

ORDINANCE NO. _____ (N.C.S.)

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE VII OF THE SALINAS CITY CODE

City Attorney Analysis

This Ordinance updates Chapter 5, Article VII of the Salinas City Code which codifies the City's regulations on Commercial Cannabis Businesses. Specifically, this Ordinance specifies that business involving adult-use cannabis and cannabis-products may be transacted within the City of Salinas. This Ordinance also clarifies the City's permitting structure for commercial cannabis businesses, clarifies the operating requirements of various types of commercial cannabis businesses, establishes reasonable regulations relating to the growing of cannabis within a private residence for personal use, and includes administrative revisions to Chapter 5, Article VII to reflect changes in State law and changes in the City's implementation of the Municipal Code.

SECTION 1. Chapter 5, Article VII of the Salinas City Code is hereby amended to read as follows:

CHAPTER 5. – PEACE AND PUBLIC MORALS

Article VII – CANNABIS .

Division 1. – Generally.

Sec. 5-07.01. – Purpose and Intent.

It is the purpose and intent of this Article to:

- (a) Promote the development of businesses in the commercial cannabis industry in a responsible manner while imposing regulations to protect the health, safety, and welfare of the residents, neighborhoods, and businesses of Salinas.
- (b) Accommodate the needs of medically ill persons that require treatment with medicinal cannabis and medicinal cannabis products.
- (c) Regulate the personal non-medicinal use and consumption of cannabis and cannabis products in a manner consistent with state law.
- (d) Regulate cannabis activity in the city of Salinas concurrently with the state of California.

Sec. 5-07.02. – Legal Authority.

Pursuant to Section 7 of Article XI of the California Constitution, the city of Salinas is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, testing, security, 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 Salinas to commercial cannabis activity.

Sec. 5-07.03. – Undefined Activities

(a) Unless otherwise specifically authorized in this Article, the use, possession, planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, or vaporizing of cannabis or any cannabis product is prohibited and is a violation of this Article.

(b) Subsection (a), above, shall not apply to activities that the State of California has explicitly stated are permitted activities that may not be curtailed by local law; however, activities authorized by the State that may be curtailed by local ordinance shall be deemed prohibited unless specifically authorized in this Article.

Sec. 5-07.04. – Other Required Permits and Licenses

The provisions of this Article are in addition to all other permits, licenses, and approvals otherwise required by the City of Salinas, the State of California, and any other State or local agency having jurisdiction on this matter.

Division 2. – Definitions.

Sec. 5-07.05. - Definitions.

When used in this Article, the following words shall have the meanings ascribed to them in this section. Any reference to California statutes includes any regulations promulgated thereunder and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

(a) "Adult Use" shall refer to the consumption of cannabis or cannabis products by a person 21 years of age or older, but excludes the use of cannabis or cannabis products in a manner consistent with a physician's recommendation.

(b) "Cannabis" means all parts of the *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from 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 Article, "cannabis" does not mean "industrial hemp" as that term is defined by Section 11018.5 of the California Health and Safety Code.

(c) "Cannabis accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing,

analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

(d) "Cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery, or sale of cannabis or cannabis products.

(e) "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.

(f) "Cannabis permit" means any type of permit for cannabis activity issued by the City of Salinas, including either a Commercial Cannabis Permit or an Administrative Permit issued by the city of Salinas pursuant to this Article.

(g) "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

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

(i) "Commercial cannabis activity" means "cannabis activity" conducted for financial or other valuable consideration, including activities conducted by a nonprofit agency.

(j) "Commercial cannabis business" means any person or business, including a nonprofit, which engages in commercial cannabis activity.

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

(l) "Cultivation site" means a facility where cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, including a Personal Grow.

(m) "Day Care Center" has the same meaning as in Chapter 37 of the Salinas Municipal Code.

(n) "Delivery" means the retail sale of cannabis or cannabis products (pursuant to an order placed for purchase of the same) to a customer for consumption, where the transaction does not occur within a licensed dispensary. "Delivery" also includes the use of any technology platform owned and controlled by a retailer, and further includes the soliciting and receiving of an order for cannabis or cannabis product. "Delivery" does not include the transportation of cannabis or cannabis products between licensees as defined under "Distribution," below.

(o) "Dispensary" means a licensed facility where cannabis, cannabis products, and/or devices facilitating the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale within the premises.

(p) "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a dispensary.

(q) "Distribution" means the procurement, sale, and transport of cannabis or cannabis products between entities licensed by the State of California. "Distribution" excludes the transport or sale of cannabis and cannabis products to a customer for consumption, as defined under "Delivery," above.

(r) "Distributor" means a person licensed to engage in the distribution of cannabis and/or cannabis products.

(s) "Dried flower" means all dead cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(t) "Edible cannabis product" means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

(u) "License" means a license issued by the State of California pursuant to Division 10 of the California Business and Professions Code, and includes both A-licenses and M-licenses, as well as a testing laboratory licenses.

(v) "Licensee" means a person or business possessing a "license" issued pursuant to Division 10 of the California Business & Professions Code.

(w) "Live plants" means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

(x) "Manufacture" or "Manufacturing" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(y) "Manufacturer" means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container. A manufacturer includes a licensee that infuses cannabis in its products but does not perform its own extraction.

(z) "Market" refers to the supply chain of licensed commercial cannabis businesses conducting operations with other businesses of the same market type. The two types of markets are the adult-use and the medicinal markets, which are distinguished through the issuance of an "M-Type" license by the State for businesses participating in the medicinal market, and an "A-Type" license issued by the State to businesses participating in the adult-use market. A single business may participate in both markets.

(aa) "Medicinal Cannabis" or "Medicinal Cannabis Product" means cannabis or 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.

(ab) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

(ac) "Owner" shall have the same meaning as "principal" as defined below.

(ad) "Patient" or "Qualified patient" shall have the meaning given that term by California Health and Safety Code Section 11362.7.

(ae) "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.

(af) "Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.

(ag) "Personal Grow" refers to the possession, planting, cultivation, harvesting, drying, and/or processing of cannabis within an individual's personal residence for that individual's sole use. Excludes the provision, donation, sale, or distribution of this cannabis to any other person, including commercial cannabis businesses, as well as the manufacture of any cannabis product utilizing this cannabis.

(ah) "Principal" means a person who is any of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance;

(2) The chief executive officer;

(3) A member of the board of directors; or

(4) Any individual who will be participating in the direction, control, or management of the person applying for a license.

(ai) "Premises" means the designated portion of a structure, entire structure, or structures and land specified in an application that is owned, leased, or otherwise held under the control of the applicant or licensee where commercial cannabis activity will be or is conducted. The premises shall be a contiguous area.

(aj) "Qualified Patient" shall have the meaning given that term by California Health and Safety Code Section 11362.7.

(ak) "Recreational Facility" shall mean a site used for "Commercial Recreation," as that term is defined in Chapter 37 of the Municipal Code.

(al) "Recreational use" shall have the same meaning as "Adult use" as defined herein.

(am) “Sell,” “Sale,” and “to sell” includes any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee or consumer to the licensee from whom the cannabis or cannabis product was purchased.

(an) “Selection Committee” means the group of City employees that has been tasked by the City Manager to review and approve Commercial Cannabis Permits in accordance with this Article.

(ao) “Small Distribution Facility” means a facility or business involved in the distribution of cannabis and/or cannabis product that complies with the requirements of Section 5-07.12.

(ap) “Testing Laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state; and

(2) In possession of a “license” issued by the State of California.

(aq) “Topical cannabis” means a product intended for external application and/or absorption through the skin. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

(ar) “Volatile Solvent” means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

(as) “Volatile Manufacturing” means manufacturing cannabis products in a manner that utilizes one or more volatile solvents.

Division 3. – Permits.

Sec. 5-07.06 – Adult Use and Medicinal Cannabis Activities

(a) The City may issue Permits pursuant to this Division to businesses engaging in cannabis activities related to either or both medicinal and adult-use products.

(b) Businesses that have already received a permit as of the effective date of this Ordinance to conduct business utilizing only medicinal cannabis or cannabis products may request that their permits be amended to allow for commercial cannabis activity in the adult-use market as well. The City may impose additional conditions on the permittee as it deems appropriate and in the public interest.

(c) The requirements of this Division shall be deemed to apply to both medicinal and adult-use businesses, except that requirements specifically identifying the medicinal or adult-use market shall be deemed to apply to that respective market only.

(d) Nothing in this Division shall be construed to prevent the City of Salinas from developing separate regulations pertaining to medicinal and adult-use cannabis activity.

Sec. 5-07.07. – Commercial Cannabis Permits – Application Procedures.

All persons desiring to operate a Cultivation, Manufacturing, Distribution (except Small Distribution as described in Section 5-07.12), Dispensary, or Delivery business or businesses, as defined in this Article, shall first obtain a Commercial Cannabis Permit in accordance with the requirements of this Section. (a) At a minimum, an application for a Commercial Cannabis Permit shall contain the following:

- (1) The printed full name, signature, date of birth, social security number, and present address and telephone number of all business owners and principals;;
- (2) The address to which correspondence from the city of Salinas is to be sent;
- (3) The names and addresses of all businesses operated by and the employment of the business owners and principals for the five years immediately preceding the date of the application;
- (4) Any litigation in which the applicant(s) has been involved within the five years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the five years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the five years immediately preceding the date of the application;
- (5) The type of commercial cannabis business for which approval is sought, including whether the business is seeking a permit to conduct medicinal and/or adult-use cannabis activities.
- (6) The approximate number of customers projected to be served by the commercial cannabis business;
- (7) The address of any commercial cannabis business currently being or previously operated by all or any of the applicants.
- (8) The supply sources for all cannabis and cannabis products sold at the commercial cannabis business, including the testing facilities that will be utilized to verify product safety and/or quality.
- (9) For an application including Cultivation, a cultivation plan that includes the following information:
 - a. A cultivation and operations plan demonstrating that the proposed operation would meet or exceed minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel. The plan shall also include a description of the cultivation activities (indoor, mixed-light) and schedule of activities during each month of growing and harvesting, or an explanation of growth cycles and anticipated harvesting schedules for all-season harvesting (indoor, mixed-light).
 - b. A description of a legal water source, irrigation plan, and projected water use.

c. Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.

d. Plan for addressing odor and other public nuisances which may be created by or emanate from the cultivation site.

(10) Descriptions of odor control devices and techniques to prevent odors from being detectable off-site.

(11) Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess medical cannabis product.

(12) Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures.

(13) A detail of the procedures to be utilized at the facility including a description of how chemicals and fertilizers will be stored, handled, used and disposed of; manufacturing methods (including whether the manufacturing processes used will be volatile or nonvolatile), the transportation process, and quality control procedures.

(14) A site plan and floor plan of the commercial cannabis business denoting the property lines and the layout of all areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception/waiting, dispensing, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.

(15) Size, height, colors, and design of any proposed signage at the site. A city of Salinas sign permit issued pursuant to the Salinas Municipal Code shall be required.

(16) An operations and security plan, including the amount and method of storage for any hazardous materials used or produced on-site.; For Delivery and Distribution companies, the security plan shall include provisions relating to vehicle security and the protection of employees and product during loading and in transit.

(17) Standard operating procedures detailing how operations will comply with state and local regulations, how safety and quality of products will be ensured, record-keeping procedures for financing, testing, and adverse event recording, and product recall procedures.

(18) Proposed hours of operation.

(19) Recycling and waste disposal information for cannabis materials.

(20) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

(21) A Zoning Verification Letter from the Salinas Community Development Department indicating whether the proposed use is permitted, may be considered, or is not presently permitted at the subject site by Chapter 37 of the Salinas Municipal Code. The letter shall also include a list

of any known sensitive uses, as defined in this Article, known to be located within the distance(s) designated by this Article.

(b) No person who has been charged with and has charges pending for, or has been convicted of, a drug-related crime, felony, or crime of moral turpitude within the past ten years may be engaged (actively or passively) in the operation of any commercial cannabis business, unless the drug-related crime involves the possession, sale, transport, cultivation, manufacture, or use of cannabis or cannabis-related product, the activity charged or convicted was legal according to the laws of the state in which the violation or alleged violation occurred at the time of the violation, and the individual charged has all necessary licenses, permits, and/or other approvals necessary to conduct the activity within the subject jurisdiction. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. This Section shall not apply to those who have been previously charged with a crime if those charges were later dropped or the person was found not guilty of those charges.

(c) Applications shall be submitted to the City Attorney. The City Attorney or his/her designee shall review each application to determine whether it contains all of the required information. If the application does not contain all of the required information, the application shall be denied. The City Attorney shall provide written notice to the applicant detailing the components which were not provided that led to the application's denial. Applications which include all of the required information will be forwarded to the City Manager or his/her designee, which may be the Selection Committee, for review.

(d) The City Manager shall appoint a Selection Committee to review applications for Commercial Cannabis Permits. The Committee shall include a minimum of three members, and each member shall represent a different Department within the City. No member of the City Attorney's Office shall serve on the Selection Committee. In reviewing an application for a permit pursuant to this Article or in reviewing the proposed commercial cannabis business, the Selection Committee may request whatever additional information is deemed necessary to carry out the purposes of this Article.

(e) The Selection Committee shall have the authority to either grant or deny an application for a Commercial Cannabis Permit. Notwithstanding what is otherwise provided in this Article, the Selection Committee, when approving a Commercial Cannabis Permit, may place any additional limitations and conditions on the operation of the business as deemed necessary, consistent with the public interest and with this Article.

(f) When an application for a Commercial Cannabis Permit is denied, the Selection Committee shall convey the reasons for the denial and the findings of fact upon which the decision is based to the City Attorney, who shall prepare and send a notice of denial, including the reasons for denial, to the applicant. Any person denied a Commercial Cannabis Permit shall have the right to appeal such denial in accordance with this section.

(g) In addition to whatever additional findings may be made by the Selection Committee (or the appellate body or the city council in the event of an appeal initiated pursuant to this Article), an

application for a commercial cannabis permit may be denied upon making any of the following findings:

- (1) The applicant made one or more false or misleading statements or omissions on the registration application or during the application process.
- (2) The applicant is not qualified to operate a commercial cannabis business.
- (3) The applicant fails to meet the requirements of this Article or any regulation adopted pursuant to this Article.
- (4) The operation of the proposed commercial cannabis business at the proposed location is prohibited by any state or local law or regulation.
- (5) Any person who is listed on the application is ineligible to operate a commercial cannabis business due to their criminal history as specified in subsection (b) of this section.
- (6) The applicant or the operator listed in the application is less than twenty-one years of age.
- (7) The Selection Committee determines that the proposal, taken as a whole, would be unable to operate without significant impact on the community.
- (8) The number of businesses of the subject application type that have been approved or permitted within the City of Salinas meets or exceeds the maximum number of that respective business type specified in this Article.

Sec. 5-07.08. – Commercial Cannabis Permits – Renewal Procedures.

- (a) Each Commercial Cannabis Permit issued pursuant to this Article shall expire twelve months after the permit's effective date. The City may renew these permits each year subject to the provisions of this Section.
- (b) An application for renewal of a commercial cannabis permit shall be filed at least sixty calendar days prior to the expiration date of the permit.
- (c) An application for renewal of a commercial cannabis permit may be rejected if any of the following exists:
 - (1) The application is filed less than sixty days before its expiration.
 - (2) The Commercial Cannabis Permit is suspended or revoked at the time of the application for renewal or at any point during the City's consideration of the renewal request.
 - (3) The commercial cannabis business has failed to conform to the requirements of this Article, any regulations adopted pursuant to this Article, and/or the requirements of any permit issued by the City.
 - (4) The permittee fails to renew, is unable to obtain, or otherwise does not possess a license issued by the state.
- (d) If a renewal application is rejected, a person may file a new application pursuant to this Article.

Sec. 5-07.09 – Commercial Cannabis Permits – Amendment Procedures.

The City of Salinas recognizes that from time-to-time it may become necessary for certain businesses to make adjustments to their business models in a manner that would differ from the originally approved conditions. Modifications and amendments to permits may be requested at any time, subject to the following requirements:

(a) An applicant may request a change to the business location subject to the following requirements:

(1) The applicant shall submit all items normally required for a new application, except that information related to the principals or operations that will remain unchanged and are not directly related to the site may be excluded.

(2) The Selection Committee shall review the proposed new site. The Selection Committee may approve an amendment to the permit authorizing the new site if it can make the following findings:

a. The new site would not be located within the distances specified in Section 5-07.27, unless an exception is approved pursuant to that section.

b. The relocation to the new site would not create any significant negative impacts greater than those that existed at the original site.

c. The proposed location is located in an appropriate zoning district for the proposed use.

d. Owners of real property located within 300 feet of the proposed site have been notified and have had the opportunity to provide information to the City regarding the proposed site.

(b) A business may elect to add or remove those individuals serving as the principals of the business, subject to the following requirements:

(1) If the only change is to add principals that will not be listed on the permit, the business shall submit the names of any new principals, including their name, address, a copy of their social security card, a copy of a Driver's License or other form of government identification including the proposed principal's name, photo, and birthdate, and a copy of a Criminal History Check done with the Salinas Police Department listed as the requesting agency. The Office of the City Manager and the Police Department shall review the information and approve the addition if the principal meets the requirements of this Article. No change to the Permit will be required.

(2) If the only change is to delete principals that are not listed on the permit, the business shall submit the names of the principals to be removed to the Office of the City Manager. No change to the Permit will be required.

(3) If the business seeks to modify the names that are listed on the approved permit, then the business shall submit a list of all business principals, including identification of each principal's role and identification of which principals would appear on the Permit, background information as defined in subsection (b)(1), above, for any principals being added to the business, and a brief background of the principals' qualifications. The Selection Committee shall review the submitted names and may approve an amendment to the permit if the following findings can be made:

- a. Any new principals added comply with the requirements for principals outlined in this Article.
- b. If principals are being removed, the remaining principals have the expertise and ability to continue to ensure that the business will operate in accordance with the terms of its permit and all applicable regulations and statutes.

(c) Modifications to the terms and conditions of permits may be initiated by either the permittee or the City of Salinas, in accordance with the following:

- (1) When the City of Salinas initiates a proposed change to the terms and conditions of a permit, it shall notify the applicant in writing of the proposed change at least 10 days prior to the effective date of the change. If the applicant submits a protest, the City shall provide the applicant with the specific reasons for the proposed change, and shall engage in a good-faith effort to develop conditions acceptable to both the applicant and the City. If the parties reach agreement, the agreed-upon language shall be utilized; if no agreement is reached, the City may revise the permit conditions as desired.
- (2) When the permittee initiates a proposed change, the City of Salinas shall review the proposed changes. The Selection Committee shall review the proposed changes, and shall make a determination whether the proposed language is consistent with the provisions of this Article. If the proposal is inconsistent with this Article, the Selection Committee may engage with the applicant to develop mutually-acceptable conditions. Once conditions acceptable to the City have been developed, the City may amend the permit with the revised terms.

(d) Amendments to any permit shall not change the effective date or expiration date of any permit.

(e) Notwithstanding the above, if a material change to a permit is proposed prior to the first renewal of the permit, the Selection Committee shall review the applications and evaluations of other applicants that were not granted permits in previous application reviews to determine whether another applicant would have received the permit if the information presented in the amendment had been presented in the original application. If the Selection Committee determines this is the case, the amendment request shall be denied.

Sec. 5-07.10 – Commercial Cannabis Permits – Appeals.

A decision regarding the approval, renewal, modification, or amendment of a commercial cannabis permit may be appealed. Such an appeal shall be filed and conducted as prescribed in this Section.

- (a) Within ten calendar days after the date of any denial of an application, request for renewal, or request for amendment of a Commercial Cannabis Permit, or the suspension or the revocation of a Commercial Cannabis Permit by the city, an aggrieved party may appeal such action by filing with the City Attorney a written appeal setting forth the reasons why such denial, suspension or revocation is not proper.
- (b) Upon receipt of such written appeal, the City Attorney shall convey the appeal to the Selection Committee and, if not already included, the Community Development Director. The Community Development Director shall set the matter for a hearing before the planning commission. The hearing shall be conducted pursuant to the procedures set forth by the city and shall be held within

a reasonable time after the date of filing the appeal with the city, but in no event later than sixty days from the date of such filing. At least ten days prior to the date of the hearing on the appeal, the city of Salinas shall notify the appellant of the time and the place of the hearing. At such hearing, city officials and the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to such hearing.

(c) At the conclusion of the hearing, the planning commission may affirm, reverse or modify the decision appealed.

(d) The decision of the Planning Commission may be appealed to the city council in the same manner as an appeal to the Planning Commission, except that the hearing shall be set by the City Manager or his/her designee. At the conclusion of the hearing, the city council may affirm, reverse or modify the decision appealed. The decision of the city council shall be the city's final decision in this regard and shall be dispositive of the matter.

(e) Notwithstanding the above, no right of appeal shall exist in the event that the applicant did not receive a permit and the city has already approved the maximum number of commercial cannabis permits for the respective business type.

Sec. 5-07.11 – Existing Commercial Cannabis Businesses.

(a) A commercial cannabis business operating in compliance with existing Municipal Code provisions on or before February 12, 2016 may continue its current operations; provided, however, that in order to continue operating such commercial cannabis business must apply for a Commercial Cannabis Permit pursuant to this Article at the earliest possible time and otherwise meet all other conditions and requirements of this Article imposed on newly established commercial cannabis businesses. Such preexisting facilities shall be given priority in the issuance of permits by the City of Salinas, and the Selection Committee shall grant a permit to such facility if it can be demonstrated to the City's satisfaction that the facility would be operated in accordance with the provisions of this Article.

(b) Notwithstanding the above, this Section shall not be construed to increase the authorized number of businesses that may be awarded Commercial Cannabis Permits pursuant to this Article. Any business that has not notified the City of its existence and asserted its legal operations on or before December 31, 2017 shall be deemed to have established legal operations after February 12, 2016, and this Section shall be inapplicable.

(c) Nothing in this Section shall be deemed to prevent the City from requiring the renewal of or compliance with permits issued pursuant to this Article, nor shall it be construed to not require compliance with this Article, including subsequent amendments to the same.

Sec. 5-07.12. – Administrative Permits

All persons desiring to operate a Testing Laboratory or Small Distribution business or businesses, as defined in this Article, shall first obtain an Administrative Permit in accordance with the requirements of this Section. Businesses subject to the Administrative Permit process are not

subject to the requirements of Division 5 of this Article; provided, however, that the business may be subject to additional requirements, including selected requirements otherwise provided in Division 5, that are developed pursuant to regulations established by the City Manager consistent with Division 11 of this Article.

(a) The Office of the City Manager shall issue Administrative Permits. The City shall develop and publish regulations related to the approval of Administrative Permits. The review of the Administrative Permit shall be limited to confirming compliance with adopted laws and regulations.

(b) Testing Laboratories may be approved provided that the business has first obtained a City of Salinas Business License and any land-use approvals required by the City of Salinas, has prior to the commencement of operations obtained any required licenses from the State of California, and is otherwise compliant with state laws and regulations.

(c) A Small Distribution Facility may be approved when the operation meets the following criteria:

(1) The Distributor obtains any required state licenses and is operating in compliance with applicable state laws and regulations.

(2) The amount of space utilized for the Distribution portion of the operation shall not exceed 500 square feet.

(3) Any cash and/or cannabis or cannabis product with a total value in excess of \$1,000 shall be stored in a safe or vault.

(4) The site is used only as a physical location used for the drop-off or pick-up of cannabis product by a licensed testing facility or the transfer of cannabis product between licensees.

(5) This Section does not include Delivery of medical cannabis or medical cannabis product as defined in Section 5-07.05(n).

Sec. 5-07.13. – Uses Not Requiring a Permit.

The following uses are exempt from the provisions of Division 4 and Division 5 of this Article and may be conducted in accordance with California Law without the need to obtain a permit pursuant to this Article from the City of Salinas:

(a) The operation of a Personal Grow, as defined herein, provided that the operation complies with the following requirements:

(1) The Personal Grow shall be located wholly inside a private residence, or wholly inside a fully enclosed and secure accessory structure located upon the grounds of a private residence. The cultivation of cannabis outdoors or within an accessory structure that is not fully enclosed and secure is prohibited in all residential areas. For purposes of this section, “private residence” means a house, an apartment unit, a mobile home, or other similar dwelling, but excludes any commercial or industrial building or space.

(2) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

(3) The owner of the cannabis plants and any cannabis produced from those plants shall reside at the residence. Growing or possessing cannabis or cannabis plants at any residence that is not the owner's primary residence is prohibited.

(4) The living plants and any cannabis produced by the plants in excess of 28.5 grams shall be kept within the person's private residence (or within a fully enclosed and secure accessory structure located upon the grounds of that private residence) in a locked space that is not visible by normal unaided vision from a public place. The resident shall ensure that the space in which the plants are kept is secured to prevent access from any persons under the age of 21 years, including those residing at the residence.

(5) This Section shall not negate the need for any person to obtain any Building Permits for work done on the site, including electrical and plumbing work.

(6) This subsection shall not be construed to require a property owner to allow the cultivation or possession of cannabis or cannabis products by any persons that are renting or visiting the property. The property owner and renters/guests may include additional restrictions beyond those specified in the law through private agreements such as leasing documents.

(7) The growing of any and each cannabis plant within a residential district that does not comply with the requirements of this section is a violation of this Article and shall be subject to the remedies defined in Section 5-07.16.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the California Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the California Health and Safety Code.

(c) Delivery of Cannabis or Cannabis products by a business holding a license from the State of California permitting that activity, and that has no physical facilities located within the City of Salinas, provided that the business complies with the following:

(1) The business obtains and maintains a valid Business License from the City of Salinas.

(2) All cannabis and cannabis products sold shall have been cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the state and local regulations.

(3) No edible cannabis products requiring refrigeration or hot-holding shall be sold or distributed. Baked products (e.g., brownies, bars, cookies, cakes), tinctures, and other non-refrigerated type items may be sold.

(4) The business shall make all records related to testing laboratory results for the cannabis or cannabis product being delivered available to the consumer upon request.

(5) Any edible cannabis or edible cannabis product shall be labelled and in tamper-evident packaging which at least meets the requirements of California Business and Professions Code section 26120, as the same may be amended from time-to-time or superseded or replaced by subsequent state legislation or by any department or division of the state of California.

(6) Prior to dispensing medicinal cannabis or medicinal cannabis products to any person, the business shall obtain additional voice verification from the recommending physician's office that the person requesting cannabis or cannabis products is a qualified patient.

(7) Any cannabis or cannabis product must be in an opaque (non-see-through) package, such as a bag, at the time of delivery.

(8) The Delivery company shall collect all sales and use taxes and/or transaction taxes required under local and/or state law, and shall remit those monies to the State of California for disbursement to the City of Salinas in accordance with established reporting principles. Any tax that has not been remitted to the City shall be deemed a debt owed to applicable State Agencies and/or the City of Salinas by the person required to collect and remit the tax.

Sec. 5-07.14. – Compliance With Laws.

It is the responsibility of all persons engaging in cannabis activity to ensure that they are, at all times, operating in a manner compliant with all applicable state and local laws and any regulations promulgated thereunder. Nothing in this Article shall be construed as authorizing any actions which violate state law or local law.

Sec. 5-07.15. – Fees and Charges.

(a) No person may commence or continue any cannabis activity in the city of Salinas without timely paying in full all fees and charges associated with the operation of said cannabis activity. Fees and charges associated with the operation of a cannabis activity shall be established by resolution of the city council.

(b) All commercial cannabis businesses operating pursuant to this Article shall pay any and all applicable sales, use, business or other taxes, and all license, registration, or other fees pursuant to federal, state, and local law.

Sec. 5-07.16. – Violation and Enforcement.

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

(b) Each and every violation of this Article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Salinas Municipal Code. Additionally, as a nuisance per se, any violation of this Article shall be subject to injunctive relief, any permit issued pursuant to this Article being deemed null and void; disgorgement of any payment to the city of Salinas of any and all monies unlawfully obtained; costs of abatement; costs of

investigation; attorney fees; and any other relief or remedy available at law or in equity. The city of Salinas may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis activity or persons related thereto, or associated with, the cannabis activity. Additionally, when the Chief of Police or his/her designee determines there is an imminent threat to public health, safety or welfare, the commercial cannabis permit, issued by the city of Salinas pursuant to this Article, will immediately become suspended.

(c) Each and every violation of the provisions of this Article may be prosecuted as a misdemeanor and upon conviction subject to a fine not to exceed one thousand dollars or imprisonment in the county jail for a period of not more than twelve months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(d) Notwithstanding an initial verification of compliance by the cannabis activity with the provisions of this Article, any person engaging in cannabis activity that is later found to be in violation of any of the requirements of this Article at any time is subject to the enforcement provisions provided in this section.

(e) The remedies provided herein are not to be construed as exclusive remedies and in the event of a violation the city may pursue any proceedings or remedies otherwise provided by law.

Sec. 5-07.17. – Limitations on City's Liability.

To the fullest extent permitted by law, the city of Salinas shall not assume any liability whatsoever with respect to having issued a commercial cannabis permit pursuant to this Article or otherwise approving the operation of any commercial cannabis business pursuant to this Article. As a condition of approval of any commercial cannabis permit issued pursuant to this Article, the person to which a commercial cannabis permit is issued shall be required to meet all of the following conditions:

(a) Execute an agreement indemnifying, defending (at its sole cost and expense), and holding the city of Salinas and its officers, employees, representatives, and agents harmless from any and all claims, losses, damages, injuries or liabilities associated with the permitting or approving the operation of a commercial cannabis activity or the operation thereof or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.

(b) Reimburse the city of Salinas for any and all costs and expenses, including attorney fees and costs and court costs that the city of Salinas may be required to pay as a result of any legal challenge related to the city's approval of a commercial cannabis permit pursuant to this Article or the city of Salinas's approval of the operation of a commercial cannabis activity. The city of Salinas may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the obligations imposed under this section.

Division 4. – Commercial Cannabis Activity – General Provisions

Sec. 5-07.18. – Licenses and Permits Required.

(a) In addition to those other requirements which may be imposed pursuant to this Article, no person shall engage in commercial cannabis activity or open or operate a commercial cannabis

business without possessing both a cannabis permit issued by the city of Salinas and either a license from the state of California for the specific commercial cannabis activity being conducted or, if the State of California has not yet begun issuing licenses, documentation sufficient to satisfactorily demonstrate to the City of Salinas that a license issued by the state of California or one of its departments or divisions relative to the specific commercial cannabis activity should be obtainable within one year of implementation.

(b) Prior to commencing operation, a commercial cannabis business shall obtain a City of Salinas business license, all required land use approvals, and any other necessary approvals, permits, or licenses from the City of Salinas or outside agencies, including the State of California.

(c) Prior to commencing operation, a commercial cannabis business shall be subject to a mandatory building inspection and must obtain all required permits or approvals which would otherwise be required including, but not limited to, a building permit(s), Salinas Fire Department permit(s), and planning-level permit(s) required by Chapter 37 of the Salinas Municipal Code.

(d) Revocation, termination, or suspension of a license issued by the state of California, or any of its departments or divisions, shall immediately terminate the ability of a commercial cannabis business to operate within the city of Salinas until the state of California, or its respective department or division, reinstates or reissues the state license.

Sec. 5-07.19. – Records, Recordkeeping, and Reporting.

(a) On no less than an annual basis (at or before the time of the renewal of a commercial cannabis permit issued pursuant to this Article) or at any time upon reasonable request of the city of Salinas, all commercial cannabis businesses possessing a Commercial Cannabis Permit for either a Dispensary and/or Delivery business shall file a sworn statement with the City Manager or his/her designee indicating the number of patients, collectives, and primary caregivers served by the commercial cannabis business within the previous twelve-month period (or shorter period based upon the timing of the request).

(b) Each owner and/or operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of all employees currently employed by the commercial cannabis business and shall disclose such register to the Salinas City Manager or his/her designee upon request.

(c) Each commercial cannabis business shall maintain a record of all patients, collectives, and primary caregivers served by the commercial cannabis business in accordance with California laws and regulations.

(d) Subject to the Health Insurance Portability and Accountability Act (HIPPA) regulations, each commercial cannabis business shall allow city of Salinas officials to have access to the commercial cannabis business's books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data will be produced no later than twenty-four hours after receipt of the city's request.

(e) Each commercial cannabis business shall have in place a point-of-sale tracking system to track and to report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale) and shall ensure that such information is compatible with the city's record-keeping systems. The system must have the capability to produce historical transactional data for review by the city of Salinas. All information provided to the city pursuant to this subsection shall be confidential and shall not be disclosed, except as may otherwise be required under the law.

(f) All records required by this Article shall be maintained by the commercial cannabis business for a period of not less than seven years and shall otherwise keep accurate records of all commercial cannabis business activity. Such records shall be made available for inspection consistent with California Business and Professions Code section 26160 and any additional rules promulgated by the licensing authority pursuant to that section or the city council by resolution or ordinance.

Sec. 5-07.20. – Inspection and Enforcement.

(a) The Chief of Police and any other city of Salinas official charged with enforcing the provisions of the Salinas Municipal Code, or any provision thereof, may enter the location of a commercial cannabis business at any time during the hours of operation without notice and inspect the location of any commercial cannabis business as well as the recordings and records maintained pursuant to this Article or the applicable provisions of state law.

(b) It is unlawful for any person having any responsibility over the operation of a commercial cannabis business to refuse to allow, impede, obstruct, or interfere with an inspection, or the review of the copying of records and monitoring (including recordings) including, but not limited to, the concealment, destruction, and falsification of any recordings or records.

(c) The Chief of Police, his/her designee, or any other person charged with enforcing the provisions of this Article may enter the location of a commercial cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for law enforcement and/or public safety purposes. Any samples obtained by the city of Salinas shall be logged, recorded, and maintained in accordance with Salinas Police Department standards for evidence. At all other times, the Chief of Police or his designee may enter the location of a commercial cannabis business to obtain samples of cannabis upon reasonable notice. Testing shall be done by a facility licensed by the State to conduct such testing. The Chief of Police shall not take more cannabis than is reasonably necessary to conduct the appropriate testing, and all test results shall be provided to the business.

Sec. 5-07.21 – Limitations on Employment

It shall be unlawful and a violation of this Article for any person to employ any other person at a commercial cannabis business who is not at least twenty-one (21) years of age, except that a business that engages only in the medicinal market may employ persons at least eighteen (18) years of age.

Sec. 5-07.22. – Restriction on Alcohol Sales.

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial cannabis business. No commercial cannabis business may operate at the same premises as an alcohol-related use as that term is defined in Chapter 37 of the Salinas Municipal Code.

Sec. 5-07.23. – Prohibition on Transfer of Cannabis Permits.

(a) No person shall operate a commercial cannabis business under a permit issued pursuant to this Article at any place or location other than that identified on the permit.

(b) Any change to the business principals shall be subject to the requirements of Section 5-07.09(b).

(c) Any attempt to transfer or any transfer of a commercial cannabis permit issued pursuant to this Article without the prior consent of the City of Salinas is hereby declared void and the commercial cannabis permit deemed immediately revoked and no longer of any force or effect.

Division 5 – Commercial Cannabis Business Operating Requirements

Sec. 05-07.24. – Security Measures.

The Chief of Police is authorized to promulgate all regulations necessary to implement the requirements and fulfill the policies of this Section related to commercial cannabis businesses including, but not limited to, the following subjects:

(a) A permitted commercial cannabis business shall implement sufficient security measures to both deter and to prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the commercial cannabis business. Except as may otherwise be determined by the Chief of Police, these security measures shall include, but shall not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the commercial cannabis business if they are not engaging in the activity expressly related to the operations of the commercial cannabis business.

(2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.

(3) Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes or immediate sale at a dispensary.

(4) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises and to monitor all interior spaces within the commercial cannabis business which are open and accessible to the public. The security surveillance cameras shall be remotely accessible to the Salinas Police Department and shall be compatible with the

Salinas Police Department's software and hardware and remote real-time, live access to the video footage from the cameras shall be provided to the Salinas Police Department. Video recordings shall be maintained for a minimum of forty-five days.

- (5) Sensors shall be installed to detect entry and exit from all secure areas.
- (6) Panic buttons shall be installed in all commercial cannabis businesses.
- (7) Having a professionally installed, maintained, and monitored alarm system.
- (8) Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.
- (9) Security personnel hired by the commercial cannabis business shall be subject to the prior review and approval of the chief of police or his designee.
- (10) Each commercial cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

(b) Each commercial cannabis business shall identify a liaison to the Salinas Police Department who shall be reasonably available to meet with the Chief of Police or his/her designee regarding security measures and operational issues.

(c) As part of the application and permitting process, each commercial cannabis business shall have a transportation plan describing the procedures for legally, safely, and securely transporting cannabis and cannabis products and currency.

(d) A commercial cannabis business shall notify the Chief of Police or his/her designee within twenty-four hours after discovering any of the following:

- (1) Discrepancies identified during inventory. The level of significance shall be determined by the Chief of Police.
- (2) Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
- (3) The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the commercial cannabis business.
- (4) Any other breach of security.

(e) These regulations shall constitute minimum standards only. The City of Salinas may impose additional security measures in a commercial cannabis permit if the City determines that these additional measures are necessary to ensure the safety and security of the commercial cannabis business, its customers, and its neighbors.

Sec. 05-07.25. – Employee Work Permits

(a) Any person who is an employee or who otherwise works or volunteers within a commercial cannabis business, other than a business owner or principal, must obtain a work permit from the Chief of Police. The Chief of Police is hereby authorized to promulgate all regulations necessary to implement the work permit process contemplated in this section including, but not limited to, the reasons for denial of a work permit to any person. A work permit shall be valid for a twelve month period and must be renewed on an annual basis. Applications for work permits shall be submitted under oath and shall contain a statement of the past criminal record, if any, of the applicant and such information as may be deemed necessary by the Chief of Police to determine whether it would be appropriate and in the public interest to issue a work permit to the applicant. The initial application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the Chief of Police. In the event a person changes employment from one commercial cannabis business within the city to another, the work permit holder shall notify the Chief of Police in writing of the change of employment within ten days of such change or the work permit shall be suspended or revoked.

(b) Each person to whom a work permit is issued shall wear his or her personal identification card, issued by the city of Salinas, at a prominent and readily-visible location on the outermost garment and approximately chest-high. Such identification card shall at all times be in good and readable condition.

(c) Each owner or operator of a commercial cannabis business shall maintain on-site a current register of all the employees currently employed by the commercial cannabis business and shall produce such register upon demand by the Chief of Police, his/her designee, or any other city of Salinas official authorized to enforce the Salinas City Code for purposes of determining compliance with this Article.

(d) Each application for a work permit and renewal of an existing work permit shall be accompanied by a fee set by resolution of the City Council and shall be valid for a period of twelve months from the date of issuance, unless terminated, suspended, or revoked sooner. The fee is non-refundable and shall not be returned in the event the work permit is denied, revoked, or suspended.

(e) The Chief of Police may allot to each permitted business a limited number of identification cards for use by individuals performing intermittent work at or who are visiting the commercial cannabis business, such as electricians, waste disposal companies, potential customers or vendors, etc. Persons using these visitor identification cards shall be accompanied at all times by an owner/principal or a regular employee of the business, and shall at no time be left unattended.

(f) It shall be unlawful and a violation of this Article for any person to employ any other person at a commercial cannabis business who is not at least twenty-one (21) years of age, except that a business that engages only in the medicinal market may employ persons at least eighteen (18) years of age.

Sec. 5-07.26. – Right to Occupy and to Use Property.

As a condition precedent to the city's issuance of a Commercial Cannabis Permit pursuant to this Article, any person intending to open and to operate a commercial cannabis business shall provide

sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location is leased from another person, the applicant for a permit under this Article shall provide a signed and notarized statement from the owner of the property to demonstrate the property owner has acknowledged and has consented to the operation of a commercial cannabis business on the property. A legally binding option to buy or lease the facility may be accepted by the City of Salinas if the commercial cannabis business has unhindered ability to exercise the option within a reasonable timeframe following issuance of a commercial cannabis permit.

Sec. 5-07.27. - Location of Commercial Cannabis Businesses – Proximity to Sensitive Uses.

(a) No commercial cannabis business may operate within one thousand feet of any of the following sensitive uses:

(1) School, college or university (including public, private, charter, and other nontraditional schools, but excluding trade schools that exclusively serve adults at least 18 years of age);

(2) Park, daycare center, library, or publically-owned and operated recreational facility;

(3) Church or other house of worship;

(4) Smoke-shops, hookah lounges or businesses engaged in the same or a similar activity, and locations where alcohol is sold or served for individual consumption on or off the premises,

(5) Card rooms and retail firearm sales businesses,

(6) Any other commercial cannabis business operating as a dispensary, excepting therefrom the occasional and transient operation of a commercial cannabis delivery business, or

(7) Any other public or private business or facility where the presence of the commercial cannabis activity would cause a public nuisance or other situation which may result in repeated police department response.

(b) Notwithstanding the above, the Selection Committee may issue a Commercial Cannabis Permit to a Cultivation, Delivery, Manufacturing, or Distribution business located within one thousand feet of the uses described in subsections (a)(3) through (a)(7) upon findings that the intent of this Article would otherwise be met. No commercial cannabis permit shall be granted, however, for commercial cannabis businesses located within one thousand feet of those uses listed in subsections (a)(1) and (a)(2).

(c) An application (including a Dispensary application) which has been denied based on any of the limitations set forth in subsections (a)(3) through (a)(7) may be appealed by the applicant in accordance with section 5-07.10. The appellate body may grant an exception to the limitations set forth in this subsection upon findings that the intent of this Article would otherwise be met. No such exception will be granted, however, for the distance limitations from those uses listed in subsections (a)(1) and (a)(2).

(d) No commercial cannabis business may operate within any residential area or district of the city or adjacent to a residential area or district if, in the opinion of the Chief of Police or the Community Development Director, the operation of a commercial cannabis business in such location would

tend to cause a public nuisance or a situation which may result in repeated police department response or a negative impact on the adjacent residential units.

(e) Commercial cannabis businesses shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in the Salinas Municipal Code.

(f) Any commercial cannabis business which has been determined by the city of Salinas to be an existing commercial cannabis business on the effective date of this Article shall be exempt from compliance with the limitations proscribed in this section, unless such location is otherwise determined to constitute a public nuisance or otherwise a disturbance to the adjacent or neighboring uses as determined by the provisions of this Article.

(g) No commercial cannabis business possessing a valid Commercial Cannabis Business Permit shall be hindered from renewing said permit solely on the basis of the establishment of a use described in subsection (a) above if the use was not in operation or existence on the date the Commercial Cannabis Permit was approved.

(h) The limitations described in this Section shall not apply to any uses described in subsection (a) if the Community Development Director determines that the use in question was not legally established pursuant to Chapter 37 of the Municipal Code and remains out of compliance with that Chapter.

(i) For purposes of this Section, distance shall be measured from the closest point of the site occupied by the commercial cannabis business and the closest point of the site occupied by the use defined in subsection (a), including any parking areas, landscaping, and/or fencing, but excluding any areas of a parcel that is unavailable for use by the commercial cannabis business or the sensitive use. This section shall be construed to require measurement from parcel line to parcel line unless the Selection Committee determines that different points of measure would be appropriate.

(j) The City adopts these standards in lieu of the requirements specified in Section 26054(b) of the California Business and Professions Code, and hereby designates these standards as a “different radius” as specified by that Section.

Sec. 5-07.28. – Packaging and Labelling.

Prior to the sale or the delivery of any edible cannabis or edible cannabis product the same shall be labelled and in tamper-evident packaging which at least meets the requirements of California Business and Professions Code section 26120, as the same may be amended from time-to-time or superseded or replaced by subsequent state legislation or by any department or division of the state of California. The city council may impose additional packaging and labelling requirements on cannabis or cannabis products by resolution.

Sec. 5-07.29. – Miscellaneous Operating Requirements.

In addition to those operating requirements specifically set forth elsewhere in this Division, commercial cannabis businesses operating in the city of Salinas shall comply with the following:

(a) Cannabis or cannabis products shall not be consumed on the premises of any commercial cannabis business except that employees with a valid recommendation may consume cannabis in a non-public area in strict accordance with their recommendation and with the permission of the business. This Section shall not be construed to impair a business's ability to restrict or prohibit the consumption of cannabis or cannabis product, with or without a physician's recommendation, during an employee's shift, nor shall it prevent a business from conducting drug testing of employees and/or taking action against any employees that violate that company's drug policies.

(b) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of the property. No outdoor storage of cannabis or cannabis products is permitted at any time.

(c) There shall not be a physician located in or around any commercial cannabis business at any time for the purpose of evaluating patients for the issuance of a medical marijuana recommendation or card.

(d) Each commercial cannabis business shall provide the Chief of Police with the name, telephone number (mobile preferred, if available) of an on-site employee or owner to whom emergency notice can be provided.

(e) Signage and Notices shall comply with the following requirements:

(1) In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis business shall conform to the requirements of the Salinas Municipal Code, including, but not limited to, the issuance of a city of Salinas sign permit.

(2) Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall install any off-site advertising signage, whether by installing a permanent sign, placing any temporary signage, or by having a person holding a sign advertising the business to passersby, whether such person or sign is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way. Illuminated signs shall not be lit during non-business hours.

(3) No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.

(4) Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.

(5) No banners, flags or other temporary or prohibited signs may be used at any time.

(f) Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the facility that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common

area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain equipment which the city determines would satisfy this requirement. This equipment would potentially include, but not be limited to, the following:

(1) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; and

(2) An air system that creates negative air pressure between the commercial cannabis business's interior and exterior so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

(g) The original copy of the Commercial Cannabis Permit issued by the city of Salinas pursuant to this Article, any land-use or planning-level approvals or permits issued pursuant to Chapter 37 of the Salinas Municipal Code, any licenses issued by the state of California, and the business license issued by the city of Salinas pursuant to the Salinas Municipal Code shall be posted inside the commercial cannabis business in a location readily visible to the public.

(h) Any person issued a permit pursuant to this Article must follow all local, state and federal requirements for solid waste and hazardous waste disposal. The Monterey County Environmental Health Bureau may inspect the commercial cannabis business at any time during business hours to ensure compliance with this section.

(i) The owner and/or operator of a commercial cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty feet of the premises.

(j) All weighing devices must be maintained in compliance with local, state or federal law and comply with applicable regulations regarding device registration with the agricultural commissioner.

Sec. 5-07.30 – Community Relations.

(a) Each commercial cannabis business shall provide the name, telephone number, and email address of a community relations contact to whom notices associated with the commercial cannabis business can be provided. Each commercial cannabis business shall also provide the above information to all businesses and residences located within one hundred feet of the commercial cannabis business.

(b) During the first year of operation pursuant to this Article, the owner, manager, and community relations representative from each commercial cannabis business holding a permit issued pursuant to this Article shall attend a quarterly meeting with the City Manager or his/her designee to discuss costs, benefits, and other community issues arising as a result of implementation of this Article. After the first year of operation, the owner, manager, and community relations representative from each such commercial cannabis business shall meet with the City Manager or his/her designee when and as requested by the City Manager or his/her designee.

(c) Commercial cannabis businesses to which a permit is issued pursuant to this Article shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth addiction to cannabis and that identifies resources available to youth related to drugs and drug addiction.

Division 6. - Dispensaries.

Sec. 5-07.31. – Limitation on the Number of Dispensaries

No more than five dispensaries may operate within the city of Salinas at any one time and no more than five permits shall be issued by the city of Salinas for dispensaries to operate within the city of Salinas at any one time. A single facility may sell both medicinal and adult-use products under a single permit.

Sec. 5-07.32. – Accessory Cannabis Uses.

Upon approval by the City of Salinas, a permit authorizing a Dispensary may also authorize the delivery products directly to customers in accordance with the requirements of Division 8 of this Article. Furthermore, a permit authorizing a Dispensary may also authorize Distribution at the facility, provided that said Distribution shall be limited to transporting cannabis or cannabis product for retail sale by the Dispensary. In neither case shall this accessory use require or be deemed a separate permit.

Sec. 5-07.33 – Operating Requirements

All Dispensaries shall comply with the following operating requirements:

(a) Dispensaries shall verify the age and all necessary documentation of each customer to ensure the customer is at least 21 years of age, except that patients purchasing cannabis or cannabis products for medicinal use may enter regardless of age if they possess a valid doctor's recommendation. Persons with an identification card that are under 18 years of age must be accompanied by a parent or guardian.

(b) Entrances into the dispensary shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the dispensary to separate it from the reception/lobby area. Individuals must show valid identification in order to gain access into the dispensary.

(c) The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of eighteen years of age is permitted to enter upon the premises of the commercial cannabis business unless they are in the presence of their parent or guardian and such person is a person with an identification card.

(d) Uniformed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities.

(e) Doctor recommendations are not to be provided at the dispensary.

(f) All restroom facilities shall remain locked and under the control of management.

- (g) Sales of cannabis and cannabis products shall occur only between the hours of 8:00 a.m. and 9:00 p.m. Monday through Saturday, and may not occur on Sundays.
- (h) All cannabis and cannabis products sold shall have been cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the state and local regulations.
- (i) No edible cannabis products requiring refrigeration or hot-holding shall be sold or distributed. Baked products (e.g., brownies, bars, cookies, cakes), tinctures, and other non-refrigerated type items may be sold at the dispensary.
- (j) Any edible cannabis or edible cannabis product shall be labelled and in tamper-evident packaging which at least meets the requirements of California Business and Professions Code section 26120, as the same may be amended from time-to-time or superseded or replaced by subsequent state legislation or by any department or division of the state of California.
- (k) Any cannabis or cannabis product must be in an opaque (non-see-through) package, such as a bag, before it leaves the commercial cannabis business.
- (l) Prior to dispensing medicinal cannabis or medicinal cannabis products to any person, the business shall obtain additional voice verification from the recommending physician's office that the person requesting cannabis or cannabis products is a qualified patient.
- (m) The Dispensary shall collect all sales and use taxes and/or transaction taxes required under local and/or state law, and shall remit those monies to the State of California for disbursement to the City of Salinas in accordance with established reporting principles. Any tax that has not been remitted to the City shall be deemed a debt owed to applicable State Agencies and/or the City of Salinas by the person required to collect and remit the tax.
- (n) Any delivery operations conducted by the dispensary shall comply with the requirements specified for Delivery businesses as stipulated in Division 8
- (o) The Dispensary shall not engage solely in the adult-use market; a reasonable mix of medicinal cannabis and medicinal cannabis products shall be available for purchase to those with a physician's recommendation.

Division 7. – Cultivation Facilities.

Sec. 5-07.34. – Limitation on the Number of Cultivation Facilities.

No more than five cultivation facilities may operate within the city of Salinas at any one time and no more than five commercial cannabis permits shall be issued by the city of Salinas for cultivation facilities to operate within the city of Salinas at any one time.

Sec. 5-07.35. – Accessory Cannabis Uses.

Upon approval by the City of Salinas, a permit authorizing a Cultivation Facility may also authorize Distribution at the facility, provided that said Distribution shall be limited to the transport

of cannabis plants or plant components that have been or will be grown on-site. This accessory use will not require or be deemed a separate permit.

Sec. 5-07.36 – Operating Requirements.

All Cultivation Facilities shall comply with the following operating requirements:

(a) Cultivation of cannabis must occur within a building or greenhouse. All outdoor cultivation is prohibited.

(b) In no case shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.

(c) If a dispensary includes cultivation activities, the dispensary may have only one cultivation site upon which cannabis is cultivated, produced, stored, harvested, manufactured, or packaged, and each of the dispensary and the cultivation sites must be separately permitted pursuant to this Article.

(d) The business shall make all records related to testing laboratory results for the cannabis or cannabis product being delivered available to the consumer upon request.

(e) The cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial cannabis business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis for unlicensed purposes. All cannabis shall only be sold or distributed to licensed facilities that maintain operations in full conformance with the state and local regulations.

(f) Any person issued a permit pursuant to this Article must follow all pesticide use requirements of local, state and federal law. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through leakage or inadvertent damage. The Cultivation facility shall comply with any and all laws and regulations regarding the runoff of pesticide residue into the storm drain or sewer systems. The Monterey County Agricultural Commissioner may inspect the commercial cannabis business at any time during business hours to ensure compliance with this Section.

Division 8. - Delivery Services.

Sec. 5-07.37. – Limitation on the Number of Delivery Businesses.

No more than three stand-alone delivery services (ie those without a publically accessible storefront) may operate within the city of Salinas at any one time and no more than three permits shall be issued by the city of Salinas for stand-alone delivery services to operate within the city of Salinas at any one time.

A delivery service may operate either as a part of and in conjunction with a dispensary permitted pursuant to this Article or as a stand-alone operation without direct public access. Delivery Services permitted as accessory to a Dispensary use shall comply with all of these requirements of

this Division; however, a separate permit for delivery is not required, and the business shall not count towards the maximum number of Delivery businesses.

Sec. 5-07.38 – Accessory Cannabis Uses.

Upon approval by the City of Salinas, a permit authorizing a Delivery Business may also authorize Distribution at the facility, provided that said Distribution shall be limited to acquiring product for inventory and sale. This accessory use will not require or be deemed a separate permit.

Sec. 5-07.39 Operating Requirements.

All Mobile Delivery businesses (including those accessory to a Dispensary) shall comply with the following requirements:

- (a) All cannabis and cannabis products sold shall have been cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the state and local regulations.
- (b) The Delivery company shall collect all sales and use taxes and/or transaction taxes required under local and/or state law, and shall remit those monies to the State of California for disbursement to the City of Salinas in accordance with established reporting principles. Any tax that has not been remitted to the City shall be deemed a debt owed to applicable State Agencies and/or the City of Salinas by the person required to collect and remit the tax.
- (c) Any cannabis or cannabis product must be in an opaque (non-see-through) package, such as a bag, at the time of delivery.
- (d) No edible cannabis products requiring refrigeration or hot-holding shall be sold or distributed. Baked products (e.g., brownies, bars, cookies, cakes), tinctures, and other non-refrigerated type items may be sold.
- (e) The business shall make all records related to testing laboratory results for the cannabis or cannabis product being delivered available to the consumer upon request.
- (f) Any edible cannabis or edible cannabis product shall be labelled and in tamper-evident packaging which at least meets the requirements of California Business and Professions Code section 26120, as the same may be amended from time-to-time or superseded or replaced by subsequent state legislation or by any department or division of the state of California.
- (g) Prior to dispensing medicinal cannabis or medicinal cannabis products to any person, the business shall obtain additional voice verification from the recommending physician's office that the person requesting cannabis or cannabis products is a qualified patient.
- (h) The Delivery company not engage solely in the adult-use market; a reasonable mix of medicinal cannabis and medicinal cannabis products shall be available for purchase to those with a physician's recommendation.

Sec. 5-07.41 – Delivery Point of Sale Requirements.

All deliveries of cannabis and cannabis product shall be conducted in accord with the following requirements:

- (a) No Delivery business shall make any deliveries within 1,000 feet of any school, park, or daycare center, except that deliveries may be made to an individual at their place of residence.
- (b) The Delivery company shall verify the identity of the recipient via the presentation of a valid identification card issued by a governmental agency that includes the recipient's name, date of birth, and photograph (unless the State of California designates alternative forms of identification to be acceptable for this purpose).
- (c) The Delivery company shall not deliver any cannabis or cannabis products to any person under the age of 21 years, except a person with an identification card. Deliveries shall be made directly to the person placing the request for delivery, and may not be delivered to another individual at the site, regardless of whether that person meets the criteria in subsection (b), except that deliveries to a caretaker are permitted, and deliveries to a minor may be made to that minor's parents or legal guardians.
- (d) Prior to the sale of any cannabis or cannabis product to a minor, the Delivery company shall obtain the consent of the minor's parents or legal guardians. This may include a one-time blanket approval provided that the terms of the approval are clearly articulated.

Division 9. - Manufacturing Businesses.

Sec. 5-07.42. – Limitation on the number of Manufacturing Businesses.

No more than five commercial cannabis manufacturing businesses may operate within the city of Salinas at any one time and no more than five commercial cannabis manufacturing permits shall be issued by the city of Salinas for commercial cannabis manufacturing businesses to operate within the city of Salinas at any one time.

Sec. 5-07.43 – Accessory Cannabis Uses

Upon approval by the City of Salinas, a permit authorizing a Manufacturing Business may also authorize Distribution at the facility, provided that said Distribution shall be limited to transporting cannabis and cannabis products to be processed on-site, and the transport of products processed on-site. This accessory use will not require or be deemed a separate permit.

Sec. 5-07.44 – Operating Requirements

All Manufacturing Businesses shall comply with the following requirements:

- (a) The use of any hazardous, flammable or explosive substances to process or manufacture cannabis products on site shall be specified in the subject Commercial Cannabis Permit. Businesses that have received a permit for manufacturing but have not explicitly been given permission to engage in volatile manufacturing shall engage only in non-volatile manufacturing. The city of Salinas and Monterey County Environmental Health Bureau may inspect the

commercial cannabis business at any time during business hours to ensure compliance with this section.

(b) All food products, food storage facilities, food-related utensils, equipment and materials shall be approved, used, managed and handled in accordance to the provisions of the California Retail Food Code, California Health and Safety Code sections 113700 - 114437. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases. The Monterey County Environmental Health Bureau may inspect the commercial cannabis business at any time during business hours to ensure compliance with this section.

(c) All manufactured cannabis products shall be individually wrapped at the original point of preparation. Packaging shall, at a minimum, include the elements as specified in California Business and Professions Code section 26120, as the same may be amended from time-to-time or superseded or replaced by subsequent state legislation or by any department or division of the state of California.

(d) All cannabis supplied to the business and all cannabis products manufactured by the business shall be cultivated and/or sold by licensed facilities that maintain operations in full conformance with the state and local regulations.

Division 10. – Distribution Facilities

Sec. 5-07.45. – Limitation on the Dumber of Distribution Facilities.

No more than five distribution facilities may operate within the city of Salinas at any one time and no more than five commercial cannabis permits shall be issued by the city of Salinas for distribution facilities to operate within the city of Salinas at any one time. Administrative Permits issued pursuant to Municipal Code Section 5-07.12(c) shall not count towards the maximum number of permits for distribution. Furthermore, Distribution that is accessory to another commercial cannabis business, as described elsewhere in this Article, shall not count towards the maximum number of permits.

Sec. 5-07.46 – Accessory Cannabis Uses

Distribution Facilities may not engage in the conduct of any other type of commercial cannabis activity without a separate permit authorizing said activity.

Sec. 5-07.47 – Operating Requirements

A Distribution Facility shall comply with the following requirements:

(a) A distributor shall keep records of all transactions made during its operations, and shall account for all cannabis and funds collected and distributed, including the names of suppliers and customers, dates of pickups and deliveries, an inventory of all products involved in each transaction, and the amounts and methods of payment for each transaction. The business shall make these records available to the City of Salinas within 24 hours upon request.

(b) The distributor shall transfer cannabis and/or cannabis product only between licensed businesses.

Division 11. - Application of Article; Other Legal Duties.

Sec. 5-07.48. – Promulgation of Regulations and Standards.

The City Manager is authorized to promulgate all regulations necessary to implement the requirements and fulfill the policies of this Article. Regulations promulgated by the City Manager shall have the same force and effect of law and shall become effective upon date of publication unless a later date is specified. These regulations shall be published on the city's website.

Sec. 5-07.49. – Updates Provided to Council.

City staff shall make regular presentations to the city council providing findings regarding the operations of cannabis businesses within the city. The reports shall include, at a minimum, any information available regarding employment, community benefits, tax revenue, crime, building/zoning compliance, and any other information which is subject to public disclosure deemed pertinent by staff or requested by the council. The first such presentation shall be conducted six months following the beginning of operations of the first commercial cannabis business within the city, with a follow-up report presented six months thereafter. Reports shall thereafter be presented in February of each year unless the council designates an alternative schedule.

Sec. 5-07.50. – Fees Deemed Debt to City of Salinas.

The amount of any fee, cost or charge imposed pursuant to this Article shall be deemed a debt to the city of Salinas that is recoverable in any court of competent jurisdiction.

Sec. 5-07.51. – Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Article shall be responsible for all violations of the laws of the state of California or of the regulations and the ordinances of the city of Salinas, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.

SECTION 2. CEQA CONSIDERATIONS. The adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that the adoption of this Ordinance there is no possibility that the activity in question may have a significant effect on the environment. [CEQA Guidelines Section 15061(b)(3).]

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase

thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

SECTION 4. EFFECTIVE DATE. This Ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED THIS _____ day of _____ 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney