

ITEM 5.8

CITY MANAGER'S REPORT SEPTEMBER 13, 2021 CITY COUNCIL REGULAR MEETING

ITEM: PUBLIC HEARING (PUBLISHED NOTICE) TO CONSIDER MUNICIPAL CODE AMENDMENT TO AMEND TITLE 5, BUSINESS LICENSES AND REGULATIONS, CHAPTER 5.04, BUSINESS LICENSES GENERALLY, CHAPTER 5.26, PROHIBITION AGAINST COMMERCIAL CANNABIS, AND TITLE 17, ZONING, CHAPTER 17.18, PROHIBITED CANNABIS ACTIVITIES (TA-21-116)

RECOMMENDATION: Council to Consider the Following:

1. Hold a Public Hearing; and
2. First Reading and Introduce an Ordinance Amending Title 5, Business Licenses and Regulations, Chapter 5.04, Business Licenses Generally, Chapter 5.26, Prohibition Against Commercial Cannabis, and Title 17, Zoning, Chapter 17.18, Prohibited Cannabis Activities.

SUMMARY:

The proposed Municipal Code Text Amendment is a Council-initiated proposal to modify Chapter 5.04 titled "Business Licenses Generally", Chapter 5.26 titled "Prohibition Against Commercial Cannabis" and Chapter 17.18 titled "Prohibited Cannabis Activities" to permit commercial cannabis activities to operate in the City. The proposed amendments include establishing cannabis regulations to protect the health, safety, and welfare of the residents of Lathrop and to enforce rules and regulations consistent with state law; and amending Title 17, Zoning, to permit cannabis dispensaries in commercial zoning districts subject to a Conditional Use Permit. Approval of the text amendment would allow one (1) cannabis dispensary to operate in the City.

BACKGROUND:

State of California

From 1996 to 2015, California voters and the Legislature adopted several bills regarding the use and regulation of medical marijuana. In November 2016, the voters of the State of California approved and passed Proposition 64, also known as the "Adult Use of Marijuana Act" ("AUMA").

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In June 2017, California Passed SB 94, that integrated the Medical Marijuana Regulation and Safety Act ("MCRSA") and the AUMA to create the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") contained in Division 10 of the California Business and Professions Code. Under MAUCRSA, a single regulatory system governs the medicinal and adult-use cannabis industry in California.

City of Lathrop

On January 29, 2018, the City Council adopted Ordinance No. 18-387 for the prohibition against all commercial cannabis activities within City limits. The Ordinance established Chapter 5.26 titled "Prohibition Against Commercial Cannabis" and Chapter 17.18 titled "Prohibited Cannabis Activities." The Ordinance stated that "Commercial cannabis activities of all types including but not limited to, dispensaries, collectives, cooperatives, distribution manufacturing, delivery, storing, testing, sale, processing and cultivation are expressly prohibited within the city limits."

On February 8, 2021, an initial Regional Cannabis Update was presented to the City Council providing an update on cannabis regulations and permitting in San Joaquin County. The update provided detail regarding the Ordinances passed by San Joaquin County to regulate and tax cannabis businesses.

On July 12, 2021, a Cannabis Update was presented to the City Council at their request from the February 8, 2021, Regional Cannabis Update. This Update presented a survey of surrounding jurisdiction's cannabis regulations and various State license types and descriptions. The Update presented a number of options for City Council input and discussion, including but not limited to a public benefit fee, number of cannabis businesses permitted, and cannabis license types.

On August 2, 2021, a Commercial Cannabis Discussion was conducted by the City Council and further provided options for the City Council to discuss and provide direction to City Staff. The discussion included application processing, development regulations, selection process, application requirements and fees, and next steps/implementation actions. The City Council provided direction to City Staff to prepare an Ordinance to establish cannabis regulations and to allow one (1) cannabis dispensary to operate in the City.

Planning Commission

At their special meeting of September 1, 2021, the Planning Commission considered the proposed amendments to Chapter 5.26 and Chapter 17.18 to establish cannabis regulations and to clarify where cannabis business uses are permitted within the City. During deliberation, the Planning Commission raised concerns related to the location in which the single cannabis dispensary will be located, including but not limited to: 1) close proximity to existing and future residential uses, 2), the cannabis dispensary may be incompatible with existing commercial retail establishments, 3) concern related to foot-traffic at a cannabis dispensary, such as long waiting lines, and 4) consideration to allow the cannabis dispensary to operate in Industrial Zoning Districts.

Following their deliberation, the Planning Commission voted 4-1 recommending the proposed amendments to the Lathrop Municipal Code. Planning Commission's action includes the following recommendations:

- Cannabis activities shall not be permitted in the following zoning districts: CR-RI (Regional Commercial-River Islands); CN (Neighborhood Commercial); CS-MV (Service Commercial-Mosssdale Village; CO-CL (Commercial Office-Central Lathrop); CH-MV (Highway Commercial-Mosssdale Village; and CV-MV (Village Commercial-Mosssdale Village).
- Allow Cannabis activities in the Industrial Zoning Districts within the City of Lathrop, subject to the approval of a Conditional Use Permit.
- Increase the City Council recommended buffer from 1,000-ft. to 1,500-ft. (measured from centerline) on Lathrop Road/Spartan Way, between the intersection of Spartan Way/Stanford Crossing and Lathrop Road/Harlan Road and Golden Valley Parkway, between the intersection of Golden Valley Parkway/Spartan Way and Golden Valley Parkway/River Islands Parkway.

Attached is the Planning Commission Resolution No. 21-23 for reference. (Attachment #5).

ANALYSIS:

The proposed amendments (including recommendations by the Planning Commission) include modification of Chapter 5.04, Chapter 5.26 and Chapter 17.18 to establish cannabis regulations and to clarify where cannabis business uses are permitted within the City. The following is a general overview of the proposed changes to the Municipal Code.

Chapter 5.04: Business Licenses Generally

The proposed amendments to Chapter 5.04 include amending Section 5.04.190: *Authorization by chief of police* to add Cannabis Business as a use that requires Chief of Police authorization prior to being issued.

Chapter 5.26: Prohibition Against Commercial Cannabis

The proposed amendments to Chapter 5.26 include renaming the Chapter to "Commercial Cannabis Regulations", remove language related to prohibiting commercial cannabis activities, and providing cannabis regulations. Cannabis regulations include but are not limited to the following:

- Update definitions to be consistent with state law for each type of commercial cannabis use.
- Require cannabis business to obtain a Development Agreement, Conditional Use Permit, Site Plan Review (if applicable), a valid state license, and City business license prior to operating in the City.

- Provide procedures for selecting the cannabis business to operate in the City. The selection process may include a request for proposal (RFP) and scoring or ranking system for City Council consideration.
- Define the purpose and potential terms of the Development Agreement, including but not limited to public outreach and education, community service, payment of fees and other charges mutually agreed upon, approval of architectural plans, etc.
- Define the maximum number of types of cannabis businesses authorized to operate in the City. As noted above, the proposed amendments would allow one (1) cannabis dispensary to operate in the City. City Council, in its discretion, may determine by Ordinance whether the number of commercial cannabis businesses should change.
- Require a 600-ft. buffer from schools, day care centers, and youth centers, consistent with state law and a 1,500-ft buffer (measured from centerline) from Lathrop Road/Spartan Way and Golden Valley Parkway.
- Regulations and standards for cannabis dispensaries, including but not limited to submittal requirements, security standards, odor control, insurance, waste management, etc.
- Development and operational standards for all commercial cannabis businesses such as inspection process, restriction on alcohol sales and consumption.
- Employee requirements for cannabis businesses including authorization for the Chief of Police to implement an employee permit system.
- Enforcement and inspection standards.

Chapter 17.18: Prohibited Cannabis Activities

The proposed amendments to Chapter 17.18 include renaming the Chapter to "Cannabis Activities", remove language related to prohibiting commercial cannabis activities, and establishing a permitted use table for commercial cannabis activities/types.

As noted above, the proposed amendments would allow for one (1) cannabis dispensary to operate in the City. The table in Section 17.18.040 of Attachment 3 identifies the various designations and types of commercial cannabis businesses (including Planning Commission's recommendations). The table below highlights the cannabis dispensary type is permitted in the City subject to approval of a Conditional Use Permit ("C"). In cases where a proposed use is not listed or defined, the use is prohibited (for the purposes of formatting, the permitted use table is divided into two (2) tables).

<u>Commercial Cannabis Use</u>	<u>CC</u>	<u>CS</u>	<u>CH</u>	<u>CO-LG</u>	<u>CS-LG</u>	<u>CO-SL</u>	<u>NC-CL</u>	<u>IL</u>	<u>IG</u>	<u>IL-LG</u>	<u>IL-SL</u>
<u>Cannabis cultivation business</u>											
<u>Cannabis delivery business (stand-alone)</u>											
<u>Cannabis dispensary</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Cannabis distribution business</u>											
<u>Cannabis manufacturing business</u>											
<u>Cannabis testing laboratory</u>											
<u>Cannabis microbusiness</u>											

¹Must comply with Chapter 5.26, Commercial Cannabis Regulations.

²Commercial cannabis use not listed or identified with a "C" in this Table are prohibited.

The proposed amendments provide that cannabis dispensaries are permitted subject to approval of a Conditional Use Permit in the following Zoning Districts:

- CC, Central Commercial
- CS, Commercial Service
- CH, Highway Commercial
- IL, Limited Industrial
- IG, General Industrial
- CO-LG, Commercial Office (Lathrop Gateway Business Park Specific Plan)
- CS-LG, Service Commercial (Lathrop Gateway Business Park Specific Plan)
- IL-LG, Limited Industrial (Lathrop Gateway Business Park Specific Plan)
- CO-SL, Commercial Office (South Lathrop Specific Plan)
- IL-SL, Limited Industrial (South Lathrop Specific Plan)
- NC-CL, Neighborhood Commercial (Central Lathrop Specific Plan)

Municipal Code Amendments

According to the Lathrop Municipal Code, amendments to the Zoning Code must be reviewed by the Planning Commission with a recommendation forwarded to the City Council. Any recommendation of the Planning Commission, or final action of by the City Council must include the following findings:

"That the proposed amendment will be consistent with applicable provisions of the General Plan".

Staff and the Planning Commission have determined that the proposed code amendments conform to the General Plan. This is documented in Planning Commission Resolution #21-23.

Public Notice

A Notice of Public Hearing was advertised in the Manteca Bulletin on September 2, 2021 and the meeting agenda was posted at our designated posting locations in the City. As of the writing of this report, no comments were received in favor or against the proposed amendments.

CEQA REVIEW:

The proposed Municipal Code Amendment is exempt according to the California Environmental Quality Act (CEQA) Article 5 §15061 (b) (3) by the "Common Sense Exemption" that CEQA applies only to projects that have a potential for causing a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and Business and Professions Code Section 26055(h), in that the proposed Ordinance allows for requiring discretionary review and adequate environmental compliance for each application. Specific development projects undertaken in the future pursuant to the amended Municipal Code would be required to comply with CEQA at that time.

RECOMMENDATION:

The Planning Commission and staff recommend that the City Council consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, introduce an Ordinance Amending Title 5, Business Licenses and Regulations, Chapter 5.04, Business Licenses Generally, Chapter 5.26, Prohibition Against Commercial Cannabis, and Title 17, Zoning, Chapter 17.18, Prohibited Cannabis Activities.

FISCAL IMPACT:

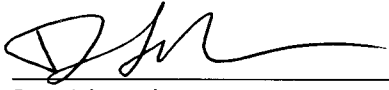
There is no fiscal impact to the City of Lathrop, only staff time to prepare the report.

ATTACHMENTS:

1. Ordinance Approving Various Municipal Code Amendments
2. Mark-up of Chapter 5.26 Prohibition Against Commercial Cannabis
3. Mark-up of Chapter 17.18 Prohibited Cannabis Activities
4. Mark-up of Chapter 5.04 Business Licenses Generally
5. Planning Commission Resolution No. 21-23

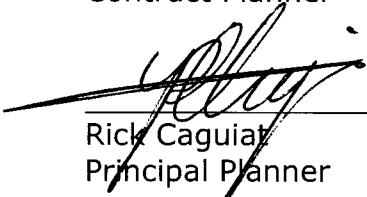
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APPROVALS:



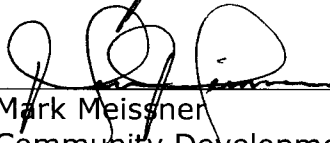
David Niskanen
Contract Planner

9/2/2021
Date



Rick Caguiat
Principal Planner

9-2-2021
Date



Mark Meissner
Community Development Director

9/2/2021
Date



Salvador Navarrete
City Attorney

9.7.2021
Date



Stephen J. Salvatore
City Manager

9.7.21
Date

ORDINANCE NO. 21-

An Ordinance of the City Council of the City of Lathrop Amending Title 5, Business Licenses and Regulations, Chapter 5.04, Business Licenses Generally, Chapter 5.26, Prohibition Against Commercial Cannabis, and Title 17, Zoning, Chapter 17.18, Prohibited Cannabis Activities (TA-21-116)

WHEREAS, the City of Lathrop Planning Commission held a duly noticed public hearing at a special meeting on September 1, 2021, at which they adopted PC Resolution No. 21-23 recommending City Council adopt Municipal Code Text Amendment No. TA-21-116 pursuant to the Lathrop Municipal Code; and

WHEREAS, California Health and Safety Code section 11362.5, the Compassionate Use Act of 1996 ("CUA"), adopted by the voters in the State of California, authorizes a limited defense to criminal charges for the use, possession or cultivation of marijuana for medical purposes when a qualified patient has a doctor's recommendation for the use of marijuana; and

WHEREAS, Health and Safety Code section 11362.7 et. seq., The Medicinal Marijuana Program Act ("MMPA"), was adopted by the state legislature and offers some clarification on the scope of the CUA, and section 11362.83, and specifically authorizes cities and other governing bodies to adopt and enforce regulations related to medical marijuana; and

WHEREAS, the Medical Marijuana Regulation and Safety Act ("MCRSA" (Business and Professions Code section 19300 et. seq.)) was adopted by the Legislature in 2015, and regulates the commercial activity of medical marijuana and assigns certain state agencies with regulatory tasks regarding commercial medical marijuana, including product labeling and environmental regulation; and

WHEREAS, the Control, regulate and Tax Use of Marijuana Act ("AUMA" or Proposition 64") to legalize the recreational use of marijuana in California for individuals twenty-one (21) years of age and older was approved by the voters and became effective November 9, 2016; and

WHEREAS, the California Legislature passed Senate Bill 94 in June 2017, which was signed by the Governor and went into effect immediately, and which repealed MCRSA entirely and merged certain portions of that law with AUMA to create a more comprehensive regulatory structure for both medical and recreational marijuana; and

WHEREAS, the new comprehensive regulatory system created by Senate Bill 94, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"); and

WHEREAS, the CUA, MMPA, and MAUCRSA do not prevent the city from using its constitutional authority to enact nuisance, health and safety, and land use regulations regarding cannabis cultivation, dispensaries or other commercial cannabis uses; and

WHEREAS, the City Council desires to regulate commercial cannabis businesses operating in the City of Lathrop in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City's General Plan; and

WHEREAS, the proposed text amendment is exempt according to the California Environmental Quality Act (CEQA) Article 5 §15061 by the "Common Sense Exemption" that CEQA applies only to projects that have a potential for causing a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and Business and Professions Code Section 26055(h), in that the commercial cannabis regulations ordinance allows for requiring discretionary review and adequate environmental compliance for each application; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the City Council has reviewed all written evidence and oral testimony presented to date.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lathrop based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby approve Municipal Code Amendment as shown Attachments "2", "3", and "4", incorporated by reference herein.

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

Section 1. The Lathrop Municipal Code is hereby amended as shown in Attachments "2", "3", and "4", incorporated by reference herein.

Section 2. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. Severability. If any section, subsequent subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause or phrase.

Section 4. Effective Date. This Ordinance shall take legal effect 30 days from and after the date of its passage.

Section 5. Publication. Within fifteen days of the adoption of this Ordinance, the City Clerk shall cause a copy of this Ordinance to be published in full accordance with Section 36933 of the Government Code.

THIS ORDINANCE was regularly introduced at a meeting of the City Council of the City of Lathrop on the 13th day of September 2021, and was PASSED AND ADOPTED at a regular meeting of the City Council of the City of Lathrop on 11th day of October 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SONNY DHALIWAL, MAYOR

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk



Salvador Navarrete, City Attorney

New text is shown by underline; deleted text is shown by ~~strikethrough~~

Chapter 5.26 ~~PROHIBITION AGAINST~~ COMMERCIAL CANNABIS REGULATIONS

5.26.010 Purpose and intent.

~~The purpose of this chapter is to promote the public health, safety, and general welfare, and to enact a complete and total prohibition of commercial cannabis activity the city of Lathrop. (Ord. 18-387 § 1)~~ It is the purpose and intent of this chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs of and provide access to cannabis for medicinal purposes and implement the desire of California voters who approved the Adult Use of Marijuana Act (“AUMA”) by Proposition 64 in November 2016, while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this chapter to regulate the commercial cannabis activity in a responsible manner to protect the health, safety, and welfare of the residents of Lathrop and to enforce rules and regulations consistent with state law. Nothing in this chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or local law. The provisions of this chapter are in addition to any other permits, licenses and approvals which may be required to operate cannabis business in the City, such as conditional use permit issued pursuant to Title 17 of this Code, and are in addition to any permits, licenses, and approval required under state, county, or other law.

5.26.020 Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, and any subsequent state legislation and/or regulations regarding same, the City of Lathrop is authorized to adopt ordinances that establish standards, requirements, and regulations regarding health and safety, and worker protections established by the State of California, or any of its departments or divisions shall be the minimum standards applicable in the City of Lathrop to all commercial cannabis activity.

~~5.26.020~~ 30 Definitions.

“Business” means a profession, trade, occupation, gainful activity, and all and any kind of calling whether or not carried on for profit.

“Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

“Cannabis business” means any business engaged in commercial cannabis activity. “Cannabis Business” does not include any of the following:

1. A clinic pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
3. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
4. A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the Health and Safety Code.
5. The cultivation, delivery, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with identification card as defined by Section 11362.7 of Health and Safety Code provided such activity complies strictly with all applicable state law, including but not limited to, Sections 11362.5 and 11362.765 of the Health and Safety Code.

“Cannabis cultivation business” means any business that, pursuant to a Type 1, Type 1A, Type 1B, Type 1C, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 5, Type 5A, Type 5B, or Type 12 state business license, or their successors, cultivates cannabis or cannabis products.

“Cannabis delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Cannabis delivery” also includes the use by a retailer of any technology platform.

“Cannabis delivery business” means any cannabis business that, pursuant to a Type 10 state cannabis license, or its successors, delivers, makes available, or distributes cannabis and cannabis products to a consumer.

“Cannabis dispensary” means any cannabis business where medicinal or adult-use cannabis or cannabis products are sold at retail, pursuant to a Type 10 state cannabis license, or its successors. A cannabis dispensary may include a cannabis business that provides cannabis deliveries.

“Cannabis distribution business” means any business that, pursuant to Type 11 or Type 13 state cannabis license, or their successors, procures, sells, or transports cannabis and cannabis products between cannabis businesses.

“Cannabis for personal use” means any use or possession of cannabis that does not require a license pursuant to Chapter 1 of Division 10 of the California Business and Professions Code.

“Cannabis manufacturing business” means any cannabis business that, pursuant to Type 6, Type 7, or Type 12 state cannabis license, or their successors, manufactures cannabis or cannabis products.

“Cannabis product” means cannabis or a product containing cannabis, including, but not limited to, manufactured cannabis, and shall have the same meaning as in Section 11018.1 of the California Health and Safety Code. For purposes of this chapter, “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.

“Cannabis testing laboratory” means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license, or its successors.

“City” or “City of Lathrop” means the City of Lathrop, a California general law City.

“City Council” means the City Council of the City of Lathrop.

“Commercial cannabis activity” means any activity including cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, dispensaries, collectives, cooperatives and sale of cannabis or cannabis products that requires a state license.

“Commercial cannabis business” or “Cannabis business” means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

“Commercial cannabis waste” means cannabis plants and plant materials that are discarded by a cannabis business, including, but not limited to, extra vegetative plants, failed clones, and harvest waste.

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

“Day care center” means any licensed child care facility other than a small or large day care home, including infant centers and preschools.

“Department” means the Department of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Cannabis Control, the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

“Juvenile” means any natural person who is under the age of eighteen years.

“License” means a state license issued pursuant to Business and Professions Code Section 26000.

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

“Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation. For the purposes of this chapter, the term “medicinal cannabis” is synonymous with medical cannabis.

“Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)” means Senate Bill 94 contained in Division 10 of the California Business and Professions Code. (Ord. 18-387 § 1)

“Microbusiness” means a commercial cannabis facility operating under a state Type 12 license, or a state cannabis license type subsequently established, and meeting the definition of microbusiness Business and Professions Code section 26070(a)(3)(A), as may be amended from time to time, which cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and retailer.

“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.

“Primary caregiver” has the same meaning as that term is defined by Section 11362.7 of the Health and Safety Code.

“Qualified patient” has the same meaning as that term is defined by Section 11362.7 of the Health and Safety Code.

“School” means any public or private school providing instruction in kindergarten or grades 1-12, inclusive, but does not include any private school where education is primarily conducted in private homes.

“State” means the State of California.

“State license” means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same, to engage in commercial cannabis activity.

“Volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshal.

“Youth center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social teenage club facilities, video arcades, or similar amusement park facilities.

5.26.030 Prohibition.

~~— A. — Commercial cannabis activities of all types including, but not limited to, dispensaries, collectives, cooperatives, transportation, distribution, manufacturing, delivery, storing, testing, sale, processing and cultivation are expressly prohibited within the city limits. No person shall establish, operate, conduct, or allow any commercial cannabis (marijuana) activity anywhere within the city.~~

~~— B. — This section is meant to prohibit all activities for which a state license is required. Accordingly, the city shall not issue any permit, license, authorization or other entitlement for any activity for which a state license is required under MAUCRSA.~~

~~C. This section is not intended to prohibit cannabis for personal use or cannabis cultivation for personal use as set forth in Chapter 8.44 of the LMC.~~

~~D. This section is not intended to prohibit any of the following:~~

~~1. A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code.~~

~~2. A residential care facility for persons with chronic life threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code.~~

~~3. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code.~~

~~4. A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the California Health and Safety Code.~~

~~5. The cultivation, delivery, gift, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with an identification card as defined by Section 11362.7 of Health and Safety Code provided such activity complies strictly with all applicable state law, including, but not limited to, Sections 11362.5 and 11362.765 of the California Health and Safety Code. (Ord. 18-387 § 1)~~

5.26.040 Public nuisance.

~~Any use or condition caused, or permitted to exist, in violation of any provision of this chapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the city pursuant to California Code of Civil Procedure Section 731 or any other remedy available to the city. (Ord. 18-387 § 1)~~

5.26.040 State and local requirements.

A. At the time of application to the city, every cannabis business applicant shall submit a copy of its state license required for its operation.

B. Any cannabis business allowed in the city shall obtain all of the following:

1. Development Agreement;

2. Conditional Use Permit pursuant to Lathrop Municipal Code Chapter 17.112;

3. Site Plan Review, if applicable, pursuant to Lathrop Municipal Code Chapter 17.100;

4. City Business License.

C. All cannabis businesses shall maintain compliance with Title 17 of the Lathrop Municipal Code.

D. A valid city and state license must be clearly posted in a conspicuous place within the permitted premises.

5.26.050 Permit selection procedure.

A. The City Manager, or his or her designee(s), may design application forms and procedures specific to each permitted license type, including online permitting, and require inspections of proposed facilities before issuing a permit under this Chapter. Such procedures may include a request for proposal (RFP) process for certain license types where deemed necessary.

B. Applications shall be reviewed by City staff or qualified consultants, as designated by the City Manager. Such review may include a scoring or ranking system. Applications failing to meet minimum qualifications or scoring requirements may not be submitted to the City Council for consideration.

C. Applicants providing false or misleading information in the selection process will result in rejection of the application and/or nullification or revocation of any issued permit.

D. Applications shall require, at a minimum, the following:

1. All necessary information related to the business its operators, including names, birth dates, addresses, social security or tax identification numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor and/or partner information, and APN number of the parcel upon which the business will be located. Such private information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual's privacy interests and public health and safety.

2. Operating Plan.

3. Security Plan as required under Section 5.26.090.

4. Site Plan.

5. Floor Plan.

6. Hazardous Materials Information. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a hazardous materials management plan that complies with all federal, state, and local requirements for management of such substances. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.

7. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the Lathrop Municipal Code pertaining to the establishment and operation of the commercial cannabis use, including, but not limited to, the provision of this Chapter. The affidavit(s) shall acknowledge that the approval of the permit shall, in no way, permit activity contrary to the Lathrop Municipal Code, or any activity which is in violation of any applicable laws.

5.26.060 Development Agreement.

A. Prior to operating in the City, and as a condition of issuance of any applicable permits, including but not limited to, a business license, the applicant seeking to operate a cannabis business shall enter into a Development Agreement with the city setting forth the terms and conditions under which the cannabis business will operate. Such Development Agreement shall be in addition to the requirements of this chapter as mutually agreed upon that will protect and promote the public health, safety, and welfare of all persons in the city.

B. Every Development Agreement approved by the city pursuant to this chapter shall be subject to an annual review by the City Council to determine compliance with the terms of the development agreement, applicable local and state laws and regulations, this chapter, and the Lathrop Municipal Code.

5.26.070 Maximum number and type authorized.

A. The number of each type of cannabis business that shall be permitted to operate in the city at any one given time shall be as follows:

1. Cannabis Cultivation Business (Indoor Only) – Not permitted.
2. Cannabis Delivery Business (stand alone) – Not Permitted.
3. Cannabis Dispensary – A maximum of one (1) cannabis dispensary.
4. Cannabis Distribution Business – Not permitted.
5. Cannabis Manufacturing Business – Not permitted.
6. Cannabis Microbusiness – Not permitted.
7. Cannabis Testing Laboratory – Not permitted.

This section is only intended to create a maximum number of cannabis businesses that may operate in the city under each category.

5.26.080 Location and minimum proximity requirements.

A. Cannabis business uses shall be located in compliance with Chapter 17.18 of the Lathrop Municipal Code.

B. No cannabis business shall be located within six hundred feet (600') of a school, child day care center, or youth center, as measured from the nearest property lines.

C. No cannabis business shall be located within fifteen hundred feet (1,500') from the following roadways, as measured from the centerline of the street:

1. Spartan Way and Lathrop Road, between the intersection of Spartan Way/Stanford Crossing and Lathrop Road/Harlan Road.

2. Golden Valley Parkway, between the intersection of Golden Valley Parkway/Spartan Way and Golden Valley Parkway/River Islands Parkway.

5.26.090 Cannabis dispensaries

A. Cannabis dispensaries shall maintain all applicable state licenses and comply with all of the following:

1. The number of cannabis dispensaries permitted shall be pursuant to Section 5.26.070 and is subject to the requirements in Title 17 of the Lathrop Municipal Code.

2. Cannabis dispensaries shall only be allowed within fully enclosed buildings pursuant to Section 5.26.100 A. The maximum building size occupied by a cannabis dispensary shall not exceed 5,000 square feet.

3. Any commercial cannabis activity related to delivery shall maintain all applicable state licenses and locally required permits and licenses.

4. Tax Compliance. A cannabis dispensary shall maintain any applicable tax certificates and permits, and timely remit any taxes due to the appropriate government entity.

5. Insurance. A cannabis dispensary shall maintain certificates of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.

6. Emergency Contact. A cannabis dispensary shall provide the city manager with the current name and primary and secondary telephone numbers of at least one (1) twenty-four (24) hour on-call manager to address and resolve complaints and to respond to operating problems or concerns associated with the dispensary. The dispensary shall make good faith efforts to encourage neighborhood residents to call this person to solve operating problems, if any, before any calls or complaints are made to the city.

7. Required Signage. The following signs, in measurements of not less than eight by ten inches (8"x10"), shall be clearly and legibly posted in a conspicuous location inside the dispensary where they will be visible to customers in the normal course of a transaction, stating:

1. "The sale of cannabis without a state license and local permit is illegal"

2. "Smoking cannabis on this property, within twenty feet (20') of the dispensary, or in any public place is illegal under California law."

3. "For medical cannabis dispensaries: "No one under the age of eighteen (18) shall be allowed on the premises, unless they are a qualified patient or a primary care giver."

4. "For nonmedical cannabis dispensaries: "No one under the age of twenty-one (21) shall be allowed on the premises."

5. “For all cannabis dispensaries: “This business is under surveillance accessible by Lathrop Police.”

5.26.100 Development and operational standards.

The following standards and regulations apply to all commercial cannabis uses:

A. Building Requirements. All structures used in commercial cannabis uses shall be located in structures designated for that occupancy and shall comply with all applicable sections of the Lathrop Municipal Code. Commercial cannabis uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers, or patients shall meet Lathrop Municipal Code and state requirements for accessibility including accessible parking, assessable path of travel, restrooms, and washing facilities.

B. Emissions Control. All commercial cannabis uses shall utilize appropriate measures in construction and, where applicable, operations to prevent the emissions of dust, smoke, noxious gases, or other substances that have the potential to impact local or regional air quality.

C. Hours of Operation. The maximum hours of operation for a commercial cannabis use shall be established by the conditional use permit and Development Agreement issued by the City, provided that the hours shall not exceed the maximum hours of operation allowed under state law.

D. Odor Control and Ventilation. Commercial cannabis uses shall comply with all current and future state law and regulations related to odor control and ventilation, in addition to any specific requirements for the particular use established in this chapter. No commercial cannabis use may operate in a manner whereby cannabis odors are detectable from adjacent and nearby properties. All commercial cannabis uses must install a ventilation system that adequately controls for odor, humidity, and mold. Conditions of approval may include a schedule related to changing filters.

E. Lighting. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky.

F. Police Notification. A cannabis dispensary shall notify the chief of police or his/her designee(s) within twenty-four (24) hours after discovery any of the following:

a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City.

b. Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the cannabis business.

c. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the cannabis business.

d. Any other breach of security.

G. Security Plan. Security plan including but not limited to the following information:

a. Security Surveillance Cameras. Security surveillance cameras and a video recording system shall 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 shall be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the business site. The recording system shall 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 Retention. Video from the security surveillance cameras shall be recorded at all times (twenty-four hours a day, seven days a week) and the recording shall be maintained for at least ninety days. The video recording shall be made available to the city upon request.

c. Alarm System. Professionally and centrally-monitored fire, robbery, and burglar alarm systems shall be installed and maintained in good working condition. The alarm system shall include a private security company that is required to respond to every alarm.

H. Waste Management Plan. A cannabis dispensary shall submit and comply with an approved commercial cannabis waste management plan describing how commercial cannabis waste will be disposed.

I. Weights and Measures. All scales used for commercial transactions shall be registered for commercial use and sealed by the Department of Agriculture/Weights & Measures.

J. Tracking. Commercial cannabis operators shall comply with any track and trace program established by the City or state agencies. Commercial cannabis operators must maintain records tracking all cannabis production and products and shall make all records related to commercial cannabis activity available to the City upon request. The City Manager may require commercial cannabis operators to comply with a County track and trace system if deemed appropriate.

K. Restrictions on Alcohol Sales and Consumption. No alcoholic beverages may be sold, dispensed, or consumed on or about the premises of any commercial cannabis business.

5.26.110 Health and safety.

Commercial cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, runoff or wastes.

5.26.120 Taxes.

Commercial cannabis uses shall comply with additional taxes that may be enacted by the voters or any additional regulations that may be promulgated in addition to all current applicable state and local taxes.

5.26.130 Employees.

A. All employees of commercial cannabis businesses must be at least twenty-one (21) years of age.

B. All employees of commercial cannabis business shall be subject to background search by the California Department of Justice and local law enforcement. Permits for commercial cannabis uses shall not be permitted for operators with felony convictions, as specified in subdivision (c) of Section 667.5 of the Penal Code, and subdivision (c) of Section 1192.7 of the Penal Code. Permits for commercial cannabis uses shall not be permitted for operators with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement or a criminal conviction for the sale or provision of illegal controlled substances to a minor.

C. Each owner or operator of a commercial cannabis business shall maintain onsite a current register of all the employees currently employed by the commercial cannabis business, and shall produce such register to the Chief of Police, designee, or any other City official authorized to enforce the Lathrop Municipal Code for purposes of determining compliance with this chapter.

D. The Chief of Police is authorized to implement an employee permit system, whereby any employee or volunteer of a commercial cannabis business, must obtain a work permit from the City of Lathrop.

1. At a minimum, such program shall require the issuance of a permit that must be visibly displayed at all times by the employee or volunteer when he or she is working and contains a recent photograph of the individual and the name of the commercial cannabis business where he or she works or volunteers.

2. The Chief of Police may establish a fee for the cost of issuing such a permit.

5.26.150 Promulgation of regulations, requirements, standards and other legal duties.

A. In addition to any regulations adopted by the City Council, the City Manager or designee is authorized to establish any additional regulations, requirements, and standards governing the issuance, denial or renewal of cannabis business permits; the operation of cannabis businesses that are necessary to protect the public health, safety and welfare; and the City's oversight of cannabis businesses, or concerning any other subject determined to be necessary to carry out the purposes of this chapter. Such regulations, requirements or standards shall take effect as determined by the City Manager or designee, and existing permit holders shall comply as amended.

B. Regulations shall be published on the City's website.

C. Regulations promulgated by the City Manager or designee shall become effective as determined therein. Cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or designee.

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

5.26.160 Permit holder responsible for violations.

The person to whom a permit is issued pursuant to this chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Lathrop, whether committed by the permittee or any employee, volunteer, or agent of the permittee, which violations occur in or about the premises of the cannabis business, and violations which occur during deliveries to off-site locations, whether or not said violations occur within the permit holder's presence.

5.26.170 Inspection and enforcement.

A. The City Manager or designee(s), Chief of Police or designee(s), and Fire Chief or designee(s) charged with enforcing the provisions of the Lathrop Municipal Code, or any provision thereof, may enter the location of a cannabis business during normal business hours, 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.

B. 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.

5.26.180 Violations declared a public nuisance.

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

5.26.190 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 Lathrop Municipal Code. Additionally, as a nuisance per se, any violation of this chapter shall be subject to injunctive relief, and any permit issued pursuant to this chapter shall be deemed null and void, entitling the City to 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, including the imposition of a civil penalty not to exceed one thousand and no/100ths (\$1,000.00) dollars for each day, or part thereof, such violation or failure to comply occurs. The City of Lathrop 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 commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the Police Chief or designee(s), may take immediate action to temporarily suspend a cannabis business permit issued by the City, pending a hearing before the City Council.

5.26.200 Criminal penalties.

Each and every violation of the provisions of this Chapter may be prosecuted as a misdemeanor at the discretion of the City Attorney and upon conviction be subject to a fine not to exceed one thousand and no/100ths (\$1,000.00) dollars or imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

5.26.210 Remedies cumulative and not exclusive.

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

5.26.220 Service of notices.

All notices required by this chapter are deemed issued and served upon the date they are either deposited in the United States mail, postage pre-paid, addressed to the applicant or cannabis business at the mailing address identified in its application, the last updated address on file with the City Manager's office, or the mailing address on the appeal form; or the date upon which personal service of the notice is provided to the applicant or a manager identified on the application or appeal form.

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Chapter 17.18 ~~PROHIBITED~~-CANNABIS ACTIVITIES

Note

*~~———Prior ordinance history: Ord. 14 338.~~

17.18.010 Purpose.

~~———The purpose of this chapter is to promote the public health, safety, and general welfare, and to enact a complete and total prohibition of commercial cannabis activity in the city of Lathrop. (Ord. 18-387 § 1)~~The purpose and intent of this chapter is to define the Zoning Districts in which Commercial Cannabis Uses are permitted consistent with the standards pursuant to Chapter 5.26. The provisions of this chapter are in addition to any other permits, licenses and approvals which may be required to operate cannabis business in the City.

17.18.020 Definitions.

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

“Cannabis cultivation business” means any business that, pursuant to a Type 1, Type 1A, Type 1B, Type 1C, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, Type 5, Type 5A, Type 5B, or Type 12 state business license, or their successors, cultivates cannabis or cannabis products.

“Cannabis delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Cannabis delivery” also includes the use by a retailer of any technology platform.

“Cannabis delivery business” means any cannabis business that, pursuant to a Type 10 state cannabis license, or its successors, delivers, makes available, or distributes cannabis and cannabis products to a consumer.

“Cannabis dispensary” means any cannabis business where medicinal or adult-use cannabis or cannabis products are sold at retail, pursuant to a Type 10 state cannabis license, or its successors. A cannabis dispensary may include a cannabis business that provides cannabis deliveries.

“Cannabis distribution business” means any business that, pursuant to Type 11 or Type 13 state cannabis license, or their successors, procures, sells, or transports cannabis and cannabis products between cannabis businesses.

“Cannabis for personal use” means any use or possession of cannabis that does not require a license pursuant to Chapter 1 of Division 10 of the California Business and Professions Code.

“Cannabis manufacturing business” means any cannabis business that, pursuant to Type 6, Type 7, or Type 12 state cannabis license, or their successors, manufactures cannabis or cannabis products.

“Cannabis product” means cannabis or a product containing cannabis, including, but not limited to, manufactured cannabis, and shall have the same meaning as in Section 11018.1 of the California Health and Safety Code. For purposes of this chapter, “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.

“Cannabis testing laboratory” means a cannabis business that tests cannabis or cannabis products pursuant to a Type 8 state cannabis license, or its successors.

“Commercial cannabis activity” means any activity including cultivation, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, dispensaries, collectives, cooperatives and sale of cannabis or cannabis products that requires a state license.

“Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)” means Senate Bill 94 contained in Division 10 of the California Business and Professions Code. (Ord. 18-387 § 1)

17.18.030 Commercial cannabis - usesProhibition.

A. The Use Table in Section 17.18.040 lists the zoning districts and commercial cannabis uses. The regulations for each district and use are established by letter designation as follows:

1. “C” designates commercial cannabis uses permitted upon approval of a Conditional Use Permit, as provided in Chapter 17.112.

B. Commercial cannabis uses are defined in Section 17.18.020 and Section 5.26.030. In cases where a proposed use is not listed or defined, the use is prohibited.

17.18.040 Commercial Cannabis – Use Table

Commercial Cannabis – Use Table^{1,2}

<u>Commercial Cannabis Use</u>	<u>CC</u>	<u>CS</u>	<u>CH</u>	<u>CO-LG</u>	<u>CS-LG</u>	<u>CO-SL</u>	<u>NC-CL</u>	<u>IL</u>	<u>IG</u>	<u>IL-LG</u>	<u>IL-SL</u>
<u>Cannabis cultivation business</u>											
<u>Cannabis delivery business (stand-alone)</u>											
<u>Cannabis dispensary</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Cannabis distribution business</u>											
<u>Cannabis manufacturing business</u>											
<u>Cannabis testing laboratory</u>											
<u>Cannabis microbusiness</u>											

¹Must comply with Chapter 5.26, Commercial Cannabis Regulations.

²Commercial cannabis use not listed or identified with a “C” in this Table are prohibited.

~~A. — Commercial cannabis activities of all types including, but not limited to, dispensaries, collectives, cooperatives, transportation, distribution, manufacturing, delivery, storing, testing, sale, processing and cultivation are expressly prohibited within the city limits. No person shall establish, operate, conduct, or allow any commercial cannabis (marijuana) activity anywhere within the city.~~

~~B. — This section is meant to prohibit all activities for which a state license is required. Accordingly, the city shall not issue any permit, license, authorization or other entitlement for any activity for which a state license is required under MAUCRSA.~~

~~C. — This section is not intended to prohibit cannabis for personal use or cannabis cultivation for personal use as set forth in Chapter 8.44 of the LMC.~~

~~D. — This section is not intended to prohibit any of the following:~~

~~-~~

~~1. — A clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code.~~

~~2. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code.~~

~~3. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code.~~

~~4. A residential hospice or a home health agency licensed pursuant to Chapter 8 and Chapter 8.5 of Division 2 of the California Health and Safety Code.~~

~~5. The cultivation, delivery, gift, or furnishing of cannabis by a qualified patient, a primary caregiver, or other person with an identification card as defined by Section 11362.7 of the Health and Safety Code provided such activity complies strictly with all applicable state law, including but not limited to, Sections 11362.5 and 11362.765 of the California Health and Safety Code. (Ord. 18-387 § 1)~~

~~**17.18.040 Public nuisance.**~~

~~Any use or condition caused, or permitted to exist, in violation of any provision of this chapter shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the city pursuant to California Code of Civil Procedure Section 731 or any other remedy available to the city. (Ord. 18-387 § 1)~~

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[...]

5.04.190 Authorization by chief of police.

A. No license shall be issued for the following businesses without prior authorization by the chief of police:

1. Solicitors and peddlers, handbill distributors;
2. Vehicular street advertising;
3. Machines or games for skill or amusement, or amusement arcades;
4. Bowling alleys, ice or roller skating rinks;
5. Pool and billiard halls;
6. Theaters maintaining a fixed place of business in the city;
7. Dance halls or operation of premises where dancing is permitted;
8. Animal hospitals, kennels and boarding stables;
9. Pawn brokers and watchpersons;
10. Private police and detective agencies;
11. Junk dealers or collectors, second hand dealers (including second hand jewelry dealers);
12. Automobile and machine wrecking yards;
13. Automobile parking lots;
14. Used car, used truck and used trailer establishments;
15. Fortune telling;
16. Klieg lights (large rotating lights);
17. Auctioneers;
18. Hospitals, sanitariums, rest homes, mortuaries and funeral parlors;
19. Fire sales or sales after catastrophes;
20. Vending machines.

21. Cannabis business

B. The chief of police may limit the hours and days of the week during which the license is valid. If limitations are made, they shall be so noted on the license and the license will be deemed valid only during the hours of authorization.

C. If, in the judgment of the chief of police, the representations made in the application or in investigation of the applicant discloses that the granting of the license applied for may be detrimental to the public peace, morals, health, safety or general welfare, or that the applicant is not of good moral character or has been convicted of any violation of the law involving moral turpitude, he or she shall not authorize the issuance of the license.

D. The finance director shall thereupon advise the applicant that he or she may appeal to the city council in the same manner as required for license initially requiring authorization by the city council. (Ord. 02-198 § 1; prior code § 110.40)

[...]

**CITY OF LATHROP
PLANNING COMMISSION RESOLUTION NO. 21-23**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LATHROP
RECOMMENDING CITY COUNCIL ADOPT AN ORDINANCE AMENDING CHAPTER
5.26, PROHIBITION AGAINST COMMERCIAL CANNABIS AND TITLE 17, ZONING,
CHAPTER 17.18, PROHIBITED CANNABIS ACTIVITIES (TA-21-116)**

WHEREAS, the City of Lathrop Planning Commission held a duly noticed public meeting to consider the text amendment pursuant to the Lathrop Municipal Code; and

WHEREAS, California Health and Safety Code section 11362.5, the Compassionate Use Act of 1996 (“CUA”), adopted by the voters in the State of California, authorizes a limited defense to criminal charges for the use, possession or cultivation of marijuana for medical purposes when a qualified patient has a doctor’s recommendation for the use of marijuana; and

WHEREAS, Health and Safety Code section 11362.7 et seq., the Medical Marijuana Program Act (“MMPA”), was adopted by the state legislature and offers some clarification on the scope of the CUA, and section 11362.83, and specifically authorizes cities and other governing bodies to adopt and enforce rules and regulations related to medical marijuana; and

WHEREAS, the Medical Marijuana Regulation and Safety Act (“MCRSA” (Business and Professions Code section 19300 et. seq.)) was adopted by the Legislature in 2015, and regulates the commercial activity of medical marijuana and assigns certain state agencies with regulatory tasks regarding commercial medical marijuana, including product labeling and environmental regulation; and

WHEREAS, the Control, regulate and Tax Use of Marijuana Act (“AUMA” or Proposition 64”) to legalize the recreational use of marijuana in California for individuals twenty-one (21) years of age and older was approved by the voters and became effective November 9, 2016; and

WHEREAS, the California Legislature passed Senate Bill 94 in June 2017, which was signed by the Governor and went into effect immediately, and which repealed MCRSA entirely and merged certain portions of that law with AUMA to create a more comprehensive regulatory structure for both medical and recreational marijuana; and

WHEREAS, the new comprehensive regulatory system created by Senate Bill 94, intended to regulate all commercial cannabis uses, is called the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”); and

WHEREAS, the CUA, MMPA, and MAUCRSA do not prevent the city from using its constitutional authority to enact nuisance, health and safety, and land use regulations regarding cannabis cultivation, dispensaries or other commercial cannabis uses; and

WHEREAS, the City Council desires to regulate commercial cannabis businesses operating in the City of Lathrop in a manner that mitigates potential negative impacts, prevents cannabis from reaching minors or the illicit market, preserves public health and safety, protects the environment, drives diverse economic opportunities, and implements the City’s General Plan; and

WHEREAS, Chapter 17.124 of the Lathrop Municipal Code mandates the transmittal of a recommendation to the City Council by resolution; and

WHEREAS, the proposed text amendment is exempt according to the California Environmental Quality Act (CEQA) Article 5 §15061 by the “Common Sense Exemption” that CEQA applies only to projects that have a potential for causing a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment and Business and Professions Code Section 26055(h), in that the commercial cannabis regulations ordinance allows for requiring discretionary review and adequate environmental compliance for each application; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Planning Commission has reviewed all written evidence and oral testimony presented to date.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission finds that the proposed text amendment is consistent with applicable provisions of the Lathrop General Plan and will implement the City’s Economic Development goal (GP Goal No. 1) to develop job-creating and tax revenue creating activities by providing procedures and regulations for commercial cannabis uses.

BE IT FURTHER RESOLVED that the Planning Commission hereby recommend the following text amendments:

1. Cannabis activities shall not be permitted in the following zoning districts: CR-RI (Regional Commercial–River Islands); CN (Neighborhood Commercial); CS-MV (Service Commercial– Mossdale Village); CO-CL (Commercial Office–Central Lathrop); CH-MV (Highway Commercial– Mossdale Village); and CV-MV (Village Commercial–Mossdale Village).
2. Cannabis activities shall be permitted in Industrial zoning districts within the City of Lathrop, subject to the approval of a Conditional Use Permit.
3. Increase the buffer from 1,000 ft to 1,500-ft (measured from centerline) from Lathrop Road/Spartan Way and Golden Valley Parkway.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Lathrop based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby recommend the City Council adopt an Ordinance to implement Municipal Code Text Amendment No. TA-21-116 as amended in Attachments B and C, incorporated by reference herein.

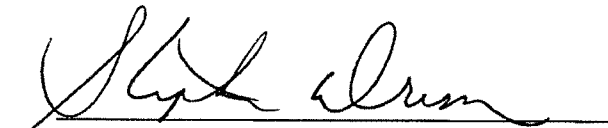
PASSED AND ADOPTED by the Planning Commission of the City of Lathrop at a Special meeting on the 1st day of September, 2021 by the following vote:

AYES: Rhodes, Ishihara, Gatto, Ralmilay

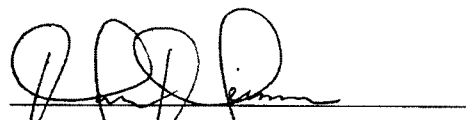
NOES: Dresser

ABSTAIN: None

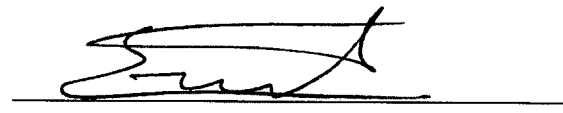
ABSENT: None


Steve Dresser, Chair

ATTEST:


Mark Meissner, Secretary

APPROVED AS TO FORM:


Salvador Navarrete, City Attorney