing authority specifies a lesser distance; or
 - c. A youth center, unless the State licensing authority specifies a lesser distance.
3. A non-retail cannabis business shall be no closer than two hundred fifty (250) feet to any residentially-zoned parcel in the City, including any legal non-conforming residential uses as of the date the cannabis business permit application is filed with the City. The distance between the non-retail cannabis business and the residential parcel shall be measured from the outer boundaries of the residential parcel to the structure on the property containing the premises of the applicant seeking the commercial cannabis permit.

H. Cannabis Business Standards. All cannabis businesses within the City shall be in conformance with the following general standards:

1. Cannabis businesses are allowed only within fully enclosed and secure structures that are inaccessible to minors.
2. From any public right-of-way, there shall be no visible exterior evidence of any cannabis business.
3. Cannabis businesses shall not adversely affect the health or safety of the nearby residents by creating objectionable odor, dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not

INITIATIVE SECTION IV – City of Morgan Hill General Plan 2035 (Adopted July 27, 2016, and as and if subsequently amended) is amended so that “Policy CNF-17.1 Industrial Land Conversion” reads as follows (new language to be inserted is underlined):

Policy CNF-17.1 Industrial Land Conversion. Discourage the conversion of property designated for industrial to non-industrial uses; notwithstanding this and any other part of this General Plan, and only in conformance with the Morgan Hill Municipal Code as amended, allow all state-regulated cannabis business uses, including retail, on industrial use designated property because of the need to balance any potential negative consequences, the need to strictly limit and control cannabis business locations in Morgan Hill, and the lack of other locations meeting sensitive use proximity limits.

INITIATIVE SECTION V – SEVERABILITY

If any word, phrase, sentence, paragraph, or other part of this Initiative Ordinance is for any reason held to be invalid, unlawful, in conflict with the Morgan Hill General Plan, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this Initiative Ordinance. Only the word, phrase, sentence, paragraph, or part that is minimally necessary to cure the invalidity, unlawfulness, or unconstitutionality shall be severed.

INITIATIVE SECTION VI – CONFLICTS

This Initiative Ordinance and its provisions shall take priority over all conflicting laws, rules, measures or other City policies. All conflicting laws shall be nullified or read to harmonize with this Initiative Ordinance.

INITIATIVE SECTION VII – LIMITATION ON THE POWER OF CITY COUNCIL TO AMEND

Except as herein provided, this Initiative Ordinance and every part thereof may be amended or repealed only by the voters of the City of Morgan Hill for the three years following its effective date. The Morgan Hill City Council may amend this Initiative Ordinance only as follows:

If the California voters, Legislature, or statewide marijuana regulatory agencies pass statewide legislation or regulations affecting marijuana dispensing, cultivation, manufacturing or delivery for medical or recreational use after the effective date of this initiative, the City Council may amend this Initiative Ordinance only to conform this Initiative Ordinance to those new laws to provide the cannabis businesses permitted hereunder with the maximum recognition, protection, approval, and ease of operation available to them under state law. The City Council may also amend this ordinance to allow Retail (Storefront) dispensaries to allow onsite consumption in any reasonable manner.