

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO AMENDING THE SAN PABLO MUNICIPAL CODE (TITLE 17 - ZONING ORDINANCE) CHAPTER 17.32, SECTION 17.32.030; CHAPTER 17.34, SECTION 17.34.030; CHAPTER 17.36, SECTION 17.36.030; CHAPTER 17.62, SECTION 17.62.130, AND CHAPTER 17.70, SECTION 17.70.040 TO REVISE EXISTING REGULATIONS PERTAINING TO THE PERSONAL CULTIVATION OF CANNABIS AND TO ESTABLISH LAND USE STANDARDS APPLICABLE TO CERTAIN PERMITTED COMMERCIAL CANNABIS BUSINESSES IN THE CITY OF SAN PABLO

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, and general welfare, of their citizens; and

WHEREAS, California voters enacted the Compassionate Use Act (“CUA”) in 1996, legalizing medical cannabis; and

WHEREAS, in 2003, the California Legislature (“Legislature”) adopted the Medical Marijuana Program Act (“MMPA”) allowing for collective, cooperative cultivation projects, commonly known as “dispensaries”; and

WHEREAS, in 2015, the Legislature enacted the Medical Cannabis Regulation and Safety Act (“MCRSA”), creating a comprehensive licensing and regulatory scheme for the cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis; and

WHEREAS, in November 2016, California voters passed Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act (“AUMA”), legalizing recreational cannabis use for adults 21 years of age and older with certain restrictions; and

WHEREAS, AUMA created a comprehensive regulatory and licensing structure for commercial nonmedical cannabis businesses, including cultivation, manufacturing and retail; and

WHEREAS, in June 2017, the Legislature adopted SB 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), which effectively merged the recreational statutory framework under AUMA with the medical statutory framework under MCRSA, creating a single uniform licensing and regulatory framework for all commercial cannabis uses (i.e., both medical and recreational uses); and

WHEREAS, in January 2018, the State of California began issuing licenses for both medical and recreational commercial cannabis businesses, unless a local jurisdiction expressly prohibited the establishment of any such business;

WHEREAS, the CUA, MMPA, AUMA, MCRSA, and MAUCRSA all continue to authorize the City to adopt and enforce local ordinances regulating, or completely prohibiting, the establishment or operation of commercial cannabis activities within the City of San Pablo, even those activities that are otherwise able to be licensed under state law; and

WHEREAS, as permitted by state law, Section 17.62.130 of the San Pablo Municipal Code currently prohibits all commercial cannabis activities while allowing for limited personal cultivation as required under state law; and

WHEREAS, the California Planning and Zoning Law (California Government Code Section 65000 et seq.) and section 7 of Article XI of the California Constitution authorizes the City to adopt and administer zoning laws, ordinances, rules, and regulations; and

WHEREAS, the City Council now desires to permit and regulate certain commercial cannabis activities within the City, all in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan, the 23rd Street Specific Plan, and the San Pablo Avenue Specific Plan; and

WHEREAS, an applicant for a state commercial cannabis license must first obtain local approval prior to receiving state approval and cannot submit an application for a state license if the proposed cannabis business violates a local ordinance; and

WHEREAS, no personal cultivation of cannabis or any commercial cannabis business shall be permitted within the City of San Pablo unless it complies with the provisions of Section 17.62.130; and

WHEREAS, the proposed amendments are consistent with the City of San Pablo General Plan and meet the intent of policies related to economic development and land use; and

WHEREAS, the proposed amendments are consistent with the purposes of the San Pablo Zoning Ordinance as set forth in Section 17.01.020; and

WHEREAS, the proposed amendments are exempt from the California Environmental Quality Act (CEQAA) in accordance with CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no potential for causing a significant effect on the

environment because the Project solely involves text changes to the municipal code, does not authorize any construction activities, and specifically requires a discretionary conditional use permit process and accompanying environmental review in the event that any facility is actually proposed; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the adoption of this Ordinance on January 28, 2025 and recommended approval of the Ordinance and provided advisory suggestions regarding buffering distances and potential to also allow on-site consumption; and

WHEREAS, a duly noticed public hearing was held by the City Council on February 18, 2025 to consider this Ordinance amending San Pablo Municipal Code Chapter 17.32, Section 17.32.030; Chapter 17.34, Section 17.34.030; Chapter 17.36, Section 17.36.030; Chapter 17.62, Section 17.62.130; and Chapter 17.70, Section 17.70.040 and the City Council waived first reading and introduced the Ordinance as set forth below without the Planning Commission's advisory suggestions; and

WHEREAS, at its regular meeting on [XXXX] the City Council waived second reading and voted to adopt the Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and correct and made a part of this Ordinance.

SECTION 2. Amendment of Municipal Code. Section 17.62.130 of the San Pablo Municipal Code is stricken in its entirety and replaced with the following:

17.62.130 REGULATION OF CANNABIS ACTIVITY

A. Purpose and Intent. The purpose of this Section is to impose regulatory requirements on personal cannabis cultivation and commercial cannabis uses authorized and licensed by the State of California pursuant to state law and specifically authorized by this chapter. This Section imposes licensing and regulatory requirements on cannabis businesses in addition to any other business license and regulatory requirements imposed on cannabis businesses by applicable state law and by any other provision of the San Pablo Municipal Code. If a cannabis use is not specifically permitted by this Section, it is not allowed to operate within the City. Nothing in this Section shall preempt or make inapplicable any provision of state or federal law.

B. Definitions. For the purposes of this section, the following definitions shall apply:

1. "Cannabis" means all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus Cannabis

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

2. "Cannabis cultivation" shall have the same meaning as that set forth in Business and Professions Code Section [26001](#), and shall include any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
3. "Cannabis delivery" means a commercial transfer of cannabis or cannabis products from a fixed location in the City to a destination specified by a customer.
4. "Cannabis product" means any product containing cannabis or its derivatives, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and products described in Health and Safety Code Section 11018.1.
5. "Cannabis retail business" means any person or entity engaged in commercial cannabis activity with a physical, permanent location in the City of San Pablo that sells cannabis or cannabis products to the public, for either medical or recreational use, and is operated in accordance with all state and local laws and regulations.
6. "Chief of Police" means the Chief of the San Pablo Police Department or his or her designee.
7. "City Manager" means the city manager of the City of San Pablo, or his/her designee.
8. "Commercial cannabis activity" means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act, including but not limited to cultivation, possession, distribution, transportation,

laboratory testing, labeling, retail, delivery, sale, processing, storing, packaging or manufacturing of cannabis or cannabis products for medical or recreational use. Commercial cannabis activity includes the retail sale of cannabis in a cannabis retail business.

9. "Conditional Use Permit" is a permit issued by the San Pablo Planning Commission pursuant to San Pablo Municipal Code Section 17.20.040.
10. "MAUCRSA" refers to the California State law entitled Medicinal and Adult-Use Cannabis Regulation and Safety Act and regulations promulgated thereunder.
11. "Operator Permit" shall mean a permit issued by the City pursuant to this chapter authorizing a person to conduct a cannabis business within the City.
12. "Person" means any individual, firm, partnership, joint venture, association, corporation, company, collective, cooperative, estate, trust, receiver, or any other group or combination thereof.
13. "Personal cannabis cultivation" shall mean cannabis cultivation for personal medical or nonmedical adult recreational use.

C. Applicability. Personal cannabis cultivation and commercial cannabis activity shall be permitted only in compliance with the requirements of this Section, state law and all applicable requirements of the San Pablo Municipal Code. No commercial cannabis activity shall be conducted in the City of San Pablo without first obtaining an operator permit and a conditional use permit pursuant to this chapter. To the fullest extent permitted by law, it is unlawful to commercially cultivate, distribute, process, manufacture, sell, deliver, or test cannabis, in amounts that exceed personal use allowances under California law, within the City without all valid permits issued pursuant to the provisions of this chapter. Cultivation of cannabis for noncommercial use shall only be permitted inside a private residence or inside an enclosed structure upon the grounds of a private residence, and pursuant to the provisions of the MAUCRSA and this Section. Possession of other types of State or City permits or licenses does not exempt an operator from the requirement of obtaining all necessary permits under this Section.

D. Limitations on Use and Operation. Personal cannabis cultivation and commercial cannabis activity shall only be allowed in compliance with this Section and all other provisions of the San Pablo Municipal Code, including but not limited to: building, plumbing, electrical, fire, hazardous materials, and public health and safety

requirements. All persons shall comply with all laws and regulations applicable to the type of use, and shall comply with all permitting, license, approval, inspection, reporting and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. Commercial cannabis activity and cannabis retail businesses shall only be permitted in areas of the City in which such uses are permitted or conditionally permitted by this chapter. Cannabis business operators shall provide copies of all other regulatory agency and department permits, licenses, or certificates to the City to serve as verification of such compliance. No other type of cannabis activity shall be permitted within the City.

E. Cannabis Cultivation.

1. Outdoor cannabis cultivation is prohibited. Such use is a public nuisance. The prohibition in this section includes, without limitation, renting, leasing, or otherwise permitting cultivation to occupy or use a location.
2. Cannabis cultivation for commercial use or in commercial facilities is prohibited. Such use is a public nuisance. The prohibitions in this section include, without limitation, renting, leasing, or otherwise permitting cultivation to occupy or use a location, building, structure or vehicle.
3. Personal cannabis cultivation for medical or adult use purposes shall be permitted to the extent such cultivation is authorized by state law and in strict compliance with all the requirements set forth below:
 - a. Limited Number of Plants. The personal cultivation of cannabis is limited to no more than six living plants per private residence, regardless of (i) the number of residents, or (ii) how many residents are qualified medical cannabis patients, persons with an identification card or primary caregivers.
 - b. Residency Requirement. Cultivation of cannabis for personal use may occur only on parcels with an existing legal residence occupied by a full-time resident.
 - c. Location. The cultivation occurs either: (i) within a single private residence; or (ii) inside a fully enclosed and secure structure located upon the grounds of a private residence.
 - d. Cultivation Areas. The cultivation areas, including any lighting, plumbing, or electrical components used, shall comply with Title [15](#) (Buildings and Construction). The cultivation areas must be properly ventilated so as not to create humidity, mold, or other related problems. Lighting shall not exceed one thousand watts per light.
 - e. Visibility. No visible markers or evidence indicating that cannabis is being cultivated on the site shall be visible from the public right-of-way.

- f. Security. All enclosures and structures used for cannabis cultivation shall have security measures sufficient to prevent access by children or other unauthorized persons.
 - g. Prohibition of Volatile Solvents. The manufacture of cannabis products for personal noncommercial consumption shall be limited to processes that are solvent-free or that employ only nonflammable, nontoxic solvents that are recognized as safe pursuant to the Federal Food, Drug and Cosmetic Act. The use of volatile solvents to manufacture cannabis products for personal consumption is prohibited.
 - h. Structures. All structures used for personal cannabis cultivation (including accessory structures, greenhouses, and garages) must be legally constructed with all applicable building and fire permits (including grading, building, electrical, mechanical and plumbing) and shall adhere to the development standards within the zoning designation of the subject property.
 - i. Odor Control. All structures used for cultivation shall be equipped with odor control filtration and ventilation systems such that the odors of cannabis cannot be readily detected from outside of the structure.
 - j. Noise. Use of air conditioning and ventilation equipment shall comply with Chapter [17.50](#) (Noise). The use of generators is prohibited, except as short-term temporary emergency back-up systems.
 - k. Primary Use. The primary use of the property remains at all times as a residence, with legal and functioning cooking, sleeping, and sanitation facilities with proper ingress and egress. No room shall be used for cannabis cultivation where such cultivation will impair or prevent the primary uses of cooking of meals, sleeping, and bathing.
 - l. Consent. Consent of the property owner must be obtained prior to any cultivation commencing.
- F. Commercial Cannabis Activity. Except as expressly permitted in this section, all commercial cannabis activity is prohibited. A maximum of three (3) cannabis retail businesses that are conditionally permitted and licensed pursuant to this chapter and state law are permitted to operate in the City in accordance with the following requirements:
1. Cannabis retail businesses permitted pursuant to this chapter shall only be located in the following zoning districts:
 - a. The NC neighborhood commercial district
 - b. The CR regional commercial district

- c. The CMU commercial mixed-use district
 - d. The IMU industrial mixed-use district
 - e. The 23rd Street Specific Plan Commercial Mixed Use district
 - f. The following districts of the San Pablo Avenue Specific Plan:
 - I. Neighborhood Commercial
 - II. Regional Commercial
 - III. Commercial Mixed Use
 - IV. Mixed Use Center North
 - V. Mixed Use Center South
 - VI. Entertainment Overlay
2. Land use buffers. All cannabis retail businesses must be located in the following areas:
- a. At least 750 feet away from any public or private kindergarten, elementary, middle, or junior high school.
 - b. At least 1,250 feet away from any public or private high school.
 - c. At least 1,000 feet from any other commercial cannabis business.
3. Distances. The distances set forth in this section shall be measured as a straight line, without regard to intervening structures or objects. Distances between cannabis retail businesses and public and private schools shall be measured from the closest property line of the property containing the school to the closest outside wall of the tenant spaces or, for single-occupancy structures, the closest outside wall of the structure containing the cannabis retail business. Distances between cannabis retail businesses shall be measured between the closest outside walls of the tenant spaces or, for single-occupancy structures, the closest outside wall of the structure containing the cannabis retail businesses.
4. Operator Permit. All cannabis retail businesses must obtain and maintain a valid operator permit issued by the City and comply with all conditions of that permit, as further described in subsection G of this section below.
5. Conditional Use Permit. All cannabis retail businesses must obtain and maintain a valid Conditional Use Permit pursuant to San Pablo Municipal Code Section 17.20.040 and comply with all conditions of approval at all times, as further described in subsection K of this section below.

6. Performance Standards. All cannabis retail businesses must comply with the performance standards described in subsection I of this section below.
7. Fees. All cannabis retail businesses must pay all applicable local and state fees in order to commence and continue operations.
8. Compliance with Law. All cannabis retail businesses must operate in compliance with all local and state laws.

G. Operator Permits. An operator permit shall be required for all cannabis retail businesses operating within the City of San Pablo. The form and content of the application for an operator permit shall be specified by the City and shall include the following minimum information, which will be evaluated as part of the consideration of whether to approve an operator permit:

1. Identifying information for ownership and management. The name and address of each cannabis business owner and an explanation of the legal form of business ownership.
2. Description of the proposed site. The site address, description of the premises, name and address of the property owner(s) where the cannabis business will be located, and a site plan and floor plan(s) of the proposed cannabis retail business.
3. Conceptual elevations of the building proposed to contain the cannabis retail business and any other necessary information that demonstrates the proposed means of compliance with the standards of the City's Zoning Code, adopted General Plan, and any applicable Specific Plans.
4. Additional identifying information for owners and key employees. Each cannabis retail business owner, as well as each employee shall submit specific personal information including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor or partner information, and electronic fingerprint images and related information as required by the Chief of Police for the purpose of obtaining information as to the existence and content of a record of State or Federal convictions and arrests.
5. Description of proposed operations. A description of the nature of the proposed commercial cannabis retail business, product types, average or expected sales amounts by product type, average or expected amount of cannabis storage, and sources of cannabis.
6. Proof of State license compliance. A description of the specific State cannabis

license(s) or permits that the applicant has obtained or plans to obtain. The applicant shall describe how the cannabis retail business will meet the State licensing requirements.

7. Information regarding other local licenses. A description of the specific cannabis licenses or permits that the applicant(s) has obtained or plans to obtain from the City of San Pablo and other local agencies or jurisdictions.
8. Disclosure of litigation and legal proceedings. A description of any litigation in which the applicant(s) has been involved within the ten (10) years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the ten years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the ten years immediately preceding the date of the application.
9. Security Plan. A description and documentation of how the applicant will secure the premises at all times. The security plan shall include, but is not limited to, the following:
 - a. A site security plan shall be required at the time of permit application and shall be subject to review and approval by the Chief of Police and the City Manager. All site security plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Such plans shall include, at a minimum, information regarding the implementation of the requirements of this section. The Chief of Police may require additional information, including but not limited to, if required, identification of on-site security personnel and proper certification of personnel, be included in the site security plan.
 - b. Measures for preventing individuals from remaining on the premises if they are not engaged in authorized activity.
 - c. Measures to prevent smoking of cannabis and cannabis products and any other consumption or use of cannabis or cannabis products on the premises.
 - d. Measures for disposing of expired, contaminated, adulterated, deteriorated, or excess cannabis products.
 - e. Measures for preventing off-site impacts to adjacent businesses or properties.

- f. Measures for limiting the amount of cash held on the premises.
10. Certificate of insurance. Certificate of insurance demonstrating ability to comply with the insurance requirements contained under Performance Standards in this chapter.
 11. Community benefits of the proposed cannabis retail business. A description of the benefits that the cannabis retail business would provide to the local community, such as employment for residents of the City, community contributions, improvements to the property where the cannabis business is proposed to be operated and adjoining properties, or economic incentives to the City.
 12. Signature of applicant(s) and property owner(s). The application shall be signed by all applicants, certifying, under penalty of perjury, that all information submitted as part of the application process is, to the best of the applicant's knowledge, true, accurate, and complete. The application shall be signed by all property owners of the property upon which the cannabis business will be located, certifying, that the property owner(s) has/have reviewed the application and approves the use of the property for the purposes stated in the application.
 13. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its cannabis retail business, the applicant shall provide a completed building occupancy classification form, identifying all hazardous materials proposed for storage, use or handling on the premises, including compressed and cryogenic gases such as carbon dioxide, nitrogen, and others. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.
 14. Pro forma. Three years of pro forma estimates for operations, including a discussion of the business assumptions used to develop the estimates. Example assumptions include revenue, customer volume, visits, and product costs, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs.
 15. Fees. An application fee established by the City Council. The applicant shall also be responsible for reimbursing the City for the cost of any staff time and City resources, in excess of the application fee, expended on the application process.

H. Operator Permit Application and Selection Process.

1. The City will issue a notice soliciting applications for cannabis retail businesses. Such notice will specify when the City will begin accepting applications and the deadline for receipt of applications. The City shall issue no more than a total of three (3) operator permits for cannabis retail businesses in the City. The following cannabis activities shall be permitted as part of a cannabis retail business:
 - a. Operation of a cannabis retail business.
 - b. Cannabis delivery by cannabis retail businesses otherwise possessing an operator permit in San Pablo.
2. The City reserves the right to reject any or all applications. Prior to operator permit issuance, the City may also modify, postpone, or cancel any request for applications at any time without liability, obligation, or commitment to any party, firm, or organization. Applicants for operator permits assume the risk that the City may elect to terminate or not issue permits for any commercial cannabis activity or cannabis business at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application.
3. Review of application. The method for evaluating and selecting applicants that will be eligible to receive operator permits for cannabis retail businesses shall be established by resolution of the City Council.
4. Disqualification. The following items may disqualify an application from consideration:
 - a. The cannabis retail business owner has knowingly made a false statement in the application or any other information furnished to the City.
 - b. The cannabis retail business owner or any employee has been convicted of an offense that is substantially related to the qualifications, functions, or duties, of the cannabis retail business for which the application is made. However, prior marijuana or cannabis conviction shall not be an automatic bar to approval for an operating permit.
5. Confidentiality. The security plan and operations plan required by Subsection G of this section shall be confidential and shall not be subject to public inspection or disclosure except as may be required by Federal, State or local law.

6. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application for the operating permit, and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the San Pablo Municipal Code pertaining to the establishment and operation of the cannabis business, including, but not limited to, the provisions of this Section. The affidavit(s) shall acknowledge that the approval of the cannabis permit shall, in no way, permit any activity contrary to the San Pablo Municipal Code, or any activity which is in violation of any applicable local or state laws and regulations.
7. The City will review and evaluate all necessary information related to the proposed commercial cannabis business and its proposed operators, including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor or partner information, and APN number of the parcel upon which the commercial cannabis business will be located. Certain private information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual's privacy interests and public health and safety.
8. The City will evaluate the Security Plan required by Subsection G of this section in determining whether to approve an operator permit.
9. Permit Administration and Term. Following the initial selection of cannabis retail businesses pursuant to subsection C. above, the Zoning Administrator shall be responsible for the administration and enforcement of operator permits, which shall be issued for a maximum term of three (3) years. The Zoning Administrator shall have the authority to impose conditions on operator permits deemed necessary to maintain the health, safety, and general welfare of the public.
10. Indemnification. By accepting an operator permit, the permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law, the City, its officers, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with the permittee's operations, except such liability caused by the active gross negligence, recklessness, or willful misconduct of the City, its officers, agents, and employees. An applicant's agreement to indemnify, defend, and hold harmless the City shall be a condition of approval of an operator permit and a provision of the affidavit required by paragraph (F) of this section.
11. Time Period to Seek Conditional Use Permit and State Approvals. Upon issuance of an operator permit, an applicant has nine (9) months to obtain a Conditional

Use Permit pursuant to San Pablo Municipal Code Section 17.20.040. If an applicant fails to obtain a Conditional Use Permit or any other necessary state cannabis license or approval within nine (9) months of being granted an operator permit, said operator permit shall expire and the City may select another qualified applicant in accordance with the method outlined in subsection C. above.

I. Operator Permit Performance Standards. The following performance standards shall apply to all cannabis retail businesses. Failure to comply with the following standards shall be grounds for suspension or revocation of an operator permit.

1. Hours of operation. Cannabis retail businesses shall not be open to the public and shall not conduct retail sales or deliveries before 8:00 a.m. or after 10:00 p.m. on any day of the week.
2. Odor control. Odors shall be contained on the property on which the cannabis retail business is located.
3. Alarm and video surveillance. Cannabis retail businesses must have security cameras installed, which shall be motion-sensored and capable of recording activity on the premises, including entry points to the property, and within all buildings and structures on the premises, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area. Security cameras shall record 24 hours per day, 7 days per week. The premises shall be equipped with, and at all times be monitored by, a secure web-based surveillance system. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual committing a crime on the premises and the ability to capture license plates entering and exiting the premises. The operator shall provide the Chief of Police remote access of any on-site web-based video surveillance to monitor remotely at any time. The City of San Pablo will only monitor video surveillance for law enforcement purposes related to in-progress or past crimes committed on the premises of a cannabis retail business. Additionally:
 - a. Areas where cannabis is stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.
 - b. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or labeling activities occur. Cameras shall be positioned to record all weighing, packaging, transport preparation,

processing, or labeling activities.

- c. At least one camera must be dedicated to record the access points to the secured surveillance recording area. At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.
- d. Surveillance video shall be kept for a minimum of sixty (60) days in a format that can be easily accessed for viewing. Operators shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request. Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to ensure the safety of persons and to protect the premises from theft. Alarm and surveillance systems shall be equipped with a failure notification system that provides prompt notification to the operator of any prolonged surveillance interruption or failure of the system. All surveillance equipment, records and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system or alarm system.
- e. An operator shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of any alarm installation company, and the name of any monitoring company. All monitoring companies shall be licensed by the California Bureau of Security and Investigative Services to monitor motion-sensor lighting and alarms. Off-site monitoring and video recording storage of the premises by the operator or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for on-site monitoring.
- f. All security measures installed on the premises shall have the capability to remain fully operational during a power outage.
- g. An operator shall maintain a minimum of a two-point security precaution that incorporates structures or physical barriers to regulate access to cannabis and money and prevents access of customers throughout the entire facility.
- h. Security guard(s) that are appropriately licensed by the California Bureau of Security and Investigative Services or approved equivalent shall be on-site during operational hours. Quantity and location of guard(s) shall be evaluated by the Chief of Police.

- i. Weapons and firearms are prohibited on the premises, unless authorized by the Chief of Police. This provision shall not apply to public officials engaged in official duty.
- j. Security measures shall be designed to ensure emergency access in compliance with fire safety standards.
- k. All structures used for cannabis retail business uses shall have locking doors, with commercial-grade non-residential locks, to prevent free access.
- l. Security measures shall prevent individuals from remaining on the premises of the cannabis retail business if they are not engaging in activities expressly related to the operations of the cannabis business.
- m. Bollards will be placed in close proximity to the vulnerable areas of the store, to include entrance and exit points, to prevent vehicles from targeting these areas. Depending on the site security plan, the Chief of Police can waive this requirement.
- n. Security measures shall include a transportation plan that details the procedures established for the safe and secure transport of cannabis, cannabis products, and currency to and from the cannabis retail business premises, including the transfer of currency for remitting City tax payments.
- o. Except for limited amounts of cannabis products used for display purposes, samples, immediate sales, and other authorized uses, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault that meets approval of the Chief of Police. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.
- p. Panic buttons shall be installed in all cannabis retail business premises with easy access by employees and all employees shall be properly trained on its use.
- q. Any security bars installed on the windows or the doors of the cannabis business shall be installed only on the interior of the building in compliance with all applicable codes.

- r. Windows and roof hatches of the premises shall be secured from the inside with effective means so as to prevent unauthorized entry, and shall be equipped with latches or a similar mechanism that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable provisions in this Code.
 - s. Each cannabis retail business shall identify a liaison and provide contact information to the Chief of Police who shall be available at all times to meet with the Chief of Police regarding security measures and operational issues.
 - t. Minimum lighting level of one-foot candle shall be provided at building entrances. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. Exterior lighting on the premises shall be balanced to complement the security/surveillance systems to ensure all areas of the premises are visible, and shall provide increased lighting at all entrances to the premises. The lighting required shall be turned on from dusk to dawn. The site security plan shall include a photometric plan meeting these requirements and fixture details if new or upgraded lighting is required. Parking areas shall further meet all requirements of Chapter 17.56 of the Zoning Code.
4. Insurance coverage. Cannabis retail businesses shall maintain at all times commercial general liability providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for liabilities arising from the operations of the business (including the acts and omissions of its employees, consultants, contractors, and subcontractors), products and completed operations, property damage, death, bodily injury and personal and advertising injury with limits of at least two million dollars (\$2,000,000.00) per occurrence. The general aggregate limit shall be twice the required occurrence limit. The CGL coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth herein. Cannabis businesses shall also maintain comprehensive automobile liability (owns, non-owned, hired) providing coverage at least as broad as ISO CGL Form 00 01 on an occurrence basis for bodily injury, including death, of one (1) or more persons, property damage and personal injury with limits of not less than one million dollars (\$1,000,000.00). The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the City shall be primary, and shall name the City, its officers, and employees and additional insured. The City's Risk Manager shall have the authority to modify the insurance requirements for all cannabis businesses, from time to time, is his or her sole and absolute discretion.

5. Ledger. Cannabis retail businesses shall maintain, for a minimum of three (3) years, a written accounting or ledger of all cash, receipts, credit card transactions, and reimbursements (including any in-kind contributions) as well as records of all operational expenditures and costs incurred by the permittee in accordance with generally accepted accounting practices and standards typically applicable to business records. Such ledger shall be made available to the City for inspection during business hours upon reasonable notice by the Chief of Police.
6. Inspections. To the extent permissible by law, the City shall have the right to enter and inspect any cannabis retail business for the purpose of ensuring compliance with the regulations of this chapter, provided that any such entry and inspection shall be conducted in a reasonable manner. The City shall also have the right to inspect any delivery vehicle for the purpose of ensuring compliance with the regulations of this chapter, provided that any such entry and inspection shall be conducted in a reasonable manner. Peace officers, whether in plain clothes or uniform, have the right to visit and inspect any cannabis business or delivery vehicle at any time during business hours without a search warrant, upon presentation of appropriate credentials. This includes inspection of all areas of the business premise or vehicle, including, but not limited to sales areas, back-of-house areas, storerooms, offices, closed or locked cabinets, safes, kitchens, and appurtenant buildings.
7. Notification. Within twenty-four hours after discovering any of the following, a cannabis retail business shall notify the Police Department:
 - a. Diversion, theft, loss, or any criminal activity involving cannabis or cannabis products or any agent or employee or permittee.
 - b. The loss or unauthorized alteration of records related to cannabis or cannabis products, customers, employees or agents.
 - c. Significant discrepancies identified between inventory records and inventory.
 - d. Any other material breach of security.
8. Onsite consumption. Cannabis shall not be consumed on the premises of a cannabis retail business.
9. A cannabis retail business shall notify the Chief of Police within three (3) days of receiving any notices of violation or other corrective action ordered by a State agency or other local licensing authority, and shall provide copies of relevant documents to the Chief of Police.

10. A cannabis retail business shall notify the Chief of Police within three (3) days of any staffing changes. New employees shall be subject to the same requirements of the initial application process.
11. Deliveries. Deliveries from locations originating within San Pablo shall only be permitted by cannabis retail businesses which have been granted an operator permit by the City. Deliveries shall be subject to the following standards:
 - a. Any person who delivers cannabis shall have in their possession a copy of all licenses and permits required by the State of California and the City.
 - b. A licensed cannabis retail business which is authorized to conduct deliveries in San Pablo shall provide to the Chief of Police a list of all vehicles to be used for delivery of cannabis and cannabis products, including the vehicle's make, model, year, license plate number and vehicle identification number. The cannabis business shall update the list prior to any vehicle being added to or removed from service.
 - c. Cash shall be prohibited as a form of payment for cannabis delivery transactions at the delivery location. Payments shall be made via credit card, check, or other means of cashless payment or a cash payment shall be made in advance at the cannabis retail business location.
 - d. Delivery vehicles shall not be marked or otherwise identified with advertisements, the name of the cannabis retail business, or any other distinctive marking associated with cannabis.
 - e. Delivery of cannabis shall be directly to the residence or business address of the designated recipient; deliveries to any other location are prohibited.
 - f. Deliveries shall occur only between the hours of 8:00 a.m. and 8:00 p.m.
12. No business operations or retail merchandise shall be visible from the exterior of a building where a cannabis retail business is located.
13. Cannabis retail businesses shall ensure that advertising and marketing of cannabis and cannabis products are not targeted to individuals less than 21 years of age.
14. Regular meetings. Cannabis business operators shall schedule and be available

for an in-person meeting with City staff not less than once every 180 days. These meetings shall be used to discuss ongoing operation of the cannabis business and any modifications to the operating permit necessary to maintain peace, order, and welfare of the public. City staff may waive these meetings at its discretion.

15. Operator Qualifications. Cannabis retail business operators must meet the following qualifications:

- a. Operators must be 21 years of age or older.
- b. Operators shall be subject to a background investigation by the Chief of Police at the time of application for a permit.

J. Operator Permit Renewal, Transfer, Suspension, Modification, Revocation, and Appeals of those Actions.

1. Operator permit renewal. A permit renewal application and any applicable fees shall be submitted at least sixty (60) days prior to the expiration of the operator permit. Any operator permits for which a permit renewal application has not been submitted in accordance with this section are automatically deemed to have expired. Thereafter, the City may open applications for the operator permit, and any cannabis retail business that previously held an operator permit, and failed to renew such permit, shall be required to file a new application. Permit renewal shall be subject to the laws and regulations in place at the time of renewal, and may require submittal of additional information to ensure applicable laws and regulations are met. No person or entity shall have any entitlement or vested right to receive an operating permit under this Section.
2. Violation and Noncompliance. The Zoning Administrator may refuse to renew or transfer an operator permit or may suspend, modify, or revoke an existing operator permit on the grounds that the cannabis business has failed to comply with the permit conditions or requirements of this chapter or the pertinent regulations of the Zoning Code, or the State license for the cannabis retail business has been revoked. The Zoning Administrator may additionally suspend, modify, or revoke an operator permit for any of the following causes:
 - a. Failure to comply with the operator permit conditions.
 - b. Failure to comply with the plans and materials included with an approved operator permit.

- c. Conviction of a cannabis retail business owner or an employee who makes operational or management decisions that directly impact the business of an offense that is substantially related to the qualifications, functions, or duties of the cannabis retail business after an operator permit has been granted.
 - d. Denial, suspension, or revocation of a State cannabis license or permit, or any facts or circumstances that would allow the State to deny, suspend, or revoke a license under MAUCRSA.
 - e. Failure to pay any applicable City taxes or fees after a reasonable period following notice of delinquency.
 - f. Violation of any provisions of MAUCRSA or any provisions of this chapter.
 - g. Violation of any other City statutes or conditional use permit necessary to maintain the health, safety, and general welfare of the public.
3. Transfer of Permit. Operator permits shall not be transferable to another location. However, operator permits may be transferred to another owner subject to the following requirements:
 - a. A request for change in permit ownership shall be submitted to the City at least sixty (60) days prior to the anticipated change in business ownership.
 - b. A new owner(s) shall meet all requirements for applicants of an initial permit and shall submit all information required for initial permits.
 - c. All conditions of the operator permit and conditional use permit issued pursuant to this chapter shall apply to the new owner.
4. Modifications to Permits. Any holder of an operating permit may request modifications to any aspect or condition of an operating permit at least thirty (30) days prior to the anticipated change. The Zoning Administrator may approve such modifications. The Zoning Administrator shall have the authority to impose new conditions or modify existing conditions on operator permits, as deemed necessary to maintain the health, safety, and general welfare of the public.
5. Notice of Proposed Denial of Renewal/Transfer, Suspension, Modification, or Revocation of an Operating Permit. When the Zoning Administrator concludes that grounds for denial of a request to renew/transfer, suspension, modification, or revocation of an operating permit exist, he/she shall serve the permit holder, either personally, by certified U.S. mail or overnight delivery service that provides

tracking, addressed to the business or residence address of the permit holder, with a notice of his or her decision pursuant to this section. This notice shall state the reasons for the proposed action, the effective date of the decision, the right of the applicant or permit holder to appeal the decision and that the decision will be final if no appeal is filed within the time permitted.

6. Appeal. Notwithstanding the appeal authority provisions in Table 17.16A, the City Manager shall decide all appeals made by the Zoning Administrator pursuant to this section. The right to appeal a decision of the Zoning Administrator pursuant to this section shall terminate upon the expiration of fifteen (15) business days from deposit of the notice with the U.S. Mail, or deposit with an overnight delivery. All requests for appeals shall be submitted in writing to the Zoning Administrator and set for the reasons why the decision was improper.
 - a. A nonrenewal, revocation, or suspension shall be effective upon deposit of the notice in the U.S. mail or overnight delivery service.
 - b. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council.
 - c. The City Manager shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
 - d. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing. The operator shall not operate the cannabis business while awaiting appeal.
 - e. At the hearing, the appellant may present any information the appellant deems relevant to the decision appealed.
 - f. At the conclusion of the hearing the City Manager may affirm, reverse or modify the decision of the Zoning Administrator. The decision of the City Manager shall be final.

K. Conditional Use Permits Required for Cannabis Storefront Retail Businesses

1. In addition to an operator permit, no person may operate a cannabis retail business without first obtaining a conditional use permit pursuant to San Pablo Municipal Code Section 17.20.040.
2. Submittal Requirements. Persons wishing to apply for a Conditional Use Permit for a

cannabis retail business must include the following information in their application:

- a. A copy of their approved operator permit issued by the City of San Pablo.
 - b. A set of plans showing the site location, floor plan, exterior elevation(s), and site plan, if applicable.
 - c. A business plan describing the proposed hours of operation, number of employees, and types of operations occurring at the site.
3. In addition to any findings required by Section 17.20.040, the Planning Commission may deny, approve, or conditionally approve a conditional use permit for a cannabis retail business upon making each of the following additional findings:
- a. The proposed use will not cause impacts to the surrounding neighborhood related to noise, blight, criminal activity, parking, or traffic that are greater than any such impacts associated with a different commercial use;
 - b. The proposed use will not place a burden on the provision of public services, including Police Department resources, that is disproportionate to other commercial uses.
4. Conditions. The planning commission may impose such conditions it deems necessary to protect the public health, safety, and welfare, including but not limited to conditions identified in this section and in Section 17.20.040, Conditional use permit.
5. Modifications. Modifications to an approved Conditional Use Permit shall require Planning Commission approval, unless a condition of the Use Permit is superseded by an approved modification to the Operating Permit.
6. Revocation. Any use permit granted in accordance with the terms of this chapter may be revoked if any of the conditions or terms of such permit are violated, the use is discontinued, or if any law or ordinance is violated in connection therewith.

L. Enforcement.

1. Violations.
 - a. Any activity performed contrary to the provisions of this chapter is hereby declared to be a public nuisance.
 - b. Any violation of a term, condition, or the approved plans and specifications of any permit issued pursuant to this chapter shall constitute a violation.
2. Remedies. In addition to the nonrenewal, suspension, and revocation provisions in Subsection J of this section and any and all available remedies under the law, the following remedies shall be available to the City or other enforcement agency regarding violations of this chapter:
 - a. Administrative enforcement pursuant to Chapters 1.08 and 17.10 of the Municipal Code.

- b. Civil enforcement.
 - c. Criminal enforcement.
3. In any enforcement action brought pursuant to this section, whether by administrative or judicial proceedings, each person who causes, permits, suffers, or maintains the unlawful cannabis use shall be liable for all costs incurred by the City, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible person to undertake, any abatement action in compliance with the requirements of this section. In any action by the agency having jurisdiction to abate unlawful cannabis activities under this section, whether by administrative or judicial proceedings, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this section shall be limited to those actions or proceedings in which the City elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding.

SECTION 3. Amendment of Municipal Code. Section 17.70.040 of the San Pablo Municipal Code is hereby amended to add the definition of "Cannabis retail business" and delete the definition of "Medical cannabis facility," with the City Clerk further authorized to re-order the entirety of Section 17.70.040 alphabetically:

Cannabis retail business. The cannabis retail business use defined in Section 17.62.130 consists of cannabis businesses with a physical, permanent location in the City that sell cannabis or cannabis products for either medical or recreational use and are operated in accordance with state and local laws and regulations. On-site consumption is not permitted as part of this use.

AA. Medical cannabis facility. Any facility or location where a primary caregiver makes available, sells, transmits, gives, or otherwise provides medical cannabis to two or more persons with identification cards or qualified patients. A medical cannabis facility shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a healthcare facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; a residential hospice licensed pursuant to Chapter 8.5 of Division 2 of the Health and Safety Code; or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including but not limited to Health and Safety Code Section 11362.5 et seq.

SECTION 4. Amendment of Municipal Code. Section 17.32.030 of the San Pablo Municipal Code is hereby amended to revise Table 17.32-A (Residential Districts: Use Regulations) as follows to add Cannabis Retail Business (prohibited in all Residential districts) and delete Commercial Cannabis Facilities and Activities and Cannabis Delivery, with the City Clerk further authorized to re-order the entirety Table 17.32-A alphabetically:

Cannabis, Commercial Facilities and Activities	—	—	—	—	Section 17.62.130
<u>Cannabis, Retail Business</u>	—	—	—	--	Section 17.62.130
Cannabis, Delivery	--	—	—	—	Section 17.62.130
Cannabis, Limited Personal Cultivation	P	P	P	P	Section 17.62.130
Cannabis, Outdoor Cultivation	—	—	—	—	Section 17.62.130
Medical Cannabis Facility	—	—	—	—	Section 17.62.130

SECTION 5. Amendment of Municipal Code. Section 17.34.030 of the San Pablo Municipal Code is hereby amended to revise Table 17.34-A (Commercial and Industrial Districts: Use Regulations) as follows to add Cannabis Retail Business (conditionally permitted in all Commercial and Industrial districts) and delete Commercial Cannabis Facilities and Activities and Cannabis Delivery, with the City Clerk further authorized to re-order the entirety Table 17.34-A alphabetically:

Cannabis, Commercial Facilities and Activities	—	—	—	—	Section 17.62.130
<u>Cannabis, Retail Business</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	Section 17.62.130
Cannabis, Delivery	—	—	—	—	Section 17.62.130
Cannabis, Limited Personal Cultivation	P	P	P	P	Section 17.62.130
Cannabis, Outdoor Cultivation	—	—	—	—	Section 17.62.130
Medical Cannabis Facility	—	—	—	—	Section 17.62.130

SECTION 6. Amendment of Municipal Code. Section 17.36.030 of the San Pablo Municipal Code is hereby amended to revise Table 17.36-A (Public and Semi-Public Districts: Use Regulations) as follows to add Cannabis Retail Business (prohibited in all Public and Semi-Public districts) and delete Commercial Cannabis Facilities and Activities and Cannabis Delivery, with the City Clerk further authorized to re-order the entirety Table 17.36-A alphabetically:

Cannabis, Commercial Facilities and Activities	—	—	—	—	Section 17.62.130
<u>Cannabis, Retail Business</u>	--	--	--	--	Section 17.62.130
Cannabis, Delivery	--	—	—	—	Section 17.62.130
Cannabis, Limited Personal Cultivation	—	—	—	—	Section 17.62.130
Cannabis, Outdoor Cultivation	—	—	—	—	Section 17.62.130

SECTION 7. Compliance with the California Environmental Quality Act (CEQA). Approval of this Ordinance is exempt from environmental review in accordance with Business and Professions Code section 26055(h), because it involves adoption of an ordinance, rule, or regulation that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activities. Additionally, approval of the amendments is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment. All future discretionary permit and other approvals authorized and regulated by the Ordinance will be required to comply with CEQA prior to or concurrent with approval.

SECTION 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 9. Codification. Sections 2 through 6 of this Ordinance shall be codified in the San Pablo Municipal Code. Sections 1 and 7 through 10 shall not be so codified.

SECTION 10. Publication and effective date. Within fifteen (15) days from and after adoption, this Ordinance shall be published once in a newspaper of general circulation printed and published in Contra Costa County and circulated in the City of San Pablo, in accordance with California Government Code Section 36933. This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council on [DATE] and passed by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ADOPTED AND ORDERED published at a regular meeting of the City Council held on [DATE] and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Patricia Ponce, Mayor

ATTEST:

Dorothy Gantt, City Clerk

ORDINANCE CERTIFICATION