

ITEM 5.3

CITY MANAGER'S REPORT FEBRUARY 14, 2022 CITY COUNCIL REGULAR MEETING

ITEM: **APPROVE THE SELECTION PROCESS AND THE ISSUANCE OF A REQUEST FOR PROPOSALS, REVISED MERIT BASED SELECTION CRITERIA, AND APPEAL PROCEDURES FOR A COMMERCIAL CANNABIS DISPENSARY IN THE CITY OF LATHROP**

RECOMMENDATION: **Council to Consider Approval of a Resolution Approving a Cannabis Dispensary Selection Process, a Resolution to Adopt Revised Merit-Based Selection Criteria, and a Resolution Adopting an Appeal Procedure and Applicable Rules for Commercial Cannabis Activities in the City of Lathrop**

SUMMARY:

The proposed Cannabis Dispensary Application process establishes the framework for the submission and review of responses to a City issued Request for Proposals ("RFP"). With this approval, the RFP will be issued inviting applicants to submit proposals. Staff will then prepare a summary of each response and all responses will be provided to City Council, who will be provided the opportunity select a commercial cannabis business to proceed with final steps necessary to operate a cannabis dispensary pursuant to Lathrop Municipal Code ("LMC") Chapter 5.26.

The proposed revised Merit Based Selection Criteria ("Selection Criteria") will be used to allow Council to objectively review all proposals and select an applicant to move forward with the formal application for the operation of a cannabis dispensary within the City.

In anticipation of any potential appeals by applicants who are not selected by Council, staff recommends Council adopt the proposed Commercial Cannabis Appeal Procedure to outline the rights and responsibilities of both the City and any appellant.

BACKGROUND:

On November 8, 2021, Council introduced an Ordinance to amend the LMC to establish cannabis business regulations and approved a merit-based selection criteria for scoring commercial cannabis applications pursuant to Resolution No. 21-4983.

On December 13, 2021, Ordinance No. 21-428 was passed and adopted, thereby amending the LMC to allow regulation of commercial cannabis business operations within the City. Pursuant to Council approvals on December 13, 2021, staff and outside Counsel prepared the attached proposed RFP, selection process, revised criteria, and appeal procedures for Council consideration.

CITY MANAGERS REPORT **PAGE 2**
FEBRUARY 14, 2022 CITY COUNCIL REGULAR MEETING
PROPOSED RFP APPLICATION PROCESS, REVISED SELECTION CRITERIA,
APPEAL PROCEDURES FOR COMMERCIAL CANNABIS

ANALYSIS:

Cannabis Dispensary Application Process- RFP

The selection process starts with all interested applicants submitting a response to an RFP issued by the City (the "RFP Response"). Applicants do not need to have secured ownership or physical control over a location to submit an RFP Response, but must include a proposed location, site plan, and floor plan in the RFP Response. City staff will review each RFP response and provide a summary of each proposal as well as each proposal in its entirety to Council for its evaluation at a future public meeting.

Revised Merit Based Selection Criteria

The Selection Criteria, as approved by Resolution on November 8, 2021, included five questions relating to full-time local residency and prior business ownership within San Joaquin County as selection criteria requirements. Recent court cases have held that such criteria should not be used in the selection process. Therefore, Council is provided this opportunity to remove full-time residency, prior business ownership within San Joaquin County criteria by approving the revised criteria.

Commercial Cannabis Appeal Procedures

City appeal procedures can provide any disgruntled applicants an opportunity for an independent hearing officer to evaluate any appeal of the City's selection process. The purpose and intent of the establishment of this appeal procedure is to afford due process of law to any person who is directly affected by an administrative action of the City under LMC Chapter 5.26. This establishes the regulations governing appeals of the decisions of the City surrounding the commercial cannabis application process and award of a permit to operate a commercial cannabis business.

RECOMMENDATION:

Staff recommends that the City Council consider all information provided and, if determined to be appropriate, adopt the Resolutions provided.

FISCAL IMPACT:

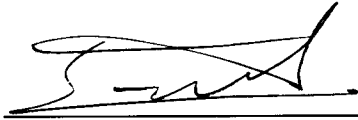
There is no fiscal impact to the City of Lathrop, only staff time to prepare the report.

ATTACHMENTS:

- A. A Resolution of the City Council of the City of Lathrop Approving Criteria for Award of a Commercial Cannabis Business Permit and Authorizing Issuance of a Request For Proposals Seeking Applications for Same.
- B. A Resolution of the City Council of the City of Lathrop Adopting Procedures for Appeals of Decisions Under Chapter 5.26 of the Lathrop Municipal Code

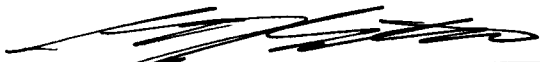
CITY MANAGERS REPORT
FEBRUARY 14, 2022 CITY COUNCIL REGULAR MEETING
PROPOSED RFP APPLICATION PROCESS, REVISED SELECTION CRITERIA,
APPEAL PROCEDURES FOR COMMERCIAL CANNABIS

APPROVALS:



Salvador Navarrete
City Attorney

2-9-2022
Date



Stephen J. Salvatore
City Manager

2.10.22
Date

RESOLUTION NO. 22-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING REVISED CRITERIA FOR AWARD OF A COMMERCIAL CANNABIS BUSINESS PERMIT AND AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS SEEKING APPLICATIONS FOR SAME

WHEREAS, the City Council of the City of Lathrop approved Ordinance No. 21-428, establishing requirements for operation of commercial cannabis businesses within the City of Lathrop (the "City"); and

WHEREAS, Ordinance No. 21-428 sets forth a selection process for Commercial Cannabis for issuance of commercial cannabis business permits; and

WHEREAS, the City Council approved Resolution No. 21-4983 adopting the Merit Based Selection Criteria for Cannabis; and

WHEREAS, City staff has proposed a Request for Proposals establishing a merit-based approach to awarding a commercial cannabis business permit to operate a dispensary within the City; and

WHEREAS, City staff proposed amendments to the Merit Based Selection Criteria for Cannabis approved by Resolution No. 21-4983.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LATHROP DOES HEREBY RESOLVE AND APPROVES AS FOLLOWS:

1. RECITALS. The recitals set forth above are true and correct and incorporated herein by this reference.
2. REQUEST FOR PROPOSALS. The City Manager or his designee is hereby authorized to issue the Request for Proposals for award of a commercial cannabis business permit, attached hereto as Exhibit "A" and incorporated herein by this reference.
3. MERIT-BASED SELECTION CRITERIA FOR CANNABIS. The Criteria Matrix included as Attachment "B" to Exhibit "A" hereto is hereby approved and specifically supersedes the Merit Based Selection Criteria for Cannabis previously approved by Resolution No. 21-4983.
4. SEVERABILITY CLAUSE. Should any section, clause, or provision of this Resolution be found invalid by a court of competent jurisdiction, that finding shall not affect the validity of the Resolution as a whole, or parts thereof, other than the part declared to be invalid.
5. CERTIFICATION. The City Clerk shall certify to the passage and adoption of this Resolution and shall give notice of it if and as required by law.

6. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of Lathrop this 14th day of February, 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:



Teresa Vargas , City Clerk

Salvador Navarrete, City Attorney

CANNABIS DISPENSARY APPLICATION PROCESS

The City will utilize a merit-based approach to determining which applicant will receive a commercial cannabis business permit to operate a dispensary under Lathrop Municipal Code Chapter 5.26. The information contained in this Request for Proposals includes the minimum requirements necessary to administer Chapter 5.26 of the Lathrop Municipal Code.

The selection process starts with all interested applicants submitting a response to the RFP to the City (the “RFP Response”). Applicants do not need to have secured ownership or physical control over a location to submit an RFP Response, but must include a proposed location, site plan, and floor plan in the RFP Response. City staff will review each RFP Response and provide comment to the City Council as to whether each meets the requirements of Lathrop Municipal Code Chapter 5.26 and this Request for Proposals.

City staff will submit all RFP Responses to the City Council. The City Council, in its sole discretion, may invite some or all applicants to attend interviews to be conducted as part of public meetings of the City Council. Following review and interviews, if held, the City Council may select a top-ranked RFP Response to be awarded a commercial cannabis business permit to operate a dispensary. The City Council may, in its sole discretion, reject all applications. The successful applicant must comply with all other requirements in Lathrop Municipal Code Chapter 5.26 and State law before operating a commercial cannabis business and, therefore, preliminary award of a license by the City Council creates no rights to operate a cannabis dispensary, the applicant selected must comply with all other requirements of that Chapter and obtain the other approvals it requires. Unsuccessful applicants will be timely notified of the City Council’s decision and may appeal the City Council’s decision pursuant to appeal procedures established by the City in the time those rules permit.

PROPOSAL REQUIREMENTS

Documents Required in Response to Request for Proposals:

Applicants shall submit the following information in their responses to the Request for Proposals:

- **Required Submittal Item #1:** Completed Applicant/Owner Information Form, attached as Attachment “A” hereto.
- **Required Submittal Item #2:** Cover Letter
- **Required Submittal Item #3:** Applicant’s Business Plan. Sections of the Business Plan shall include:
 - Section 1: Qualifications of Applicant/Owners, addressing:
 - **Experience:** Owners’ experience in owning, managing and operating the commercial cannabis businesses.

- **Cannabis Industry Knowledge:** Knowledge of the cannabis industry, including identification of how industry best practices and state regulations have been incorporated in any existing or earlier legal business outside the City of Lathrop.
 - **Ownership Team:** Involvement of the owners in on-site day-to-day operation.
 - **Compliance with Lathrop Municipal Code:** Understanding and ability to comply with operational standards in the Lathrop Municipal Code including, but not limited to, Lathrop Municipal Code sections 5.26.090 and 5.26.100.
 - **Satisfaction of the Criteria for Award of a Cannabis License** adopted by City Council Resolution No. 21-4983 and amended by Resolution No. 22-____.
- Section 2: Business Plan, addressing:
- **Standard Operating Procedures (SOP):** Proposed operating procedures for all aspects of the proposed business, including incorporation of industry best practices. Applicant should show specific examples of where practices referenced have worked before.
 - **Financial Plan:** Financial plan and/or budget to start and to operate the business (e.g., business pro forma, cash flow, accounting procedures, etc.). Proposals should provide clear and complete details about the financial position, plan & operating procedures of business.
 - **Funding/Proof of Capitalization:** Demonstration of access to adequate capital and/or on-going line of credit to operate the business.
 - **Records Software:** Standard operating procedures for electronic tracking and storage of required records of sales, delivery manifests, and inventory.
 - **Track-and-Trace:** Standard operating procedures for track-and-trace, include detailed California Cannabis Track-and-Trace (CCTT) procedures as outlined by the State.
 - **State Testing Requirements:** Standard operating procedures for ensuring all cannabis products on the premises or held by Applicant have met the testing requirements as defined by the State.
 - **Employee Training:** Proposed employee training including, for example, training on differences in products, potency of products, customer service, and/or laws governing “adult use” vs medical use.

- **Customer Education:** Plan for educating customers regarding cannabis products, including the potency and effects of products, and variety of cannabis products offered for sale.
 - **Marketing:** Key aspects of Applicant’s marketing strategy that would be generated and incorporated into Applicant’s marketing plan. The proposed marketing strategy should describe compliance with local regulation related to advertising (i.e., local sign regulations).
 - **Product Procurement:** Procurement plan, including due diligence performed before executing purchase contracts and quality control of incoming products.
 - **Emergency Contact:** Applicant must designate and provide contact information for an Emergency Contact who is be an on-site employee or owner to whom emergency notice can be provided 24 hours per day.
- Section 3: Community Benefit, addressing:
- **Council Goals:** How the business will further the City Council’s goals to support and promote the quality of life, enhance the local community, and help sustain the local economy through a community engagement plan that demonstrates an understanding of the community, its values and unique aspects, and how the business will integrate into the community.
 - **Job Creation:** How the business plans to create well-paying, high-quality jobs with benefits via a share in ownership, management or other employment opportunities.
 - **Community Assistance:** How the business plans to assist organizations in our community that provide help to those persons most harmed by cannabis criminalization and poverty.
 - **Non-Profit Support:** How the business plans to work with local non-profits and other community groups. Non-profits or groups located in or serving Lathrop are preferred.
 - **Business Support:** How the business plans to partner with existing Lathrop businesses (e.g., procurement of goods and services from local businesses).
 - **Youth Education:** How the business plans to educate the youth in the community about the dangers of substance abuse. Such planned outreach may include to local schools and youth groups.
 - **Community Relations Contact:** Applicant shall designate and provide contact information for a Community Relations Contact who shall be the person notified of problems associated with the commercial cannabis business. If selected, Applicant will be required to provide the designated

Community Relations Contact's contact information to all property owners located within 100 feet of the commercial cannabis business.

- Section 4: Neighborhood Compatibility & Enhancement, addressing:
 - **Exterior Design Concept:** A contextual exterior design which reflects the best of the City's architecture, the use of quality materials and the level of investment that can be expected for the architecture, landscaping, signage, lighting, entry experience, parking, etc.
 - **Site Plan & Floor Plan:** Applicant shall provide a site plan and floor plan for the proposed commercial cannabis business. The Site Plan and Floor Plan shall include: (1) physical boundaries of the site including, but not entrances and exits; (2) location of all cannabis-related activities; and (3) any space on the property shared with non-cannabis-related businesses.
 - **Integration of Security Measures:** Applicant's plan to integrate security enhancements into the physical design concept, so as not to be overly noticeable by customers or the public. Applicants should provide details about physical and technological security components as well as crime prevention efforts through environmental and site planning.
 - **Air Quality/Odor Control:** Description of proposed ventilation and air purification system, including demonstrated effectiveness and any nuisance mitigation.
- Section 5: Security Plan, addressing:
 - **Security Experience:** Experience of individual/firm designing the security plan. Individual/firm should be identified, and experience described. If relevant, the RFP Response should include information on the quality of delivery driver security, safety procedures, and vehicle security, including driver education related to potential hazards and response thereto.
 - **Designated Security Contact:** Applicant must designate a Security Representative/City Liaison who shall be reasonably available to meet with the City Manager or his/her designee at any time regarding any security related measures or operational issues.
 - **Background Checks:** Applicant should describe whether it intends to use background checks in the employee hiring process. Provide detail about level of checks and use of the information obtained.
 - **Employee Safety Education:** Employee safety education plan, including training regarding product handling, burglary protocols, robbery protocols, and other potential hazards of the commercial cannabis business.

- **Employee Theft Reduction Measures:** Employee theft reduction measures, including audits and check in/out.
 - **Cash Management Plan:** Cash management plan, including cash counting/reconciliation procedures, cash storage, cash transport, deposit into a banking institution (if any), and employee training.
 - **Product Access Protocols:** Business plan details product access protocols. Product access protocols must include, but are not limited to, a separate check-in area where identification is checked to ensure that only qualified employees gain access to where cannabis products are stored.
 - **Product Deliveries:** Plan for securing product deliveries to the business (i.e., from delivery vehicles to building).
 - **Security Guards:** Anticipated security guard plan for the business, including number of guards, hours, protocols, and day-to-day procedures/operations.
 - **Video Camera Surveillance:** Security plan includes video camera surveillance. Additionally, overall quality of Applicant’s plan to use cameras, including number of cameras, locations, resolution, and how long footage is saved and how access is granted by investigative/regulatory agencies.
- Section 6: Hazardous Materials Management Plan.
 - A Hazardous Materials Management Plan, in compliance with all federal, state and local requirements for management of hazardous materials, is necessary only to the extent that Applicant intends to use any hazardous materials in its operations. “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
- **Required Submittal Item #4:** Completed Criterion Matrix, attached as Attachment “B” hereto.

Further Information Regarding Required Items:

Applicant/Owner Information Forms – Each RFP Response shall complete the Applicant/Owner Information Forms (Required Submittal Item #1). This form includes basic information on Applicant, owners, and non-owners with a financial interest in the business. The information requested is similar to that requested by the State. The City Council may disqualify any Application that includes an owner who checks “YES” on one or more of the boxes included in Section C: Declarations.

Cover Letter – The Cover Letter (Required Submittal Item #2) shall be a concise overview of Applicant’s RFP Response, including the proposed business concept. The Cover Letter may not exceed three pages.

Detail of Applicant’s Business Plan – This section is the main portion of the RFP Response (Required Submittal Item #3). Applicant shall provide as much detail as possible to clearly describe the day-to-day operations of the proposed commercial cannabis business. Applicants shall label each of the sections noted above.

Required Format and Submittal Guidelines for RFP Response:

Length – RFP Responses shall be no longer than 100 pages for each permit type. The page total does not include the applicant/owner information forms or the cover letter (cover letter cannot exceed three pages). Double-sided pages count as two pages. Please avoid duplicating information. All pages shall be numbered.

Font and Page Size – 11-point font minimum shall be used in the narrative portions of the RFP Response. All pages shall be 8.5 x 11.

Submittal Deadline – RFP Responses may be submitted to the City no later than 6:00pm (Pacific Time) on March 16, 2022. RFP Responses received after the established due date will be considered a “late RFP Response”, will not be accepted and will not be considered. No additional weight will be given to RFP Responses submitted earlier than other RFP Responses. The City assumes no responsibility for any delays caused by delivery service. Postmarking by the due date will not substitute for actual timely delivery.

Document Submittal – All RFP Responses shall be submitted before the Submittal Deadline. Ten (10) hard copies of the RFP Response and one electronic PDF version of the proposal on a flash drive shall be provided in a sealed envelope or box with Applicant’s return address, and addressed to the following:

City of Lathrop
City Attorney’s Office
390 Towne Centre Drive
Lathrop, CA 95330

Applications must be complete when submitted; there will be no later opportunity to supply missing and/ or supplemental information after the Submittal Deadline.

Other Key Information:

Background Check – A background check of Applicant whose RFP is selected will be required. Applicant, owners, and non-owners with a financial interest in a commercial cannabis business will also be required to complete the background check.

Permits Not Transferable – The assignment of, or attempt to assign, any commercial cannabis business permit is unlawful and any such assignment or attempt to assign a permit shall render the permit null and void.

Public Records Requests and Proprietary Data – All RFP Responses will become the property of the City when received. Information contained in the RFP Responses may be subject to disclosure under the California Public Records Act. Any sections or pages of the RFP Response Applicant considers proprietary should be clearly marked as such, although such marking is not determinative of whether it is proprietary under state law. The City reserves the right to disclose and/or withhold any information contained therein in accordance with the law.

Ownership Stake in Multiple Applications – Individuals may not be party to or listed as Owners in more than one RFP Response. The definition of Owner is provided on the Applicant/Owner Information Form and is consistent with the State definition of “Owner.”

Original Ordinance – Ordinance No. 21-428 can be found following the text of this document and as codified in the Lathrop Municipal Code under Chapter 5.26. A copy of this Ordinance may also be obtained by submitting a Public Records Act request with the City Attorney’s Office at (209) 941-7235.

Disclosure Regarding Changes to Published Information – While the City does not anticipate any changes to the published information, the City reserves the right to update the information as necessary to resolve any unanticipated issues that may arise before or during the screening period. Any updated information will be made by written addendum and posted on the City’s website. The failure of an applicant to read any addenda shall have no effect on the validity of such update or modification.

Limitations on City Liability:

To the fullest extent permitted by law, the City of Lathrop shall not assume any liability whatsoever with respect to having issued a commercial cannabis business permit pursuant to this chapter or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any commercial cannabis business permit, Applicant shall, and hereby does agree to:

1. Indemnify, defend (at applicant’s sole cost and expense), and hold the City of Lathrop, and its officers, officials, employees, representatives, attorneys and agents, harmless, from any and all claims, losses, damages, injuries, or liabilities which arise out of, or which are in any way related to, the City’s issuance of the commercial cannabis business permit, the City’s decision to approve the operation of the commercial cannabis business or activity, the City’s decision-making process, or the alleged violation of any federal, state or local laws by the commercial 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 Manager or his or her designee, to provide coverage for the obligations required by the Lathrop Municipal Code, and provide evidence of coverage upon request.

3. Reimburse the City of Lathrop for all costs and expenses, including, but not limited to, legal fees and costs, which the City may incur as a result of any legal challenge related to the City's action on Applicant's commercial cannabis business permit, or related to the City's action on a commercial cannabis activity. The City of Lathrop may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve an Applicant of any of the obligations imposed hereunder.

Applicant Signature:

I, as Applicant for a commercial cannabis business permit, certify under penalty of perjury that the information contained in this application package is true and correct to the best of my knowledge. I acknowledge my obligation to abide by and conform to the conditions of all permits issued by the City of Lathrop related to the proposed commercial cannabis business and all provisions of the Lathrop Municipal Code pertaining to establishment and operation of the commercial cannabis use including, but not limited to, the provisions of Lathrop Municipal Code Chapter 5.26. I further acknowledge approval of a commercial cannabis business permit shall, in no way, permit activity contrary to the Lathrop Municipal Code or any activity in violation of applicable laws.

Applicant/Agent Signature _____

Printed Name and Title: _____ Date _____

ATTACHMENT "A" – APPLICANT/OWNER INFORMATION FORM

Section C: DECLARATIONS

1. Do you have an ownership or financial interest (as defined in Title 16 CCR 5003 and 5004) in a licensed cannabis business? If "yes", complete section C-1. YES NO
2. Have you ever been denied a permit or state license to engage in commercial cannabis activity, or had a permit or state license to engage in commercial cannabis activity suspended and not reinstated, or revoked, by any city, county, city and county, or any other state cannabis licensing authority? If "yes", complete section C-2. YES NO
3. Have you ever been convicted of a crime? If "yes", complete section C-3. (HSC BPC §26057) YES NO
4. Have you ever failed to pay federal, state, or local taxes and/or fees when notified by the appropriate agencies? YES NO

Section C-1: Other Licensed Cannabis Businesses

Use additional sheets if necessary.

Agency: _____ License No. _____ Date Issued: _____
Description of business: _____

Agency: _____ License No. _____ Date Issued: _____
Description of business: _____

Agency: _____ License No. _____ Date Issued: _____
Description of business: _____

Section C-2: Cannabis License(s) Suspended, Revoked or Denied

Use additional sheets if necessary.

License Authority : _____ License Type _____ Suspension or Revocation Date: _____
Details: _____

License Authority : _____ License Type _____ Suspension or Revocation Date: _____
Details: _____

License Authority : _____ License Type _____ Suspension or Revocation Date: _____
Details: _____

Section C-3: Criminal Violation(s)

Use additional sheets if necessary.

Date of Conviction: _____ Code Section: _____ Felony or Misdemeanor? _____
Date of incarceration: _____ Date of Probation: _____ Date of Parole: _____

Details: _____

Date of Conviction: _____ Code Section: _____ Felony or Misdemeanor? _____
Date of incarceration: _____ Date of Probation: _____ Date of Parole: _____

Details: _____

Date of Conviction: _____ Code Section: _____ Felony or Misdemeanor? _____
Date of incarceration: _____ Date of Probation: _____ Date of Parole: _____

Details: _____

SECTION D: REQUIRED DOCUMENTS

- Copy of a currently valid government-issued identification

SECTION E: AFFIRMATION & CONSENT

Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that misrepresentation of fact is cause for rejection of this screening application, denial of a license, or revocation of a license issued.

Signature: _____ Date: _____

Printed Name: _____

ATTACHMENT “B” – CRITERION MATRIX

Description of Criteria	Meets Criteria	
	Yes	No
Section 1: Prioritize Medicinal Cannabis Access		
a) RFP Response includes combined medicinal/adult use dispensary		
b) RFP Response includes Delivery Services		
Section 2: Geographical Preference/Neighborhood Relations		
a) Proposed location is within 1,200 feet of local transportation		
b) RFP Response includes a process and schedule for at least two public outreach meetings per year that meet City requirements		
c) Business plan includes a schedule for communication and receiving feedback from all entities within 300 feet of the business at least two times per year		
d) RFP Response includes appointment of an employee as a designated liaison to the neighborhood		
Section 3: Facility Plan		
a) Business is and/or was associated with a non-cannabis-related business in the City of Lathrop		
b) RFP Response includes daily site inspection to ensure maintenance of the interior and exterior of the facility (i.e., free of trash, graffiti, etc.)		
c) Commercial cannabis business will be open more than five days a week and at least six hours per day		
d) Location is within an existing building or facility with ability to be open for business within six months of approval by the City		
Section 4: Standards and Procedures for the Safe Operation of Facilities		
a) RFP Response includes documented employee safety training program		
b) RFP Response includes documented employee cannabis educational training program		
c) Business Plan includes enhanced security measure, with at least three of the following: panic buttons, dye packets, bulletproof window film (with break strength of 400 lbs. per inch or better), a UL-approved safe with a fire rating that is 2-hour 1,700 degrees F or better with a complex locking device; motion sensing lighting; or other enhanced security measure acceptable to the City		
d) RFP Response includes climate-controlled environment		

Description of Criteria	Meets Criteria	
	Yes	No
e) RFP Response includes a comprehensive documented process for 24-hour minimum response time to cannabis product recall notifications		
f) RFP Response includes plan for disposal of all solid waste based on best practices of the State		
g) RFP Response includes more than one on-site security guard during business hours		
h) RFP Response includes plans and procedures on how all cannabis products on the premises or held by the Applicant meet the testing requirements as defined by the State		
i) RFP Response includes a separate lobby where identification is checked to ensure that only qualified individuals gain access to separate, locked areas where cannabis products are displayed		
j) RFP Response includes electronic storage of required records of sales, delivery manifests, patient information (if medicinal and required by State), inventory, etc., which can be provided to City personnel upon request		
k) RFP Response includes participation in web-based public safety application or equivalent that provides law enforcement with confirmation of local and state licenses		
l) RFP Response includes proposed “green” business practices related to energy and climate, water conservation, and materials/waste storage		
m) RFP Response includes secured loading/unloading area for deliveries		
Section 5: Prior Experience in Business Ownership and Management		
a) Combined prior experience of proposed owners includes more than three years of verified successful management of any non-cannabis legal retail facility		
b) Owners are listed on State approved commercial cannabis licenses.		
c) Combined prior experience of proposed owners is more than three years with a commercial cannabis business in compliance with California law, with proof of timely payment of taxes		
Section 6: Qualifications of Principals/Business Plan		
a) At least one proposed owner is a military veteran with an honorable discharge		
b) Does the business qualify as a Disadvantaged Business Enterprise (DBE) as defined by the U.S. Department of Transportation?		
c) Does the business have documented proof of access to at least \$150,000 in capital (or enough capital to pay all startup costs plus at least three months of operating costs?)		

Description of Criteria	Meets Criteria	
	Yes	No
d) Does the Business Plan contain a valid pro forma for at least three years of operation		
e) Does the proposed commercial cannabis business have documented agreements with cannabis distributors to supply products to their business?		
Section 7: Employee and Public Relations		
a) The proposed commercial cannabis business will promote local hiring or provide incentives for City residents to work for the business		
b) The proposed commercial cannabis business provides employee health benefits for all full-time employees		
c) The proposed commercial cannabis business will employ more than five people full-time, not counting the owners or security personnel		
d) RFP Response includes an ongoing public information program to inform City residents of cannabis issues and proper/safe/legal use of cannabis products		
Section 8: Community Benefits		
a) RFP Response includes offer to deposit funds to cover the costs of application and entitlement processing		
b) RFP Response includes offer to provide a percentage of annual gross receipts as a community benefit to be allocated by the City		
c) RFP Response includes benefits to the community, such as monetary contributions to local community organizations, or volunteer work for local community organizations, or any other proposed community benefit deemed acceptable to the City		

*** The Criterion Matrix is intended solely to provide additional information to the City Council and does not reflect minimum criteria for RFP Responses ***

ORDINANCE NO. 21-428

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 "3", "4", and "5", 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 "3", "4", and "5", 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.

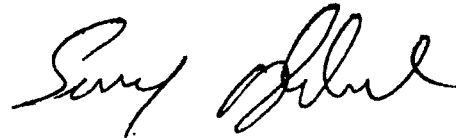
THIS ORDINANCE was regularly introduced at a meeting of the City Council of the City of Lathrop on the 8th day of November 2021, and was **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Lathrop on the 13th day of December 2021, by the following vote:

AYES: Diallo, Torres-O'Callaghan, and Dhaliwal

NOES: Akinjo and Lazard

ABSENT: None

ABSTAIN: None



Sonny Dhaliwal, Mayor

ATTEST:



Teresa Vargas, City Clerk

APPROVED AS TO FORM:



Salvador Navarrete, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN JOAQUIN) ss.
CITY OF LATHROP)

I, Teresa Vargas, City Clerk of the City of Lathrop, California, do hereby certify that the foregoing Ordinance No. 21-428 was duly and regularly introduced at a regular meeting of the City Council on the 8th day of November 2021, and that thereafter said Ordinance was duly and regularly adopted at a regular meeting of the City Council on the 13th day of December 2021, by the following vote, to wit:

AYES: Diallo, Torres-O’Callaghan, and Dhaliwal
NOES: Akinjo and Lazard
ABSENT: None
ABSTAIN: None

This ordinance was duly published in accordance with State Law (G.C. 40806).

I hereby certify that the foregoing is the original of Ordinance No. 21-428 duly and adopted by the City of Lathrop City Council at its regular meeting held December 13, 2021, and that the Summary of the Ordinance was published on December 8, 2021, and Full Reading on December 22, 2021 in the Manteca Bulletin Newspaper.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Lathrop, California, this 22nd day of December 2021.



TERESA VARGAS, MMC
CITY CLERK

(SEAL)

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.

5.26.0230 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. 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.

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

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

5.26.050 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 for City Council consideration. Such review may include a scoring or merit based system.

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, all relevant criminal history, relevant work history, names of cannabis 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. Business 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 one thousand feet (1,000') 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 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. Commercial cannabis operators shall comply with a County track and trace system if one is adopted by the County.

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 may be subject to background search by the California Department of Justice and local law enforcement. Permits for commercial cannabis uses may 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 may 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. Regulations shall be published on the City's website.

B. 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.

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

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^{1,2,3}

<u>Commercial Cannabis Use</u>	<u>CN</u>	<u>CC</u>	<u>CS</u>	<u>CH</u>	<u>CS-MV</u>	<u>CH-MV</u>	<u>CV-MV</u>	<u>CO-LG</u>	<u>CS-LG</u>	<u>CO-SL</u>	<u>CR-RI</u>	<u>NC-CL</u>	<u>CO-CL</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>C</u>	<u>C</u>
<u>Cannabis distribution business</u>													
<u>Cannabis manufacturing business</u>													
<u>Cannabis testing laboratory</u>													
<u>Cannabis microbusiness</u>													

¹ Must comply with Chapter 5.26, Commercial Cannabis Regulations.

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

³ MV = Mossdale Village, LG = Lathrop Gateway, SL = South Lathrop, CL = Central Lathrop, RI = River Islands

~~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 § 4)~~

~~**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)~~

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

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^{1,2,3}

<u>Commercial Cannabis Use</u>	<u>CN</u>	<u>CC</u>	<u>CS</u>	<u>CH</u>	<u>CS-MV</u>	<u>CH-MV</u>	<u>CV-MV</u>	<u>CO-LG</u>	<u>CS-LG</u>	<u>CO-SL</u>	<u>CR-RI</u>	<u>NC-CL</u>	<u>CO-CL</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>C</u>	<u>C</u>
<u>Cannabis distribution business</u>													
<u>Cannabis manufacturing business</u>													
<u>Cannabis testing laboratory</u>													
<u>Cannabis microbusiness</u>													

¹ Must comply with Chapter 5.26, Commercial Cannabis Regulations.

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

³ MV = Mossdale Village, LG = Lathrop Gateway, SL = South Lathrop, CL = Central Lathrop, RI = River Islands

~~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)~~

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

[...]

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, excluding cannabis business.

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, excluding cannabis business.

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)

[...]

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

[...]

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, excluding cannabis business.

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, excluding cannabis business.

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)

[...]

RESOLUTION NO. 22-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP ADOPTING PROCEDURES FOR APPEALS OF DECISIONS UNDER CHAPTER 5.26 OF THE LATHROP MUNICIPAL CODE

WHEREAS, the City Council of the City of Lathrop approved Ordinance No. 21-428, establishing requirements for operation of commercial cannabis businesses within the City of Lathrop (the "City"); and

WHEREAS, the City Council authorized issuance of a Request for Proposals establishing a merit-based approach to award a commercial cannabis business permit to operate a dispensary within the City; and

WHEREAS, the City Council now desires to establish a procedure by which aggrieved parties may appeal decisions of the City under Chapter 5.26 of the Lathrop Municipal Code, including, but not limited to, the City Council's award of commercial cannabis business permits.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LATHROP DOES HEREBY RESOLVE AND APPROVES the Commercial Cannabis Appeal Procedures, attached hereto as Exhibit "A" and incorporated herein by this reference, and are hereby adopted.

PASSED AND ADOPTED by the City Council of the City of Lathrop this 14th day of February, 2022, by the following vote:

AYES:

NOES:

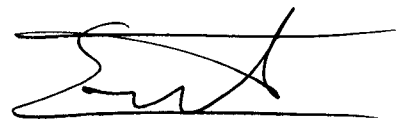
ABSTAIN:

ABSENT:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:



Salvador Navarrete, City Attorney

Teresa Vargas, City Clerk

CITY OF LATHROP
COMMERCIAL CANNABIS
APPEAL PROCEDURES

Pursuant to Lathrop Municipal Code Chapter 5.26, the City Council of the City of Lathrop hereby adopts the following regulations governing appeals of decisions of the City under Chapter 5.26 of that Code, including, but no limited to, award of commercial cannabis business permits.

1. **DEADLINE.** An appeal may be submitted to the City Clerk in writing within 15 days of the date the decision appealed was made. Appeals shall be filed on a form provided by the City.
2. **FILING FEE.** An appeal must be accompanied by an appeal fee established from time to time by resolution of the City Council. As of February 2022, the fee is \$588.00. An appeal is not perfected until the City Clerk receives both the appeal form and the filing fee.
3. **DECISIONMAKER.** The City Council shall appoint a hearing officer to hear any appeal received, pursuant to the procedures established herein. Any hearing officer shall be a neutral party uninvolved in the making of the decision from which appeal is taken.
4. **HEARING PROCEDURES.**
 - a. **BRIEFING.** The hearing officer shall establish deadlines by which:
 - i. The City or the appellant may invite any other person with an interest in the appeal, including but not limited to a successful applicant for a license as to an appeal by an unsuccessful applicant for that same license (“real party in interest”), or such real party in interest may state interest in intervening in the appeal or participating in it as an amicus without invitation by the City or the appellant;
 - ii. The appellant must submit all arguments and evidence relevant to the appeal,

- iii. City staff and any real party in interest may submit counter-arguments and evidence, and
 - iv. The appellant may submit reply papers. If the hearing officer orders an oral hearing on an appeal, any reply papers shall be submitted no later than five business days before the hearing.
- b. REPRESENTATION. An appellant or real party in interest may represent him- or herself or may retain counsel or a non-attorney representative to argue an appeal.
- c. ORAL HEARING. These rules confer no right to an oral hearing and the hearing officer retains discretion to decide the appeal on the papers but the City, the appellant, or any real party in interest may make written request to the hearing officer for an oral hearing. If the hearing officer orders an oral hearing, the following procedures apply:
- i. NOTICE OF ORAL APPEAL HEARING. The City Clerk shall serve a notice of oral appeal hearing either personally or by U.S. Mail, first class postage prepaid, to the appellant at the address provided on the appeal form and to the real party in interest at such address as it may have provided the City. The hearing shall occur no sooner than 10 days after service of the notice.
 - ii. TIME AND PLACE OF HEARING. The hearing officer shall conduct any oral appeal hearing at the place and time stated in the notice of hearing. Appeal hearings may be held by teleconference or other electronic means in the hearing officer's discretion. A hearing may be continued from time to time by agreement of the appellant and City staff or for good cause as determined in the hearing officer's discretion.
 - iii. EVIDENCE. The hearing officer will consider written or oral testimony or other evidence regarding the issues the parties identify. Evidence to support a decision must be credible and relevant in the estimation of the hearing officer, but formal rules of evidence do not apply. The hearing officer retains the discretion to exclude evidence it finds to be unduly repetitious or irrelevant.

- iv. PRESIDING OFFICER. The hearing officer shall conduct the hearing, govern the presentation of evidence, and address any procedural issues presented during the course of the hearing. The hearing officer may issue orders, including protective orders, as necessary to exercise the appellate jurisdiction granted by these Procedures.
 - d. BURDEN OF PROOF; STANDARD OF REVIEW. The appellant bears the burdens to produce evidence of reversible error and to persuade the hearing officer of it by a preponderance of the evidence. The hearing officer shall affirm the decision appealed from unless the appellant persuades it that:
 - i. The procedure by which the decision was made violates due process or other applicable law;
 - ii. The substance of the decision violates the Lathrop Municipal Code or other applicable law; or
 - iii. The record on which the decision was made does not include substantial evidence to support factual findings the law requires for the decision.
- 5. CITY COUNCIL CONSIDERATION OF HEARING OFFICER'S RECOMMENDATION. If the City Council appoints a hearing officer, it shall consider his or her written recommended decision as follows:
 - a. HEARING OFFICER'S DECISION; TIME FOR SAME. After considering all arguments and evidence submitted, including testimony submitted at any oral appeal hearing, the hearing officer shall provide the City Council a recommended written decision to affirm (in all or part), modify, or reverse the decision appealed. The hearing officer shall render the written decision no later than 30 after the hearing is completed unless the appellant and City staff agree otherwise or the hearing officer determines in writing that 60 days are necessary due to the volume or complexity of the issues or evidence.
 - b. ORAL HEARING ON HEARING OFFICER'S RECOMMENDATION. The City Council may, in its discretion, order an oral hearing on the hearing officer's recommendation or may make a final decision based on the administrative

record before the hearing officer and the hearing officer's written recommendation without further input from the appellant, City staff, and the real party in interest (if any). Any oral hearing the City Council orders on the hearing officer's recommended decision shall be conducted pursuant to section 4 of these Procedures.

- c. COUNCIL ACTION ON HEARING OFFICER'S RECOMMENDATION. In its reasoned discretion under the standards stated in section 4.d. of these Procedures, the City Council may adopt or amend the hearing officer's recommendation in all or part or remand it to the hearing officer for further consideration.
 - d. NOTICE. Whether or not the City Council allows an oral hearing on the hearing officer's recommended decision, the City Clerk shall give notice (in the manner required by section 4.c.1. of these Procedures) of the City Council's consideration of that recommended decision, enclosing a copy of it, to every party who participated in the appeal before the hearing officer.
6. FINALITY. The City Council's adoption of a written decision on the appeal, whether or not provided by a hearing officer, shall be final as to the City and subject to judicial review as provided below.
 7. NOTICE OF DECISION. The City Clerk shall mail notice of the City Council decision to the appellant at the address provided on the appeal form and to any real party in interest as such address as it may have provided the City within five business days of the decision.
 8. JUDICIAL REVIEW. Judicial review of the City Council's decision on any appeal shall be subject to California Code of Civil Procedure section 1094.5, if timely filed as required by California Code of Civil Procedure section 1094.6.
 9. EXHAUSTION OF ADMINISTRATIVE REMEDIES. Failure to timely file a complete appeal form accompanied by the filing fee constitutes a waiver of appeal rights and a failure to exhaust administrative remedies. Failure to raise an issue on the appeal form or in the opening papers on an appeal constitutes a failure to exhaust administrative remedies as to that issue and a waiver of the right to raise that issue upon judicial review of the City Council's decision.

**PAGE LEFT
INTENTIONALLY
BLANK**