ORDINANCE NO. 1831

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, AMMENDING TITLE 5 (BUSINESS LICENCES AND REGULATIONS) OF THE OROVILLE MUNICIPAL CODE BY ADDING CHAPTER 5.XX (COMMERCIAL CANNABIS) TO REGULATE THE ESTABLISHMENT AND OPERATION OF ALL COMMERCIAL CANNABIS ACTIVITIES IN THE CITY OF OROVILLE

WHEREAS, in 1996, the California electorate approved Proposition 215, the Compassionate Use Act of 1996, which allows a patient, with a doctor's recommendation, to use cannabis for medical purposes without the fear of prosecution or arrest; and

WHEREAS, in 2003, the California legislature passed Senate Bill 420 (Medical Marijuana Program Act) which amended the Health and Safety Code to permit the establishment of medical cannabis dispensaries for the distribution of cannabis for medical purposes; and

WHEREAS, in 2005 the California Board of Equalization began issuing seller's permits for sales consisting of medical cannabis; and

WHEREAS, in 2008 the California Attorney General issued guidelines for the security and non-diversion of cannabis grown for medical use; and

WHEREAS, in 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA") further amended in 2016 as the Medicinal Cannabis Regulation and Safety Act ("MCRSA"), which established regulations and a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing; and

WHEREAS, in 2016 the voters of the State of California approved and passed Proposition 64 also known as the Adult Use of Marijuana Act ("AUMA"); and

WHEREAS, Health & Safety Code Section 11362.83 provides that cities are free to adopt and enforce local ordinances that regulate the location, operation, or establishment of medical cannabis dispensaries and cultivation; and

WHEREAS, after studying various alternatives for the regulation of commercial cannabis considering input from stakeholders and a public hearing, and reviewing the legal status of cannabis under applicable law, the City Council finds that the regulation of commercial cannabis activities is necessary to protect the public health, safety, and welfare by mitigating the adverse secondary effects from the operations of these uses; and

WHEREAS, the City of Oroville has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these uses may operate, and in providing access of cannabis to residents; and

WHEREAS, the City has conducted a CEQA review of all proposed commercial cannabis projects and no further environmental analysis is required. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15061(b)(3) "General Rule Exemption" and Section 15305 "Minor Alterations in Land Use Limitations."

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF OROVILLE DOES ORDAIN AS FOLLOWS:

SECTION 1: Findings.

The City Council of the City of Oroville adopts and finds as true and correct the aforementioned recitals and incorporate them herein as findings.

SECTION 2: Title 5 of the Oroville Municipal Code is hereby amended adding Chapter 5.XX (Cannabis) with a title to read as follows:

CANNABIS

Sections:

5.XX.010	**Purpose and Intent.**
5.XX.020	**Land Use Reference.**
5.XX.030	**Zoning Compliance and Cannabis Business Permit Required.**
5.XX.040	**Definitions.**
5.XX.050	**Compliance with State and Local Licensing Requirements.**
5.XX.060	**General Provisions for All Commercial Cannabis Activity.**
5.XX.070	**Operational Standards for All Commercial Cannabis Businesses.**
5.XX.080	**Additional Regulations for Cannabis Retail Businesses.**
5.XX.090	**Additional Regulations for Cannabis Retail Delivery Services.**
5.XX.100	**Additional Regulations for Cannabis Manufacture Businesses.**
5.XX.110	**Additional Regulations for Cannabis Testing Laboratory Businesses**
5.XX.120	**Additional Regulations for Cannabis Distribution Businesses.**
5.XX.130	**Additional Regulations for Cannabis Cultivation Businesses.**
5.XX.140	**Additional Regulations for Microbusiness Businesses.**
5.XX.150	**Cannabis Business Permit Application Procedures.**
5.XX.160	**Cannabis Business Permit Selection Process.**
5.XX.170	**Cannabis Business Permit Annual Renewal**
5.XX.180	**Appeal and Denial of Cannabis Business Permit.**
5.XX.190	**Suspension or Revocation of Cannabis Business Permit.**
5.XX.200	**Enforcement.**
5.XX.210	**Fees and Taxes.**
5.XX.220	**Limitations on City's Liability.**

Section 5.XX.010 Purpose and Intent.

The purpose and intent of this Chapter is to regulate commercial cannabis activities in order to ensure the health, safety and welfare of the residents of the City of Oroville ("City") by establishing regulations necessary for a commercial cannabis business to obtain and maintain a Cannabis Business Permit ("CBP"). All commercial cannabis facilities shall at all times operate in accordance with the State law and any applicable provisions of the Code. All commercial cannabis business shall comply with the conditions of approval associated with the applicable zone for the parcel of real property upon which the commercial cannabis activities are conducted. Any commercial cannabis business shall qualify for and receive a CBP from the City of Oroville as provided by this ordinance and operate only in an allowable zone as defined in Title 17, Zoning of the Oroville Municipal Code, before commencing any commercial cannabis activity. Any commercial cannabis business without a State license, CBP, and a Land Use Permit is in violation of this ordinance. The regulations in this article, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, SB 94, Proposition 64, and the California Health and Safety Code (collectively referred to as "State Law") do not interfere with the right to use cannabis or medicinal cannabis as authorized under State Law, nor do they criminalize the possession or commercial activities of cannabis or medicinal cannabis as authorized under State Law.

Section 5.XX.020 Land Use Reference.

This Chapter corresponds with Title 17 Zoning and will be taken together with the provisions of Title 17 Zoning to determine whether a cannabis business is permitted and to determine the approval process. Any commercial cannabis business in the City of Oroville must also operate in compliance with the City's zoning ordinance.

Section 5.XX.030 Zoning Compliance and Cannabis Business Permit Required.

Commercial cannabis activities are expressly prohibited in all zones in the City of Oroville; however, certain commercial cannabis businesses are allowed with a Conditional Use Permit, pursuant to the provisions of Title 17 Zoning. No commercial cannabis business may operate in the City of Oroville without a CBP. As a requisite for obtaining a CBP, commercial cannabis businesses shall conduct business only in the appropriate zones as described in Title 17 Zoning.

Section 5.XX.040 Definitions

The definitions are incorporated herein as fully set forth and are applicable to this ordinance. All definitions are intended to comply with those set forth by the State of California for all commercial cannabis activities.

"Applicant" means a person who is required to file an application for a permit under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a commercial cannabis business.

"Cannabis" means all parts of the 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 marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the

Statutes of 1972. "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 chapter, "cannabis" does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

"Cannabis business" means any enterprise engaged in the cultivation, possession, manufacture, processing, storage, laboratory testing, labeling, distribution, delivery, or retail sale of cannabis or a cannabis product.

"Cannabis business permit (CBP)" means a permit issued by the City to a cannabis business pursuant to this Chapter.

"Cannabis goods" means cannabis, including dried flower, and manufactured cannabis products.

"Cannabis products" shall have the meaning set forth in Health and Safety Code section 11018.1.

"Cannabis retail business", "cannabis retailer", or "retailer" means a business where cannabis goods, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination for retail sale, including an establishment that delivers cannabis or cannabis products as part of a retail sale.

"Cannabis waste" means waste that is not hazardous waste, as defined in Public Resources Code section 40191, that contains cannabis and that has been made unusable and unrecognizable in the manner prescribed by the State.

"Canopy" means all of the following:
(1) The designated area(s) at a licensed premise that will contain mature plants at any point in time;
(2) Canopy shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain mature plants at any point in time, including all of the space(s) within the boundaries;
(3) Canopy may be noncontiguous, but each unique area included in the total canopy calculation shall be separated by an identifiable boundary such as an interior wall or by at least 10 feet of open space; and
(4) If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

"Commercial cannabis activity" includes the cultivation, possession, manufacture, processing, storage, laboratory testing, labeling, distribution, delivery, or retail sale of cannabis or cannabis products, and shall be read together with any applicable definitions contained within Business and Professions Code Section 26001, except as set forth in Section 19319 of the Business and Professions Code, related to qualifying patients and primary caregivers. "Commercial cannabis activity" shall be used interchangeably with "commercial cannabis business." This section is intended to provide the broadest possible definition for the term.

"Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.

"Delivery employee" means an individual employed by a licensed cannabis retailer who delivers cannabis goods from the licensed retail business to a customer at a physical address.

"Dispensary" see "Cannabis retail business".

"Display" means cannabis goods that are stored in the licensed cannabis retail business during the hours of operation.

"Distribution" means the procurement, sale, and transport of cannabis or cannabis products between licensed cannabis businesses.

"Distributor" means a person or entity engaged in distribution, as defined by Business and Professions Code section 26001(r), of cannabis or cannabis products.

"Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medicinal cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

"Free sample" means any amount of cannabis goods provided to a medicinal cannabis patient, or purchaser of cannabis, or primary caregiver without cost or payment or exchange of any other thing of value.

"License" means a license issued by the State of California, or one of its departments or divisions under State Law, to engage in commercial cannabis activity.

"Licensee" means any person to which the State of California, or one of its departments or divisions, has issued a license under State Law, to engage in commercial cannabis activity.

"Limited-access area" means an area in which cannabis goods are stored or held and is only accessible to a licensee and its employees and contractors.

"Manufacture" means to compound, blend, extract, infuse, process or otherwise make or prepare a cannabis product.

"Manufacturer" means a business producing, preparing, propagating, manufacturing or compounding cannabis and cannabis products including businesses involving the extraction of a substance from a cannabis plant, the infusion or mixture of cannabis into another substance, the

preparation of an edible item that contains cannabis, and the packaging and labeling of cannabis or cannabis products.

"Medicinal cannabis patient" is a person whose physician has recommended the use of cannabis to treat a serious illness.

"Microbusiness" means the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer (non-volatile) as defined by the State, and retailer, provided such licensee can demonstrate compliance with all requirements imposed by the State on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

"Operating hours" means the hours within a day during which a licensed retail facility may allow cannabis purchasers and primary caregivers to enter the premises and purchase cannabis goods.

"Ownership interest" means an interest held by a person who is an owner as defined by State of California commercial cannabis regulations or who has a financial interest in the commercial cannabis business of 20% or more.

"Package" and "Packaging" means any container or wrapper that may be used for enclosing or containing any cannabis goods for final retail sale. "Package" and "packaging" does not include a shipping container or outer wrapping used solely for the transport of cannabis goods in bulk quantity to a licensee.

"Person" includes 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.

"Physician's recommendation" means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

"Premises" means the designated structure(s) and land specified in the application that are in possession of and used by the applicant or licensee to conduct the commercial cannabis activity.

"Primary Caregiver" has the same meaning as that term is defined in Section 11362.7 of the Health and Safety Code.

"Private security officer" has the same meaning as that term as defined in the State of California Business and Professions Code section 7574.01.

"Publicly owned land" means any building or real property that is owned by a city, county, state, federal, or other government entity.

"Purchase" means obtaining cannabis goods in exchange for payment.

"Purchaser" means a person who is engaged in a transaction with a licensee for purposes of obtaining cannabis goods.

"Security monitoring" means the continuous and uninterrupted attention to potential alarm signals that can be transmitted from a security alarm system for the purpose of summoning law enforcement.

"Sell," "sale," and "to sell" include any transaction whereby, for any payment, title to cannabis is transferred from one person to another and includes the delivery of cannabis goods pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same but does not include the return of cannabis goods by a licensee to the licensee from whom such cannabis goods were purchased.

"State" means the State of California.

"Testing" means a facility, entity, or site that offers or performs tests of cannabis or cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health

"Vehicle alarm system" is a device or series of devices installed to discourage theft of the commercial vehicle or its contents and is intended to summon general attention or to summon law enforcement as a result of an indication of an attempted breach of the commercial vehicle.

"Volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. "Volatile solvent" does not include carbon dioxide used for extraction or ethanol used for extraction and post-extraction processing.

Section 5.XX.050 Compliance with State and Local Licensing Requirements.

Commercial cannabis activity as defined by the State of California or the City of Oroville shall operate in conformance with all regulations and standards set forth in this Chapter of the Municipal Code to ensure that the operations of the retailer, cultivator, manufacturer, distributer, testing facility or any other commercial cannabis activity as defined by the State of California or allowed by the City of Oroville are in compliance with local and State law and are established to mitigate any adverse secondary effects from its operations. Cannabis businesses shall be required to obtain a State license and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria. Multiple commercial cannabis activities and licenses proposed on any one site shall occur only if authorized by the State and the City of Oroville and only if all uses proposed are allowed pursuant to the City's Zoning Code.

Section 5.XX.060 General Provisions for All Commercial Cannabis Activity.

A. Cannabis Business Permit Required.

1. Each business shall have a CBP specific to the business activity defined by the State pertaining to that activity and whether the activity is medicinal or adult-use or any other commercial cannabis activity the State may define and as they may be amended. Following is a list of current permit types:
    a. Cultivation

b. Distribution
c. Manufacturing
d. Microbusiness
e. Nurseries
f. Retail (Dispensaries)
g. Testing

2. It shall be unlawful for any person, association, partnership or corporation to engage in, conduct or carry on, in or upon any premises within the City of Oroville any commercial cannabis business without a CBP. A commercial cannabis business shall register and obtain a CBP from the City of Oroville prior to operation. The CBP applicant shall pay an annual non-refundable regulatory fee in an amount and at a frequency established by the City Council.

3. A copy of the CBP shall be displayed at all times in a place visible to the public.

4. A CBP shall be valid for one (1) year, unless sooner revoked. No permit granted herein shall confer any vested right to any person or business for more than the above-referenced period.

5. A CBP shall not be issued to a person with felony convictions as reported by a Department of Justice "Live Scan", as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of a business or profession, including a felony conviction involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of controlled substances without specific written permission from the City.

6. A Cannabis Business shall not employ any individuals with felony convictions as reported by a Department of Justice "Live Scan", as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of a business or profession, including a felony conviction involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of controlled substances without specific written permission from the City.

7. A CBP shall be issued to the specific person or persons listed on the Cannabis Permit Application.

8. A CBP may not be transferred from one person to another person. A CBP is not does not run with the land or with the business. Any change to the business location, organizational structure, or ownership requires a new application with associated fees.

B. Maintenance of Records and Reporting.

1. Licensing authorities may examine the records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections and examinations of records shall be conducted during standard business hours of the licensee or at any other reasonable time.

Licensees shall, make available at the licensee's premises, and/or deliver records to, and as directed by the licensing authority, upon request. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.

2. All records for the commercial cannabis business of the following activities shall be maintained and available to the City of Oroville for at least 7 years. Records shall be produced within 24 hours of a request by an authorized City representative:

    a. The business shall obtain and maintain a valid Seller's Permit from the California Department of Fee and Tax Administration (CDTFA) or its successor agency.

    b. Financial records include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization or its successor agency under Title 18 California Code of Regulations section 1968.

    c. The printed full name, date of birth, and present address and telephone number of the licensed individual, as well as for all persons with any financial interest in the commercial cannabis business.

    d. Personnel records, including each employee's full name, address, phone number, date of beginning employment, and date of termination of employment if applicable.

    e. Training records, including but not limited to the content of the training provided and the names of the employees that received the training.

    f. Contracts with other licensees regarding commercial cannabis activity.

    g. Permits, licenses, and other local authorizations to conduct the licensee's commercial cannabis activity, including valid Seller's Permit.

    h. Security records.

    i. Proof of building ownership or written permission from landlord permitting the cannabis business type to be operated on the leased premises.

    j. Proof of insurance.

    k. The City may also request access to recordings not specifically listed above as outlined in that California Business and Professions Code, Chapter 16, Records.

C. Child Support Obligations:

1. Prior to the issuance of an initial or renewal CBP under this Chapter, and at all times while holding a permit, applicants and Licensees shall be current or in good standing with their monthly child support obligations. If the applicant or Licensee has an account with past due child support arrears, he/she must have that balance at zero or have verification from

the Butte County Department of Child Support Services that they have been in and remain in compliance with a court ordered payment plan.

2. Licensees shall provide the Butte County Department of Child Support Services a quarterly list of all employees employed by Licensee at any time during the quarter. Reports are due by the 15th of the month following the end of the quarter. (March, June, September, and December). The list shall include names, addresses, phone numbers and social security numbers for all employees.

3. If Licensee uses a payroll withholding process, Licensee must comply with any income withholding order for child support for any employee in Licensee's employ. In addition, if the income withholding order is for an owner or part-owner of the business, the business shall also comply with the income withholding order and provide necessary tax information for purposes of determining accurate child support orders.

Section 5.XX.070 Operational Standards for All Commercial Cannabis Businesses.

A. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises, with a minimum of 15 frames per second. Cameras shall record 24 hours a day.

B. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the City or their designee on request. Licensee shall provide secure, constant, and continuous electronic access to all cameras to City at all times, and expressly waives any warrant or other legal process requirements. Licensee shall conspicuously post signage at the entrance(s) to the premises advising all persons including employees and purchasers of the existence of the cameras and law enforcement's access to the cameras.

C. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered in a secure location, stored digitally, for a period of not less than ninety (90) calendar days and be available for inspection at any time. The City or law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings.

D. Recorded images shall clearly and accurately display the time and date. Copies of the recordings shall be provided within 7 business days to the City of Oroville, the Oroville Police Department, or other law enforcement agency upon request. Failure to promptly comply with law enforcement request for recordings may subject licensee to revocation of license and/or CBP.

E. All commercial cannabis businesses shall create and maintain an active account within the State's track and trace system prior to commencing any commercial cannabis activity. In the

event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.

F. No physical modification of the licensed premises is allowed without written prior permission by the City, compliance with applicable building permit, inspection and approval processes, and payment of any additional fees required by the City.

G. The commercial cannabis business shall minimize nuisances such as trash, litter, and graffiti.

H. All commercial cannabis facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility, if the use occupies only a portion of a building.

I. A commercial cannabis business entity that remains inoperative for more than 90 calendar days shall be deemed "abandoned" and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the City Administrator or designee.

J. The cannabis business shall comply with all State regulations regarding testing, labeling and storage of all cannabis products.

K. The cannabis business shall meet all State and local regulations for the storage, use, and disposal of all cannabis goods and cannabis waste, and any materials used in conjunction with processing, distribution and cultivation of cannabis as well as any unsold cannabis or cannabis products.

L. The cannabis business shall conform to all State and County regulations regarding the use of appropriate weighing devices.

M. The cannabis business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 27).

N. All aspects of the commercial cannabis business premises shall comply with all State and local regulations including the California Building Code and California Fire Code, as adopted by the City of Oroville.

O. The commercial cannabis business shall at all times maintain insurance policies of the types and with the terms, coverages, endorsements as shall be set forth in the application for CBP.

P. All agents, private security officers or other persons acting for or employed by a licensee shall display a laminated identification badge at least 2" X 2" in size, issued by the licensee. The badge, at a minimum, shall include the licensee's "doing business as" name and license

number, employee's first and last name, and a color photo of the employee that shows the full front of the employee's face.

Q. The commercial cannabis business shall have a centrally-monitored fire and burglar alarm system which shall include all perimeter entry points and perimeter windows. In addition, the alarm system shall be equipped with silent panic alarm buttons at the main counter and money storage area.

R. A commercial cannabis business shall ensure that a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors and responds to the alarm system. The alarm company shall obtain a City business license. The alarm company shall notify the Oroville Police Department public safety dispatch center (9-1-1 Center) of any alarm activations.

S. No free samples of any cannabis goods may be distributed at any time.

T. All persons hiring employees to engage in commercial cannabis activities shall document compliance with the following employee safety practice:
   1. Emergency action response planning as necessary
   2. Employee accident reporting and investigation policies
   3. Fire prevention
   4. Hazard communication policies, including maintenance of material safety data sheets
   5. Materials storage and handling policies
   6. Personal protective equipment policies
   7. Operation manager contacts
   8. Emergency responder contacts
   9. Poison control contacts
   10. Department of Justice "Live Scan" for all employees

U. All persons with ownership interest, and all employees, agents, officers and other persons acting on behalf of a licensee must be at least 21 years of age.

V. Shipments of cannabis goods may only be accepted during regular business hours.

W. Inventory shall be secured and locked in a room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss during non-business hours.

X. No cannabis goods shall be visible from the exterior of the business.

Y. Smoking, ingesting or otherwise consuming cannabis on the premises of a commercial cannabis business, or within 100 feet of the premises, is prohibited.

Section 5.XX.080 Additional Regulations for Cannabis Retail Businesses.

A. A licensed cannabis retail facility shall comply with all State regulations contained in California Code of Regulations Title 16, Division 42 and as it may be amended from time to time.

B. Only three (3) dispensaries shall operate within the Oroville City Limits unless the City Council by resolution determines another number is appropriate.

C. All cannabis goods available for sale shall be securely locked and stored.

D. Display of cannabis goods shall be limited to only an amount necessary to provide a visual sample for customers.

E. The use of vending machines (i.e., a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis goods is strictly prohibited.

F. At all times, the cannabis retailer is open, the retailer shall provide at least one security guard who is registered with Bureau of Security and Investigative Services and possesses a valid and current security guard registration card on their person while on-duty.

G. The security guard and cannabis retail personnel shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the retailer or on the property or in the parking lot.

H. Retailers selling medicinal cannabis shall maintain the full name, address and telephone number(s) of all patient members to whom the business provides medicinal cannabis, and a copy of a physician-issued recommendation card for all patient members.

I. Hours of operation shall be limited to no earlier than 9 a.m. Pacific Time and no later than 9 p.m. Pacific Time unless zoning regulations specify more restrictive hours.

J. On-site consumption of cannabis or cannabis products is specifically prohibited on the premises at all times. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis retail business: "Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited".

K. No one under the age of 21 shall be allowed to enter this facility unless they are either a qualified patient or a primary caregiver.

L. No recommendations from a doctor for medicinal cannabis shall be issued on-site.

M. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of alcohol, tobacco or cannabis by patrons.

Section 5.XX.090 Additional Regulations for Cannabis Retail Delivery Services.

A. All deliveries shall comply with Sections 5415 through 5421, inclusive, of Title 16 of the California code of Regulations.

B. Commercial cannabis deliveries to locations within the jurisdictional boundaries of the City may be made only from a cannabis retailer with a CBP issued by the City in compliance with this Chapter, or from a licensed cannabis retailer from outside the City, and in compliance with all State regulations.

C. All employees who deliver cannabis shall have valid identification and a copy of the retailer's CBP at all times while making deliveries.

D. Proof of insurance, of the types and with the terms, coverages, and endorsements as shall be set forth in the application for CBP for any and all vehicles being used to transport cannabis goods.

E. All deliveries shall only take place during normal business hours of the retail business.

F. Delivery vehicles shall not be marked in any way indicating that it is a cannabis delivery vehicle. This includes any exterior advertising of the retail business on the vehicle.

G. A retailer shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by the City.

H. The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed the limit set by State Law.

Section 5.XX.100 Additional Regulations for Cannabis Manufacture Businesses.

A. At all times, the cannabis manufacturer will be compliant with all State regulations for cannabis manufacturing including California Code of Regulations Title 17 Division 1, Chapter 13, as it may be amended from time to time.

B. A licensed cannabis manufacturer may conduct all activities permitted by the State.

C. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be conducted without applying for and receiving written permission, after inspections and permitting (if applicable), from the City for that additional activity.

D. Inspections by the Fire Chief, Building Official, and Butte County Division of Agriculture or their respective designees may be conducted anytime during the business's regular business hours, in addition to any other inspections allowed by other persons/entities as set forth in State or local law.

E. Cannabis manufacturing facilities shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

Section 5.XX.110 Additional Regulations for Cannabis Testing Laboratory Businesses.

A. A licensed cannabis testing business shall comply with all State regulations contained in California Code of Regulations Title 16, Division 42 and as it may be amended from time to time.

B. Any cannabis testing facility shall maintain all certifications required by the State.

C. A licensed cannabis testing facility business, its owners and its employees may not hold an interest in any other cannabis business except another testing business.

D. Inspections by the Fire Chief, or Police Chief, or Building Official, or their designee may be conducted anytime during the business's regular business hours, in addition to any other inspections allowed by other persons/entities as set forth in State or local law.

Section 5.XX.120 Additional Regulations for Cannabis Distribution Businesses.

A. A licensed cannabis distribution business shall comply with all State regulations contained in California Code of Regulations Title 16, Division 42 and as it may be amended from time to time.

B. Any cannabis distribution facility shall provide proof of a bond of at least five thousand dollars to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

C. Inspections by the City Police Chief or his/her designees may be conducted anytime during the business's regular business hours, in addition to any other inspections allowed by other person/entities as set forth in State or local law.

Section 5.XX.130 Additional Regulations for Cannabis Cultivation Businesses.

A. A licensed cannabis cultivation facility shall comply with all State regulations contained in California Code of Regulations Title 3, Division 8 and as it may be amended from time to time.

B. Outdoor cultivation of cannabis is expressly prohibited. All cannabis cultivation activities shall occur within a fully enclosed and secured structure that fully encloses the premises. Said facility shall not violate any other ordinance, code Section, or provision of law regarding the height, location, materials, or other fencing restrictions and shall not be constructed or covered with plastic or cloth. All screening shall conform to the requirements of applicable area, community, specific and design plans.

C. Cultivation area shall not exceed that authorized by license issued by the State of California.

D. The cannabis business shall register with the Department of Pesticide Regulation if using any pesticides.

E. From a public right-of-way, there shall be no exterior evidence of cannabis cultivation.

F. The Building Official may require additional specific standards to meet the California Building Code and Fire Code.

G. Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board.

H. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or emergency.

Section 5.XX.140 Additional Regulations for Microbusiness Businesses.

A. In order to hold a State Microbusiness license, a licensee must engage in at least three (3) of the following commercial cannabis activities: cultivation, manufacturing, distribution, and retail sale. Areas of the premises for manufacturing and cultivation shall be separated from the distribution and retail areas by a wall and all doors between the areas shall remain closed when not in use, as regulated per California Code of Regulations Title 16 Division 42 Chapter

B. Any cannabis activity that is to be conducted as part of a microbusiness shall comply with all commercial cannabis activity regulations pertaining to each activity, as set forth in this Chapter.

Section 5.XX.150 Cannabis Business Permit Application Procedures.

The City Administrator or his/her designee will prepare cannabis application forms and a related administrative policy. Each Applicant interested in operating pursuant to this Chapter may submit an application together with a non-refundable processing fee in an amount established by the City Council.

Section 5.XX.160 Cannabis Business Permit Selection Process.

A. Cannabis Business Permit Selection Process Overview.

1. The CBP selection process will be conducted in two phases, Phase 1 and Phase 2. In Phase 1, each Applicant interested in operating a commercial cannabis business will pay an application fee in an amount established by the City Council by resolution. The application will be reviewed for completeness by the City Administrator or designee.

2. In Phase 2, the applicant will pay an application fee in an amount established by the City Council and a complete background check of the business owner and review of the business plans will be conducted by the City Administrator to ensure compatibility with State and local regulations.

3. For commercial cannabis activities restricted by number of permits available, the City has established a competitive selection process using a merit-based scoring system and a selection panel to objectively award permits in the event that there are more applications than there are permits available for a specific license type, as described in subsection (D).

4. If any of the items listed in the application process are not met, the City Administrator shall notify the applicant of the deficiency within thirty (30) calendar days, after which the applicant will have ten (10) calendar days from receipt of notice to correct the deficiency. If the deficiency is not corrected within ten calendar days, the City Administrator may deny the permit and notify the applicant of this determination in writing within ten calendar days.

5. Official issuance of the commercial cannabis business permit(s), however, is conditioned upon the prevailing applicant(s) obtaining all required land use approvals.

6. Issuance of a commercial cannabis business permit does not create a land use entitlement or serve as a building permit. 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, applicable

building permits, and conditions of the commercial cannabis business permit, have been complied with.

B. Cannabis Business Permit Selection – Phase 1 – Initial Review.

The City Administrator or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements in Phase 1 Initial Review and proceed to the Phase 2 review process. These requirements include, but are not limited to:

1. Phase 1 application fee is paid;

2. All application documents required in the City's Phase 1 application package are submitted;

3. Application forms are filled out completely;

4. Business Owner(s) / Applicant(s) referenced on the application completes a Live Scan that was conducted within 14 days prior to submitting the application;

5. A zoning clearance letter that the proposed location of the cannabis business on the application meets the zoning criteria established in Title 17 Zoning including, but not limited to, any and all sensitive use separation criteria.

C. Cannabis Business Permit Selection – Phase 2 – Final Review.

The City Administrator or designee, after reviewing the applications approved in Phase 1 and reviewing the information below will make a recommendation to the City Council to approve or reject the application for the CBP for cannabis businesses that are not restricted by the number of permits available.

1. Phase 2 application fee is paid;

2. A comprehensive background check of anyone holding an ownership interest is completed to the satisfaction of the Chief of Police;

3. A comprehensive review of the business plans will be conducted by the City Administrator to ensure compatibility with State and local regulations;

4. A CBP will only be issued once the applicant has obtained the appropriate land use authorization. Nothing in this Chapter shall prevent a potential applicant from applying for a land use permit prior to any selection process.

D. Cannabis Business Permit Selection – Phase 2 – Competitive Selection Process.

The City has established a competitive selection process to objectively award permits for which there are a limited number of permits available.

1. Notice of the competitive application period shall be published by means determined by the City Administrator to provide public notice of the opportunity to apply.

2. The City Administrator shall open the competitive application period and make permit applications available. The competitive application period shall be thirty (30) calendar days from the date the applications are released. Should the 30th day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the close of the competitive application period, the City Administrator or designee shall stop accepting applications and review all applications received.

3. The City Administrator or designee(s) shall determine whether each application demonstrates compliance with the minimum requirements in Phase 1 Initial Review. Each application that is complete and in compliance with the application requirements in Phase 1, shall be placed into a pool of applicants for further review and selection shall be made on merit.

4. The City Administrator shall convene a Selection Panel to make the final decision, based on a merit-based scoring system, of the highest-ranking applicant or applicants to recommend to the City Council for the approval of the CBP. A complete description of the merit-based scoring system shall be included with the application forms.

Section 5.XX.170 Cannabis Business Permit Annual Renewal

A. Applications for the renewal of a permit shall be filed with the City Administrator at least sixty (60) calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse, or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.

B. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the City Administrator who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this Section. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the City Administrator to determine whether said permit should be renewed.

C. Following the submission of written application for renewal, all establishments issued a CBP may be subject to a regulatory inspection as part of the renewal evaluation process.

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

Section 5.XX.180 Appeal of Denial of Cannabis Business Permit

A. The City Administrator will review all CBP applications and all other relevant information and determine if a permit should be granted. If the City Administrator determines that the permit

shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have seven (7) calendar days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance along with submission of an amended permit application. Following review of the amended permit application, the City Administrator will approve or deny the permit by providing written notice to the applicant.

B. The City Administrator's decision to deny or issue a CBP is only appealable by the applicant whose cannabis application was denied.

C. An applicant who disagrees with the Selection Panel's decision may appeal the final decision to the Oroville City Council by submitting a written appeal to the City Clerk within seven (7) calendar days from receipt of the written denial. The City will then inform the applicant in writing of the date and tie the appeal will be heard. The decision of the City Council shall be final.

Section 5.XX.190 Suspension or Revocation of Cannabis Business Permit

A. The City Administrator or his/her designee may suspend or revoke a CBP when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

1. Any act which would be considered a ground for denial of the permit in the first instance.

2. Violates any other provision of this section or any City of Oroville or State law, statute, rule or regulation relating to the business's permitted activity.

3. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.

4. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.

5. Fails to take reasonable measures to control patron conduct on or near the premises, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the operation of another business.

6. Violates or fails to comply with the terms and conditions of the CBP.

B. The Chief of Police or City Administrator may issue an order suspending a CBP for a period not exceeding ten (10) calendar days without a hearing if they determine that the continued use of the permit will cause immediate hazard to the public safety, health or welfare.

C. Notwithstanding Section 2 above the City Administrator shall provide the permittee with written notice of the City's intent to suspend or revoke the license, and the effective date of the suspension or revocation (which shall be no less than thirty calendar days from the date of the written notice), along with written notice of the permittee's right to a hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the

permit. Such written notice shall be served on the permittee either personally or by certified U.S. mail, postage prepaid. Within seven (7) calendar days of the date of mailing or personal service, the permittee shall submit a written request for hearing to the City Administrator. Failure to timely submit a request for hearing constitutes waiver of the right to a hearing. Upon receipt of a timely submitted request for hearing, the City shall provide the permittee written notice of the time and place of such hearing, which shall be served upon the permittee at least ten (10) calendar days prior to the date set for such hearing. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid. The applicant shall bear all expenses involved in printing, mailing and posting such notice. Failure to appear at the hearing shall constitute waiver of the right to a hearing. The decision of the Selection Panel shall be final, and shall be served on the permittee either personally or by certified U.S. mail within ten (10) days after the hearing.

Section 5.XX.200 Enforcement

A. A violation of the regulations in this ordinance by an act, omission, or failure of an agent, officer or other person acting for or employed by a licensee within the scope of their employment or office, shall be deemed the act, omission, or failure of the licensee.

B. A permittee shall notify the Chief of Police or his/her designee of the City of Oroville upon discovery of any of the following situations:

1. A discrepancy of more than $1,000 in inventory over a period of 24 hours or $3,000 over period of 7 days.
2. A reason to suspect diversion, loss, theft or any other criminal activity pertaining to any aspect of the operation of the commercial cannabis business.
3. The loss or alteration of records related to cannabis goods, registered medicinal cannabis patients, caregivers or the permittee's employees or agents.
4. Distribution/sale of cannabis which exceeds the daily individual cannabis quantity allowance permitted under State law.
5. Any other reason to suspect any other breach of security.

C. A violation of this Section shall be subject to all remedies and enforcement measures authorized by SCCC 1.05.070. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the business's CBP, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the cannabis business and persons related or associated with the cannabis business.

D. City Officials or their designees may enter and inspect the location of any commercial cannabis business during normal business hours to ensure compliance. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this Section, except that the inspection and copying of

private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the department, state or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section.

Section 5.XX.210 Fees and Taxes.

All Cannabis Operations shall pay applicable fees and taxes, which may include one or more of the following:

A. Initial Application Fees. The Business Applicant shall submit a non-refundable fee to cover the cost of processing an initial application for the commercial cannabis business. These fees may be divided into two fees according to Initial Review (Phase 1) and Final Review and Scoring. (Phase 2).

B. Application Renewal Fees. The Business Owner shall submit a non-refundable fee to cover the cost of processing an application renewal annually.

C. Business License Fee. The Business Owner shall at all times maintain a current and valid business license and pay all business taxes required by the Oroville Municipal Code.

D. Commercial Cannabis Regulatory Fee. The Business Owner shall pay an annual municipal fee ("Regulatory Fee") to cover the costs of anticipated monitoring, enforcement, and other actions relating to the commercial cannabis business. The amount of the fee shall be set by Resolution of the City Council in accordance with State law. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time.

E. All required taxes including but not limited to sales and use taxes, business, payroll, etc.

F. Additional cannabis-specific gross receipts, excise, cultivation or any other tax approved by the voters of the City of Oroville.

G. The City shall be entitled to recover its cost of enforcement, including but not limited to its attorney's fees and costs.

Section 5.XX.220 Limitations on the City's Liability

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any CBP pursuant to this chapter or the operation of any cannabis facility approved pursuant to this chapter. As a condition of approval of a CBP as provided in this chapter, the applicant or its legal representative shall:

A. Execute an agreement indemnifying the City from any claims, damages, injuries, or liabilities of any kind associated with the registration or operation of the cannabis facility or the prosecution of the applicant or licensee or its members for violation of federal or state laws;

B. Maintain insurance in the amounts and of the types that are acceptable to the City, and name the City as an additional insured on the required policies;

C. Agree to defend, at its sole expense, or at its carrier's expense, any action against the City, its Council, its agents, officers, volunteers, and employees related to the approval of a CBP; and

D. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a CBP. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

SECTION 3. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. Effective Date.

This ordinance shall take effect thirty (30) days after the date of its final adoption. The City Clerk shall certify to adoption thereof and cause its publication according to law.

I HEREBY CERTIFY that the foregoing ordinance was introduced and read by the City Council of the City of Oroville on the 7th day of August, 2018, and was duly read and adopted at a regular meeting on the 4th day of December, 2018, by the following vote:

AYES: **COUNCIL MEMBERS: Draper, Del Rosario, Goodson, Berry**
NOES: **COUNCIL MEMBERS: Dahlmeier, Thomson**
ABSENT: **COUNCIL MEMBERS: Hatley**
ABSTAIN: **COUNCIL MEMBERS: None**

LINDA DAHLMEIER, Mayor

ATTEST: 1/7/19

JACKIE GLOVER, Assistant City Clerk

FORM APPROVED

SCOTT HUBER, City Attorney