

**ORDINANCE NO.2018-10**

**AN ORDINANCE OF THE CITY OF NEVADA CITY REPEALING AND RE-ENACTING CHAPTER 9.22 OF TITLE 9 OF THE NEVADA CITY MUNICIPAL CODE ENTITLED “MEDICAL CANNABIS DISPENSARIES AND OTHER CANNABIS BUSINESSES AND ACTIVITY” AND RENAMING IT “CANNABIS DISPENSARIES AND OTHER CANNABIS BUSINESSES AND ACTIVITY”; AMENDING CHAPTER 17.142 ENTITLED “MEDICAL CANNABIS USES AND ACTIVITY” AND RENAMING IT “CANNABIS USES AND ACTIVITY” TO ALLOW ADULT-USE FOR BUSINESSES AND ACTIVITIES PREVIOUSLY RESTRICTED TO MEDICAL-ONLY; AND AMENDING SECTIONS 17.36.020, 17.40.020, AND 17.48.020 (PRINCIPAL PERMITTED USES IN LB, GB, AND LI ZONES) IN TITLE 17 TO REFLECT THE AMENDMENT .**

**WHEREAS**, on April 12, 2017, the City Council of the City of Nevada City adopted Ordinance No. 2017-06 allowing a limited number of medical cannabis dispensaries; and

**WHEREAS**, on June 28, 2017, the City Council adopted Ordinance No. 2017-10 allowing other medical cannabis businesses and activities; and

**WHEREAS**, on April 25, 2018, the City Council adopted Ordinance No. 2018-02 relating to medical cannabis cultivation; and

**WHEREAS**, on October 10, 2018, the City Council adopted Ordinance No. 2018-07 pertaining to permit renewals and location of medical cannabis businesses; and

**WHEREAS**, the City Council, having conducted public hearings and taking public testimony on the subject, now desires to also allow for adult use as well as medical cannabis activities and businesses including cultivation, manufacturing, distribution, transporting and testing laboratories; and

**WHEREAS**, the City Council has the authority to establish regulations regarding cannabis businesses in the City pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the Medicinal and Adult Use of Cannabis Regulation and Safety Act (“MAUCRSA”).

**WHEREAS**, all cannabis related businesses will also be subject State regulations and the zoning and land use regulations of the zoning district in which such businesses establish and operate as set forth in Title 17 of the Nevada City Municipal Code and as otherwise established by the City; and

**WHEREAS**, the City Council finds that the activities permitted under this ordinance are consistent with and implement the goals and policies of the Nevada City General Plan; and

**WHEREAS**, the City Council finds that the adoption of this ordinance is not a “project” under the California Environmental Quality Act (CEQA), because the ordinance will

allow the establishment of cannabis businesses to operate in a similar manner as other traditional commercial businesses and uses which will not cause a direct physical change in the environment nor a reasonably foreseeable indirect change and even if it is found to be a "project" it is exempt from environmental review pursuant to sections 15061(b)(3), 15183, 15301, and 15303 as set forth in Ordinance No. 2017-10.

**WHEREAS**, Senate Bill 94 exempts from the California Environmental Quality Act ("CEQA") the adoption of an ordinance or regulation by a local jurisdiction if the ordinance or regulation requires discretionary review and approval of local permits or licenses for commercial cannabis activity as is the case for any issuance of a Nevada City Cannabis Business Permit;

**NOW THEREFORE**, The City Council of the City of Nevada City does ordain as follows:

SECTION I:

Chapter 9.22 of Title 9 of the Nevada City Municipal Code entitled "Medical Cannabis Dispensaries and other Cannabis Businesses and Activities" is hereby repealed in its entirety and re-enacted, renaming it "Cannabis Dispensaries and other Cannabis Businesses and Activity", as set forth in the attachment.

SECTION II:

Chapter 17.142 of Title 17 of the Nevada City Municipal Code entitled "Medical Cannabis Uses and Activity" is hereby amended and renamed "Cannabis Uses and Activity", as set forth in the attached document.

SECTION III:

Sections 17.36.020, 17.40.020 and 17.48.020 of the Nevada City Municipal Code are all amended to delete the medical-only limitation, as set forth in the attached document.

SECTION IV:

This Ordinance shall become effective 30 days after its final adoption and a copy of this ordinance, or a summary thereof, shall be published in The Union, a newspaper of general circulation, within fifteen days of the date of its passage.

**PASSES AND ADOPTED** this 12<sup>th</sup> day of December, 2018, by the following vote:

**AYES:** PARKER, STRAWSER, SENUM, MINETT, MOBERG

**NOES:** NONE

**ABSENT:** NONE

**ABSTAIN:** NONE

  
David Parker, Mayor

**ATTEST:**

  
Niel Locke, City Clerk

#### 9.22.010 - General Provisions.

- A. Purpose and Intent. It is the purpose and intent of this Chapter to provide opportunities for cannabis businesses to operate in the City for both adult use cannabis and cannabis products, defined as cannabis or cannabis products that are intended for adults who are 21 years of age and older and who do not possess a physician's recommendation, and medical cannabis and medical cannabis products, while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, manufacturing, processing, testing, transporting, delivery, and distribution of cannabis and cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of Nevada City, and to enforce rules and regulations consistent with state law. In part to meet these objectives, an annual permit shall be required in order to own and/or to operate a cannabis business within Nevada City. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes which violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, or other law.
- B. Legal Authority. Pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the Medicinal and Adult Use of Cannabis Regulation and Safety Act, Cal Bus & Prof Code Section 26000 *et seq.* ("MAUCRSA"), the city is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the state, or any of its departments or divisions, shall be the minimum standards applicable in the city to cannabis, and/or cannabis-related activity.
- C. Compliance with Laws. It is the responsibility of the owners and operators of the cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate federal, state law or local law with respect to the operation of a cannabis business. It shall be the responsibility of the owners and the operators of the cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with all applicable federal, state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions which violate federal or state law with regard to the operation of a cannabis business.

#### 9.22.020 - Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations

promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- A. "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.
- B. "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product's potency. An edible 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.
- C. "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- D. "City" or "City of Nevada City" means the City of Nevada City, a California general law City.
- E. "Cultivation" and "Commercial Cultivation" are defined as: "Cultivation" means any activity, whether occurring indoors or outdoors, involving the propagation, planting, growing, harvesting, drying, curing, grading, and/or trimming of cannabis plants or any part thereof for any purpose, including medical marijuana; and "Commercial Cultivation" means only State-licensed Indoor facilities for cannabis cultivation consisting solely of processing (drying, curing, trimming, and packaging of cannabis flower (corresponding with State CDFA Cultivation License Type for "Processor") or nursery operations (corresponding with State CDFA Cultivation License Type for "Nursery")
- F. "Cultivation site" means a facility where cannabis is cultivated, propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
- G. "Delivery" means the commercial transfer of cannabis or cannabis products from a dispensary, up to an amount determined to be authorized by the State of California, or any of its departments or divisions, to anyone for any purpose. "Delivery" also includes the use by a dispensary of any technology platform owned, controlled, and/or licensed by the dispensary, or independently licensed by the State of California under the MAUSCRA (as the same may be amended from time-to-time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or cannabis products.

- H. "Dispensary" means a cannabis business facility where cannabis, 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 (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale.
- I. "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a dispensary.
- J. "Distribution" means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to the MAUSCRA and any subsequent State of California legislation regarding the same.
- K. "Distributor" means a person engaged in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a license manufacturer, for sale to a licensed dispensary.
- L. "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- M. "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible 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.
- N. "Live plants" means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- O. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured cannabis, as defined in this section, or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container.
- P. "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.
- Q. "Manufacturing site" means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- R. "Marijuana" means "cannabis," as that term is defined in this Chapter.
- S. "Medical cannabis", "medical marijuana," "medical cannabis product" or "medical cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time-to-time). For purposes of this Chapter, "medical cannabis" does not include industrial hemp as defined by

Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

- T. "Cannabis activity" includes cultivation, manufacture, processing, laboratory testing, transporting, delivery, distribution, or sale of cannabis or a cannabis product, within the meaning of California Business and Professions Code 26000 *et seq.*
- U. "Cannabis business" means any business or operation which engages in cannabis activity.
- V. "Cannabis business permit" means a regulatory permit issued by the City of Nevada City pursuant to this Chapter to a cannabis business, and is required before any cannabis activity may be conducted in the City. The initial permit and annual renewal of a cannabis business permit is made expressly contingent upon the business' ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the cannabis activity at issue.
- W. "Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 *et seq.*, as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5. For purposes of this ordinance, qualified patient shall also refer to qualified patients who have obtained an identification card from the State Department of Health Services, as that term is defined by California Health and Safety Code Section 11362.7 *et seq.*
- X. "Person" means an 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 and includes the plural as well as the singular number.
- Y. "Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.
- Z. "State License" means a permit or license issued by the State of California, or one of its departments or divisions, under MAUSCRA to engage in cannabis activity.
- AA. "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- BB. "Testing laboratory" means a facility, entity, or site that offers or performs tests of cannabis or cannabis products and that is both of the following:
  - 1. Accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the state.
  - 2. Licensed by the Bureau of Cannabis Control within the Department of Consumer Affairs
- CC. "Transport" means the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting cannabis activity authorized by the MAUSCRA.

- DD. "Transporter" means a person authorized to transport cannabis or cannabis products in amounts authorized by the State of California, or by one of its departments or divisions under the MAUSCRA.

9.22.030 - Cannabis Business Permit Required for Owner/Operator; Requirements for Cannabis Business Employees.

A. Cannabis Business Permit Required to Engage in Cannabis Business.

1. No person may engage in any cannabis business or in any cannabis activity within the City of Nevada City including cultivation, manufacture, processing, laboratory testing, transporting, dispensing, distribution, or sale of cannabis or a cannabis product unless the person (1) has a valid cannabis business permit from the City of Nevada City and (2) is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the cannabis business activities, including the duty to obtain any required state licenses.
2. Until Health & Safety Code Section 11362.775, subdivision (a), is repealed, the City intends that persons eligible to operate collectives or cooperatives under that subdivision shall be eligible to apply for a City permit to conduct cannabis activities, but only to the degree those activities are authorized under state law for collectives and cooperatives. When the Health & Safety Code Section 11362.775, subdivision (a), is repealed, or as soon as collectives and cooperatives are no longer permitted under state law, any City permit holder operating as a collective or cooperative who has not already obtained a state license for the cannabis business activities, they are engaged in shall automatically forfeit his or her City cannabis business permit. At that point they shall no longer be authorized to engage in any cannabis activities in the City until they obtain both a City issued cannabis business permit and a state license for that cannabis activity.

B. Cannabis Business Employee Qualifications and Training; Employer Obligations to Monitor Employee Compliance.

1. The owner or operator of a cannabis business shall ensure that all employees comply with all the requirements of this Chapter 9.22.
2. Cannabis business owners or operators shall ensure that employees are educated as to all the requirements of this Chapter 9.22 and applicable state law requirements for cannabis businesses and that they adhere to all applicable requirements.
3. Failure of the owner or operator to take reasonable steps to comply with these requirements shall be grounds for permit revocation.

9.22.040 - Limitation on the Number of Cannabis Dispensaries.

A. Cannabis Dispensaries.

1. Initial Maximum Amount of Cannabis Dispensary Permits. Upon the effective date of this provision, the City Council may issue a maximum of up to one (1) cannabis business permit to a qualified cannabis dispensary at any one given time. The permit shall be issued in accordance with the application and permit approval process contained in this Chapter 9.22 and resolutions

adopted pursuant to this Chapter. The cannabis dispensary must obtain a cannabis business permit from the City before commencing operations, must be in compliance with all applicable state and federal laws pertaining to its operation, including obtaining all necessary licenses from the state, and shall comply with all applicable operational and zoning requirements set forth in the Nevada City Municipal Code. Nothing in this Chapter creates a mandate that the City Council must issue one or more cannabis business permit to a cannabis dispensary if the City Council determines that there are no qualified applicants, the proposed locations for cannabis businesses are incompatible with neighboring land uses, or if the City Council determines that the issuance of a cannabis dispensary would have a negative effect on the health, safety, or welfare of the citizens or businesses of Nevada City, or for any other reason allowed by law.

2. City Council Review and Increased Maximum Number of Cannabis Dispensaries to be Issued. Twelve (12) months after the first cannabis business permit for a dispensary is issued, the City Manager shall deliver a report to the City Council during a regular meeting which examines the positive and negative impacts that the cannabis dispensary has had on the community during the preceding twelve (12) months. The report shall include, among other things, an analysis of how the cannabis dispensary has complied with state and local regulations, any positive or negative community and law enforcement impacts, and any revenue generated. If after hearing the report the City Council makes a determination that there are no significant consequences of allowing cannabis dispensaries to operate in the City, the City Council at its sole discretion may vote to expand the number of authorized cannabis dispensary permits to be issued up to a maximum of three (3). If the City Council takes no action, or finds that the impacts are unacceptable, then the maximum number and type of cannabis dispensaries authorized shall continue to be limited to one (1) as provided is subdivision (a) above.

B. All Other Cannabis Businesses

The Planning Commission may issue permits to other qualified cannabis business owners or operators to operate cannabis cultivation (nursery or processing only), manufacturing, distribution, transporting, or testing laboratory businesses within the City of Nevada City through the application and permit approval process contained in this Chapter 9.22 and resolutions adopted pursuant to this Chapter. All cannabis businesses must obtain a cannabis business permit from the City before commencing operations, must be in compliance with all applicable state and federal laws pertaining to its operation, including obtaining all necessary licenses from the state, and shall comply with all applicable operational and zoning requirements set forth in the Nevada City Municipal Code. Nothing in this Chapter creates a mandate that the Planning Commission or the City Council must issue one or more cannabis business permit to a cannabis cultivator, manufacturer, distributor, transporter, or testing laboratory if the Planning Commission or the City Council determines that there are no qualified applicants, the proposed locations for cannabis businesses are incompatible with neighboring land uses, or if the Planning Commission or the City Council determines that the issuance of a cannabis business permit would have a negative effect on the

health, safety, or welfare of the citizens or businesses of Nevada City, or for any other reason allowed by law.

9.22.050 - Application for Cannabis Business Permit: Renewal Applications; and Effect of Revocation or Suspension of State License.

A. Initial Application Procedure.

1. The City Council shall adopt by resolution the procedures which will govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any cannabis business permit(s). The resolution shall authorize the City Manager or his or her designee to prepare the necessary forms, adopt any necessary rules, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately provide a final recommendation to the City Council of the top three (3) applicants for consideration.
2. At the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.
3. After the initial review the City Manager or his designee will make a recommendation to the City Council, and the City Council shall make a final determination in accordance with the selection procedure set forth in the Resolution adopted by the City Council.

B. The City's Reservation of Rights:

The City reserves the right to reject any or all applications. The City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled 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. In addition to any other justification provided a failure to comply with other requirements in this Chapter, an application RISKS BEING REJECTED for any of the following reasons:

1. Proposal received after designated time and date.
2. Proposal not containing the required elements, exhibits, nor organized in the required format.
3. Proposal considered not fully responsive to this request for permit application.
4. Proposal contains excess or extraneous material not called for in the request for permit application.

C. Expiration of Cannabis Business Permits. A cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its

issuance. cannabis business permits may be renewed as provided in subsection D below.

- D. Revocation of Permits. Cannabis business permits may be revoked for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to this Chapter 9.22.
- E. Renewal Applications.
1. An application for renewal of a cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
  2. The renewal application shall contain all the information required for new applications.
  3. The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
  4. An application for renewal of a cannabis business permit shall be rejected if any of the following exists:
    - a. The application is filed less than sixty (60) days before its expiration.
    - b. The cannabis business permit is suspended or revoked at the time of the application.
    - c. The cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application.
    - d. The cannabis business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter as existing at the time the original permit was issued, including separation of the location from sensitive uses.
    - e. The permittee fails or is unable to renew its State of California license.
    - f. If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, or the City's Municipal Code as existing at the time the original permit was issued, including separation of the location from sensitive uses, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the cannabis business permit.
  5. The City Manager or his designee is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager or his designee is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Manager or his designee shall be handled pursuant to Section 9.22.060 entitled "Appeals."

6. If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.
- F. Effect of state license suspension, revocation, or termination. Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall also revoke or terminate the ability of a cannabis business to operate within the City of Nevada City.

#### 9.22.060 - Appeals.

- A. Appeals from Decisions of the City Manager or his Designee under this Chapter. Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the City Manager or his or her designee, the appeal shall be conducted as prescribed in this Section.
- B. Written request for Appeal.
  1. Within ten (10) calendar days after the date of a decision of the City Manager or his designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, or within ten (10) calendar days after the Planning Commission has approved or denied an application for a cannabis business permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
  2. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.
- C. Appeal Hearing.
  1. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
  2. 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.
  3. At the hearing the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
  4. At the conclusion of the hearing the City Council may affirm, reverse or modify the decision appealed. The decision of the City Council shall be final.

#### 9.22.070 - Permittee Selection Process.

A. Selection and Review of Finalists.

1. The City Council shall adopt by resolution a procedure by which the top three applicants applying for a cannabis business permit in the dispensary category will be presented to the City Council for a final determination at a public meeting, and the applicants for other cannabis business categories will be presented to the Planning Commission for a final determination at a public meeting.
2. The top three finalists in the cannabis dispensary category shall be invited to attend the City Council meeting, where they will be expected to make a public presentation introducing their team and providing an overview of their proposal. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary. The applicants in the other categories of cannabis businesses shall be invited to attend a Planning Commission meeting, where they will be expected to make a public presentation introducing their team and providing an overview of their proposal. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary.
3. At least ten (10) days prior to the hearing, notice of the hearing shall be sent to all property owners located within three hundred (300) feet of the proposed business locations of each of the finalists to be considered by the City Council or the Planning Commission.
4. The City Council shall rank the final three candidates and shall select one or more candidates to be issued a cannabis permit for a cannabis dispensary as permitted by this Chapter 9.22. The City Council's decision as to the selection of the candidate(s) to receive a cannabis dispensary permit shall be final. Decisions of the Planning Commission to issue or deny cannabis permits in the other business categories may be appealed to the City Council according to the procedure set forth in Section 9.22.060.
5. Official issuance of a cannabis business permit, however, is conditioned upon the prevailing candidate(s) obtaining all required land use approvals. Following the Council or Planning Commission's selection, the prevailing candidate(s) shall apply to the City's planning department to obtain any required land use approvals or entitlements for the permittee's location, if any. Land use approvals shall include compliance with all applicable provisions of the California Environmental Quality Act (CEQA). The City Manager shall formally issue a cannabis business permit once the City Manager and Chief of Police have both affirmed that all of the required land use approvals have been obtained.  
  
If the selected permittee(s) is/are unable to fulfill all the requirements of obtaining the cannabis business permit(s), the City Council or the Planning Commission, in its sole discretion, may award the permit to the next highest ranked applicants, or may begin the application process again to allow for selection of a new set of applicants.
6. Issuance of a cannabis business permit does not create a land use entitlement. A cannabis business permit shall only be for a term of twelve (12) months, and shall expire at the end of the twelve (12) month period

unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit, have been complied with.

7. Notwithstanding anything in this Chapter to the contrary, the City Council and the Planning Commission reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a cannabis business permit until a permit is actually issued, and then only for the duration of the permit's term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter.
  8. If an application is denied, a new application may not be filed for one (1) year from the date of the denial.
  9. A person or entity granted a cannabis business permit shall be required to pay the permit fee established by resolution of the City Council, to cover the costs of administering the cannabis business permit program created in this Chapter."
- B. Prohibition on Transfer of Cannabis Business Permits.
1. No person may transfer ownership or control of a cannabis business or transfer any cannabis business permit issued under this Chapter. cannabis business permits are not a property right, and permittees have no economic interest in any permit issued to them. Permittees have no right to sell or transfer a cannabis business permit to another party, or to have the City Council consider whether they should authorize the transfer of a cannabis business permit to another party. Any attempt to transfer ownership of a cannabis business or of a cannabis business permit shall render the cannabis business permit void.
  2. Any attempt to transfer a cannabis business permit or a cannabis business shall result in the cannabis business permit being declared immediately revoked and/or it is void and no longer of any effect.
  3. In any situation where a permit has been lost as a result of an attempted transfer of the cannabis business permit or of the cannabis business, or as a result of the abandonment or revocation of the permit, any new permit shall be issued using the standard process for the issuance of permits in the first instance. No preference shall be given to any person proposed as new owner or assignee by the former permit holder. In such case, prior to accepting any new applications, the City shall post the availability of the cannabis business permit at issue on the City's website. The City Manager or his/her designee may take other actions to help ensure the broadest pool of applicants for the new permit.

#### 9.22.080 - Requirements Before Permittee May Commence Operations.

- A. City Business License. Prior to commencing operations, a cannabis business shall obtain a City of Nevada City business license.

- B. Building Permits and Inspection. Prior to commencing operations, a cannabis business shall be subject to a mandatory building inspection, and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), fire department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.
- C. Certification from Planning Director. Prior to commencing operations, a cannabis business must obtain a certification from the Planning Director certifying that the business is located on a site that meets all of the requirements of the City's Zoning and Municipal Code, including Chapter 17.142 (Cannabis Uses and Activities).
- D. Right to Occupy and to Use Property. As a condition precedent to the City's issuance of a cannabis business permit pursuant to this Chapter, any person intending to open and to operate a cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the cannabis business on the owner's property.
- E. Limitations on City's Liability. To the fullest extent permitted by law, the City of Nevada City shall not assume any liability whatsoever with respect to having issued a cannabis business permit pursuant to this Chapter or otherwise approving the operation of any cannabis business. As a condition to the approval of any cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the cannabis business permit:
  - 1. They must execute an agreement, in a form approved by the city attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Nevada City, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the cannabis business permit, the City's decision to approve the operation of the cannabis business or activity, to process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the cannabis business or any of its officers, employees or agents.
  - 2. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the city attorney.
  - 3. Reimburse the City of Nevada City for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Nevada City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's cannabis business permit, or related to the City's approval of a cannabis activity. The City of Nevada City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

## 9.22.090 - Operating Requirements for Cannabis Businesses.

- A. Compliance with Laws. It is the responsibility of the owners and operators of the cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a cannabis business. It shall be the responsibility of the owners and the operators of the cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions which violate state law with regard to the operation of a cannabis business.
- B. Fees, Charges and Taxes.
  - 1. No person may commence or continue any cannabis activity in the City, without timely paying in full all fees, charges, and any applicable taxes required for the operation of a cannabis business. Fees and charges associated with the operation of a cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
  - 2. A cannabis dispensary authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Cannabis dispensaries shall cooperate with City with respect to any reasonable request to audit the cannabis dispensary's books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.
- C. Hours of Operation. Cannabis dispensaries may be open for access to the public only between the hours of 8:00 A.M. and 8:00 P.M. Monday through Sunday. Other cannabis businesses may operate only during the hours specified in the business's cannabis business permit.
- D. Restriction on Consumption. Cannabis shall not be consumed on the premises of any cannabis business.
- E. No outdoor storage of cannabis or cannabis products is permitted at any time.
- F. Reporting and Tracking of Product and of Gross Sales. Each cannabis business shall have in place a point-of-sale tracking system to track and report on all aspects of the cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The cannabis business shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the City Manager or his/her designee.

- G. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- H. Emergency Contact. Each cannabis business shall provide the City Manager or his/her designee(s) with the name, telephone number (mobile preferred, if available) of an owner and or manager to whom emergency notice can be provided at any hour of the day.
- I. Signage and Notices.
  - 1. In addition to the requirements otherwise set forth in this section, business identification signage for a cannabis business shall conform to the requirements of the Nevada City Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.
  - 2. No signs placed on the premises of a cannabis business shall obstruct any entrance or exit to the building or any window.
  - 3. Each entrance to a cannabis dispensary shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis dispensary is prohibited except as authorized by Section 9.22.090 (D) of this Code.
- J. Minors.
  - 1. Persons under the age of eighteen (18) years shall not be allowed on the premises of a cannabis business unless the person is accompanied by their own parent, guardian, or primary caregiver. Persons under the age of eighteen (18) years of age shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a cannabis business who is not at least twenty-one (21) years of age.
  - 2. The entrance to the cannabis business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) years of age is permitted to enter upon the premises of the cannabis business unless the person is accompanied by their own parent, guardian, or primary caregiver.
- K. Odor Control. Odor control devices and techniques shall be incorporated in all cannabis dispensaries to ensure that odors from cannabis are not detectable off-site. Cannabis dispensaries shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis dispensary that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the cannabis dispensary. As such, a cannabis dispensary must install and maintain the following equipment, or any other equipment which the City Manager or his/her designee(s) determine is a more effective method or technology:
  - 1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally. The dispensary applicant shall provide a statement from the exhaust air filtration manufacturer that the system has

been designed to achieve the above standard based on the specific building size and layout;

2. An air system that creates negative air pressure between the cannabis dispensary's interior and exterior, so that the odors generated inside the cannabis dispensary are not detectable on the outside of the cannabis dispensary. The dispensary applicant shall provide a statement from the air system manufacturer that the system has been designed to achieve the above standard based on the specific building size and layout
- L. Display of Permit and City Business License. The original copy of the cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the cannabis dispensary in a location readily-visible to the public.
- M. Background Check.
1. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes, and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, or supervisor of the cannabis business must submit fingerprints and other information deemed necessary by the City Manager or his/her designee(s) for a background check by the Nevada City Police Department. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a permit to operate a cannabis business unless they have first cleared the background check, as determined by the Chief of Police, as required by this section.
  2. A fee for the cost of the background investigation, which shall be the actual cost to the City of Nevada City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a cannabis business permit is submitted. The applicant(s) shall provide an initial deposit in an amount the City Manager or his/her designee(s) estimates will cover the cost of the background investigation, which shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If this amount is not sufficient, the applicant shall provide additional amounts that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Upon completion of the investigation or in the event the applicant withdraws their application, any fees paid for this process will be deemed non-refundable.
  3. The City shall not disseminate background check results information to any private party.
  4. When reviewing background check results, the Chief of Police shall verify that applicants have not been convicted of any crimes listed in Business and Professions Code section 26057. Applicants found to have committed any

crimes listed in Business and Professions Code Section 26057 shall fail the background, and shall be ineligible for a City cannabis business permit.

- N. Loitering. The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises of the business.
- O. Permits and other Approvals. Prior to the establishment of any cannabis business or the operation of any such business, the person intending to establish a cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such cannabis business intends to establish and to operate.
- P. All cannabis business permittees other than cannabis dispensary businesses must comply with the following security requirements:
  - 1. A cannabis business permittee shall comply with the security plan that is approved by the City Manager, which plan may include building specifications, lighting, alarms, and state-licensed security personnel.
  - 2. Each security plan approved by the City Manager must include the following:
    - a. Security surveillance cameras. Security surveillance cameras and a video recording system must be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the business site. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
    - b. Security video recording and retention. Video from the security surveillance cameras must be recording at all times (24 hours a day, seven days a week) and the recording shall be maintained for at least 30 days. The video recordings shall be made available to the city upon request.
    - c. Alarm system. Professionally and centrally-monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.
  - 3. A cannabis business permittee shall report to the City Police Department all criminal activity occurring on the cannabis business site.”

#### 9.22.100 - Additional Operating Requirements for Cannabis Dispensaries.

A. Records and Recordkeeping.

1. Each owner and operator of a cannabis dispensary shall maintain accurate books and records, detailing all of the revenues and expenses of the dispensary, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each cannabis dispensary shall file a sworn statement detailing the number of sales by the cannabis dispensary during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.
2. Each owner and operator of a cannabis dispensary shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis dispensary, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the cannabis dispensary. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
3. Each cannabis dispensary shall maintain a record of all persons, patients, collectives and primary caregivers served by the cannabis dispensary, for a period of no less than four (4) years, or as required by state law, whichever is the lesser period of time.
4. Cannabis dispensaries shall maintain records of their inventory acquired, including the name and address of each supplier, the date of acquisition and the quantity acquired from each supplier, and the location of the cultivation of the supplier, and shall maintain a copy of the supplier's state license to cultivate (if required).
5. Subject to any restrictions under state or federal law, each cannabis dispensary shall allow City of Nevada City officials to have access to the dispensary's books, records, accounts, together with any other data or documents relevant to its permitted cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City.

B. Security Measures.

1. A permitted cannabis dispensary shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis dispensary. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
  - a. Preventing individuals from remaining on the premises of the cannabis dispensary if they are not engaging in an activity directly related to the permitted operations of the cannabis dispensary.

- b. Establishing limited access areas accessible only to authorized cannabis dispensary personnel.
- c. All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products, shall be kept in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes or for immediate sale at a dispensary.
- d. Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the cannabis dispensary which are open and accessible to the public, and all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis. The cannabis dispensary shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and the City's Police Department, and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the City Manager or his/her designee(s) and to the City's police department. Video recordings shall be maintained for a minimum of forty-five (45) days, and shall be made available to the City Manager or his designee upon request.
- e. Sensors shall be installed to detect entry and exit from all secure areas.
- f. Panic buttons shall be installed in all cannabis dispensaries.
- g. Having a professionally installed, maintained, and monitored alarm system.
- h. Any bars installed on the windows or the doors of the cannabis dispensary shall be installed only on the interior of the building.
- i. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld.
- j. Each cannabis dispensary shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- k. Entrances into the dispensary shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the dispensary, to separate it from the reception/lobby area.
- l. For the first 12 months of operation, uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities. Following the first 12 months of operation, the owner/operator may request a waiver from the Chief of Police for

further compliance with this requirement based on the demonstrated record of minimal or no complaints or calls for service to the cannabis dispensary.

2. A cannabis dispensary shall identify a designated security representative/liaison to the City of Nevada City, who shall be reasonably available to meet with the City Nevada City or his/her designee regarding any security related measures or and operational issues.
3. As part of the application and permitting process a cannabis dispensary shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
4. The cannabis dispensary shall cooperate with the City whenever the City Manager or his designee makes a request, upon reasonable notice to the cannabis dispensary, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
5. A cannabis dispensary shall notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
  - a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee.
  - b. Diversion, theft, loss, or any criminal activity involving the cannabis dispensary or any agent or employee of the cannabis dispensary.
  - c. The loss or unauthorized alteration of records related to cannabis, records of sales, or employees or agents of the cannabis dispensary.
  - d. Any other breach of security.
- C. Restriction on Alcohol Sales. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis dispensary.
- D. Owners and Operators are required to verify the age and the necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years.
- E. Dispensaries may have on-site, in the retail sales area of the dispensary, only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale. Dispensaries may also sell non-cannabis products, such as cannabis and health related educational books and publications, apparel, and the like. However, sales of non-cannabis products shall constitute no more than fifteen percent (15%) of the floor area and not to exceed three hundred (300) feet.
- G. All restroom facilities shall remain locked and under the control of management.
- H. All cannabis and products containing cannabis shall be dispensed in child-proof packaging and shall remain in such packaging until off the premises, unless otherwise provided by state law.

#### 9.22.110 - Additional Requirements for Cultivation Facilities.

- A. Outdoor Cultivation Prohibited. The cultivation of all cannabis must occur indoors. All outdoor cultivation is prohibited.
- B. In no case shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.
- C. If the cannabis business permitted by the City as a cultivator is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), the medical cannabis business shall not allow more medical cannabis plants or plants per member of a medical marijuana business than the amounts permitted pursuant to State law, to be cultivated at the medical marijuana business premises.
- D. Cannabis cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- E. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- F. The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the cannabis business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- G. All applicants for a cannabis cultivation permit shall submit the following in addition to the information generally otherwise required for a cannabis business:
  - 1. A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the cultivation activities (indoor, mixed-light) and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light).
  - 2. A description of a legal water source, irrigation plan, and projected water use.
  - 3. Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
  - 4. Plan for addressing odor and other public nuisances which may derive from the cultivation site."

- H. Commercial Cultivation operations defined as State-licensed Indoor facilities for cannabis cultivation consisting only of processing (drying, curing, trimming, and packaging of cannabis flower (corresponding with State CDFA Cultivation License Type for “Processor”) or nursery operations (corresponding with State CDFA Cultivation License Type for “Nursery”) are not prohibited by section 9.22.115 of this code, provided that nursery operations shall be limited to one operation per any parcel no greater than 10,000 square feet in size, regardless of whether the nursery operation is conducted by single or multiple permittees.

**9.22.115. Certain Cannabis Cultivation Facilities Prohibited.**

- A. Except for personal cannabis cultivation allowed pursuant to Chapter 17.410 and cannabis commercial cultivation consisting of only processing and nursery operations pursuant to California state licenses not involving cultivation of cannabis plants to maturity and in compliance with Section 9.22.110, cultivation of cannabis is not permitted in the City of Nevada City and it shall be unlawful for any person or collective or cooperative organization to engage in, conduct, or carry on, or to permit to be engaged in, conducted or carried on cultivation of cannabis for any purpose in or upon any premises in the City of Nevada City.
- B. Wherever commercial cannabis cultivation businesses appear to be allowed or conditionally allowed in this Nevada City Municipal Code, they will be limited to Commercial Cultivation as defined in subsection 9.22.020.E.

**9.22.120 - Additional Requirements for Cannabis Manufacturing Businesses.**

- A. Cannabis Manufacturing: Edibles and Other Cannabis Products; Sale or Distribution of Edible and Other Cannabis Products. The manufacturing of food or other products infused with or which otherwise contain cannabis may be manufactured within the appropriate manufacturing zoning districts Section 17.142 of the Nevada City Municipal Code, subject to the regulations set forth in this Chapter, and subject to whatever additional regulations may be promulgated hereunder by an ordinance or resolution of the City Council.
- B. Packaging and Labeling.
  - 1. Before a cannabis manufacturer delivers any edible cannabis or edible cannabis product to a dispensary, the same shall be labeled and placed in tamper-evident packaging which at least meets the requirements of California Business and Professions Code section 26120, as the same may be amended from time-to-time or superseded or replaced by subsequent State legislation or by any department or division of the State of California.
  - 2. All items to be sold or distributed shall be individually wrapped at the original point of preparation by the business permitted as a cannabis manufacturer.

3. Labeling must include a warning if nuts or other known allergens are used, and must include the total weight (in ounces or grams) of cannabis in the package.
4. A warning that the item is a medication and not a food must be clearly legible on the front of the package.
5. The package must have a label warning that the product is to be kept away from children.
7. The label must also state that the product contains cannabis and must specify the date of manufacture.
8. Any edible cannabis product that is made to resemble a typical food product must be in a properly labeled opaque (non-see-through) package before it leaves the cannabis manufacturing business.
9. Deliveries must be in a properly labeled opaque package when delivered.
10. The City Council may impose additional packaging and labeling requirements on cannabis or cannabis products by resolution, as permitted by law.”

#### 9.22.130 - Delivery by Cannabis Dispensary Permitted.

Legally permitted cannabis dispensaries are authorized to make deliveries within the City and within any jurisdiction that permits deliveries, subject to following requirements:

- A. The owner, operator, and delivery personnel shall comply with all applicable state law requirements;
- B. The delivery personnel must be an employee of the cannabis dispensary;
- C. Before dispensing any products to persons requesting delivery, the delivery personnel must verify that the requestor is of legal age to possess cannabis.

#### 9.22.140 - Application of Chapter; Other Legal Duties.

##### A. Promulgation of Regulations and Standards.

1. In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of cannabis business permits, the ongoing operation of a cannabis business and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
2. Regulations shall be published on the City's website.
3. Regulations promulgated by the City Manager shall become effective upon date of publication. A cannabis business shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his designee.

- B. Community Relations Requirements for Cannabis Dispensaries.
1. Each cannabis dispensary shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the cannabis dispensary can be provided. Each cannabis dispensary shall also provide the above information to all businesses and residences located within one hundred (100) feet of the cannabis dispensary property and shall provide opportunity for those businesses and residents within one hundred (100) feet to visit and to tour the cannabis dispensary at least once on a mutually convenient date and time. Any additional request shall be at the sole discretion of the dispensary operator.
  2. During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from the cannabis dispensary holding a permit issued pursuant to this Chapter shall attend a quarterly meeting with the City Manager or his/her designee(s) to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from the cannabis dispensary shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).
  3. The cannabis dispensary to which a permit is issued pursuant to this Chapter shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth abuse of cannabis, and that identifies resources available to youth related to drugs and drug addiction.
- C. Fees Deemed Debt to City of Nevada City. The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Nevada City that is recoverable via an authorized administrative process as set forth in the Municipal Code, or in any court of competent jurisdiction.
- D. Permit Holder Responsible for Violations. The person or members of a business entity to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Nevada City, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the cannabis business whether or not said violations occur within the permit holder's presence.
- E. Inspection and Enforcement.
1. The City Manager or his/her designee(s) are charged with enforcing the provisions of the Nevada City Municipal Code, or any provision thereof, may enter the location of a cannabis business at any time during the hours of operation without notice, and inspect the location of any cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
  2. It is unlawful for any person having responsibility over the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law. It is also unlawful for a person to

conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law.

3. The City Manager or his/her designee(s) charged with enforcing the provisions of this Chapter may enter the location of a cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Nevada City shall be logged, recorded, and maintained in accordance with Nevada City Police Department standards for evidence.
- F. Concurrent Regulation with State. It is the stated intent of this Chapter to regulate cannabis activity in the City of Nevada City concurrently with the state of California.

#### 9.22.150 - Violations and Enforcement.

- A. Violations declared a public nuisance. Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.
- B. Each violation a separate offense. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Nevada City Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Nevada City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis business or persons related to, or associated with, the cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, his/her designee, or the Chief of Police, may take immediate action to temporarily suspend a cannabis business permit issued by the City, pending a hearing before the City Council.
- C. Remedies cumulative and not exclusive. The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

#### SECTION II:

Chapter 17.142 of Title 17 of the Nevada City Municipal Code is hereby repealed in its entirety and replaced as follows:

#### **Chapter 17.142 - CANNABIS BUSINESSES AND ACTIVITY**

##### 17.142.010 - Purpose.

The purpose of this part is to further fulfill the purposes and intents set forth in Chapter 9.22 of the Nevada City Municipal Code. No person shall operate a cannabis business without first obtaining a City cannabis business permit and complying with all

the requirements of Chapter 9.22 of the Nevada City Municipal Code and complying with all applicable state law requirements including obtaining a license or permit required by the state to operate a cannabis business.

#### 17.142.020 - Definitions.

Unless otherwise provided herein, the terms used in this part shall have the meanings ascribed to them in Chapter 9.22 of the Nevada City Municipal Code.

#### 17.142.030 - Location of Cannabis Dispensaries.

Cannabis dispensaries shall be permitted only as follows:

- A. In the following zoning designations: General Business (GB) excluding those properties designated with an Historic District (HD) overlay, Local Business (LB), and Light Industrial (LI) Zones.
- B. No closer than six hundred (600) feet from any portion of any parcel in the City limits containing any of the following:
  - 1. A school, including pre-school, transitional kindergarten, and K-12 that is in existence at the time the initial cannabis dispensary permit is issued; or
  - 2. A public park that is managed by the City of Nevada City that is in existence at the time the initial cannabis dispensary permit is issued.

#### 17.142.040 – Location of Cannabis Businesses – Other than Dispensaries

- A. Medical cannabis businesses, other than dispensaries, including medical cannabis cultivation, manufacturing, distribution, transporting, and testing laboratory businesses shall be permitted in the Light Industrial (L1) zones only. Where it can be established that infrastructure improvement expenditures to comply with the special requirements for other medical cannabis businesses to secure the initial permit were in excess of Twenty-Five Thousand Dollars (\$25,000.00), the requirements of Chapter 9.22, or of any regulations adopted pursuant to Chapter 9.22, as they existed for the original permit, including separation of the location from sensitive uses, shall continue in the same force and effect for subsequent permits for the same use at the same location unless the location is found to be a nuisance which cannot reasonably and feasibly be cured to maintain the public health, safety, and welfare of the residents of the City.
- B. Medical cannabis cultivation businesses may not be located within six hundred (600) feet of a school that is in existence at the time the initial medical cannabis cultivation permit is issued as required by California Health and Safety Code Section 11362.768."

#### 17.142.050 - Distances measured; Applicable properties.

The distance between parcels shall be the horizontal distance measured in a straight line from any property line of the sensitive use to the closest property line of the

lot on which the cannabis business is to be located, without regard to any intervening structures.

17.142.060 - Certification from Planning Director.

Prior to commencing operations, a cannabis business must obtain a certification from the Planning Director certifying that the business is located on a site that meets all of the requirements of this Title.

### SECTION III:

Subsection I of Section 17.36.020, Principal Permitted Uses, shall be amended to read as follows:

- I. Cannabis Dispensaries pursuant to the provisions outlined in [Chapter 17.142](#)

### SECTION IV:

Subsection H of Section 17.040.020, Principal Permitted Uses, is amended to read as follows:

H. Cannabis Dispensaries pursuant to the provisions outlined in Chapter 17.142, not including those properties designated with an Historic District (HD) overlay.

### SECTION V:

Subsections M through R of Section 17.048.020, Principal Permitted Uses, are amended to read as follows:

- M. Cannabis Dispensaries pursuant to the provisions outlined in Chapter 17.142.
- N. Cannabis Cultivation businesses pursuant to the provisions outlined in Chapter 17.142.
- O. Cannabis Manufacturing businesses pursuant to the provisions outlined in Chapter 17.142.
- P. Cannabis Distribution businesses pursuant to the provisions outlined in Chapter 17.142.
- Q. Cannabis Transporting businesses pursuant to the provisions outlined in Chapter 17.142.
- R. Cannabis Testing Laboratory businesses pursuant to the provisions outlined in Chapter 17.142.

### SECTION VI:

SECTION VI:

This Ordinance shall become effective 30 days after its final adoption and a copy of this ordinance shall be published in The Union, a newspaper of general circulation, within fifteen (15) days of the date of its passage.

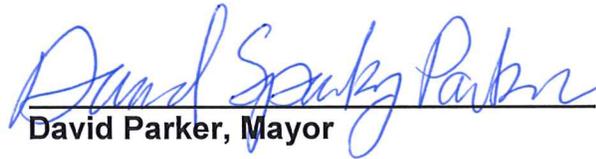
**PASSED AND ADOPTED** this 12<sup>th</sup> day of December, 2018 by the following vote:

**AYES: PARKER, STRAWSER, SENUM, MINETT, MOBERG**

**NOES: NONE**

**ABSENT: NONE**

**ABSTAIN: NONE**

  
\_\_\_\_\_  
David Parker, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Neil Locke, City Clerk