

ORDINANCE NO. 915 (2018)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKEPORT ADDING CHAPTER 5.34 AND AMENDING CHAPTERS 17.08, 17.10, 17.11 AND 17.13 OF THE LAKEPORT MUNICIPAL CODE, REGARDING COMMERCIAL CANNABIS

WHEREAS, the Federal Controlled Substances Act, 21 U.S.C. Section 801 et seq., classifies cannabis as a Schedule 1 Drug; as such, it is unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess cannabis, whether for medicinal or recreations purposes; and

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, the Compassionate Use Act (Health and Safety Code Section 11362.5), which was intended to enable persons who are in need of cannabis for medical purposes to obtain and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes; and

WHEREAS, SB 420, the Medical Marijuana Program Act (Health and Safety Code Section 11362.7 et seq.), was enacted in 2004 to expand and clarify the scope of Proposition 215, the Compassionate Use Act; and

WHEREAS, in 2015, the State enacted the Medical Marijuana Regulation and Safety Act (SB 643, AB 266, and AB 243) commonly referred to as MMRSA, instituting a comprehensive state-level licensure and regulatory scheme for cultivation, manufacturing, distribution, transportation, laboratory testing, and dispensing of medical cannabis. Although MMRSA developed a state-level licensure and regulatory scheme it provided cities and counties the ability to retain local regulator authority over medical cannabis; and

WHEREAS, the Governor signed SB 837 in June of 2016, changing references to the term “marijuana” in MMRSA to “cannabis” and renaming MMRSA the “Medical Cannabis Regulation and Safety Act” (MCRSA); and

WHEREAS, on November 8, 2016, Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) was enacted by the voters to decriminalize and regulate commercial and non-commercial recreations cannabis. AUMA provides that cities and counties retain local regulatory control over commercial recreational cannabis; and

WHEREAS, the Governor signed SB 94 in June of 2017 (Medicinal and Adult-Use Cannabis Regulation and Safety Act or MAUCRSA) and subsequently AB 133 in September 2017 applying minor technical fixes to MAUCRSA, which amended Section 11362.2 of the California Health and Safety Code and allows cities and counties to enact

and enforce reasonable regulations to reasonably regulate the cultivation, harvest, drying, processing, transportation, purchase, possession, smoking, ingesting, obtaining and giving away cannabis, including concentrated cannabis and cannabis products; and

WHEREAS, in response to AUMA and MAUCRSA, the Planning Commission, directed City staff through a minute order on September 20, 2017 to bring forward an ordinance amending the Lakeport Municipal Code to permit and regulate commercial cannabis; and

WHEREAS, the City of Lakeport Municipal Code establishes rules and regulations for living and doing business within city limits; and

WHEREAS, the unregulated operations of commercial cannabis businesses in the city limits of Lakeport can adversely affect the health, safety, and well-being of the City, its residents and environment. The development of regulations for commercial cannabis operations, including zoning regulation, is proper and necessary to reduce the risks of criminal activity, degradation of the natural environment, malodorous smells, and indoor electrical fire hazards that may result from unregulated commercial cannabis operations; and

WHEREAS, the ability to operate a commercial cannabis business as conferred by AUMA and MAUCRSA does not confer the right to create or maintain a public nuisance, the City intends to minimize the risks and complaints regarding fire, odor, crime and pollution caused or threatened by the unregulated operation of commercial cannabis operations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEPORT DOES ORDAIN AS FOLLOW:

SECTION 1. Chapter 5.34 of Title 5 of the Lakeport Municipal Code is hereby adopted to read as follows:

Title 5—Business Taxes, Licenses and Regulations

Chapter 34—Commercial Cannabis

5.34.01 Purpose and Intent

The purpose of these regulations is to ensure that the development of commercial cannabis does not adversely impact adjacent parcels or the surrounding neighborhood and that they are developed in a manner which protects the health, safety, and general welfare of the residents, landowners, and businesses in the city. These regulations shall apply to all commercial cannabis activities in the city.

5.34.02 Definitions

- A. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or be discovered, or developed, whether growing or not, including but not limited to 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. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products unless otherwise specified. "Cannabis" does not mean industrial hemp as defined by Health and Safety Code section 11018.5, as may be amended from time to time.
- B. "Cannabis business owner" means any of the following:
 - 1. Each person or entity having an ownership interest in the commercial cannabis business other than a security interest, lien, or encumbrance on property that will be used by the commercial cannabis business;
 - 2. If the commercial cannabis business is a publicly traded company, the chief executive officer or any person or entity with an aggregate ownership interest of five percent (5%) or more; or
 - 3. Each person who participates in the direction, control, or management of, or has a financial interest in, the commercial cannabis business.
- C. "Cannabis cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, processing, or trimming of cannabis, including cannabis nurseries.
- D. "Cannabis retailer" means a facility, whether fixed or mobile, operated in accordance with state and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including a facility that delivers cannabis and/or cannabis products as part of a retail sale.
- E. "Cannabis distribution" means a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed cannabis retailers, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes, prior to transport to licensed cannabis retailers. This facility requires a Type 11 license pursuant to MAUCRSA or a state cannabis license type subsequently established.
- F. "Cannabis manufacturing" means a facility that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a state licensee for these activities.
- G. "Cannabis microbusiness" means a facility that cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer,

and cannabis retailer and excludes cannabis testing. This facility requires a Type 12 license pursuant to MAUCRSA, or a state cannabis license type subsequently established.

- H. “Cannabis nursery” means a state licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- I. “Cannabis products” 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.
- J. “Cannabis testing service” or “cannabis testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity.
- K. “City manager” means the city manager or the city manager’s designee, if any.
- L. “Commercial cannabis activities” means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale or manufacturing of cannabis or cannabis products.
- M. “Medical cannabis” or “medicinal cannabis” means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.5), the Medical Marijuana Program Act (Health and Safety Code section 11362.7 et seq.), the Medical Cannabis Regulation and Safety Act (“MCRSA,” Business and Professions Code section 19300 et seq.), and MAUCRSA.
- N. “Primary caregiver” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.
- O. “Qualifying patient” or “qualified patient” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.

5.34.03 Permit Requirement

No cannabis business may engage in any commercial cannabis activity in the city without obtaining the appropriate permit to operate within the city. The permit is specific to the location where the commercial cannabis activity will occur. Multiple operating locations for the same cannabis business will require separate permits as outlined in sections 5.34.08 and 5.34.09.

5.34.04 Permit Applications

- A. Applications for a commercial cannabis permit and other matters pertaining to this chapter shall be filed with the city manager on an official city application form.
- B. The application shall be filed with all required fees, deposits, information, and materials as specified by this chapter.
- C. The application shall be signed by each cannabis business owner under penalty of perjury, certifying that the information submitted, including all supporting documents, is, to the best of the applicant's knowledge and belief, true, accurate and complete, and by the property owner for purposes of certifying that s/he has reviewed the application, and approves the use of the property for the purposes stated in the application. The signature of both the cannabis business owner and the property owner shall constitute evidence of their express consent to allow any city official or employee to enter upon and inspect the premises upon reasonable notice.
- D. The information required by this section shall be confidential, and shall not be subject to public inspection or disclosure except as may be required by Federal, State or local law. Disclosure of information pursuant to this section shall not be deemed a waiver of confidentiality by the applicant or any individual named in the application. The city shall incur no liability for the inadvertent or negligent disclosure of such information.
- E. Permit applicants are encouraged to contact the city manager before submitting an application to verify materials necessary for completing an application.

5.34.05 Application Review, Appeal, and Suspension

- A. Review of Application. The city manager shall consider the application, and the results from any investigation into the application, as deemed necessary by the police chief.
- B. Disapproval of Application. If the city manager disapproves an application, he or she shall notify the applicant in writing, stating the reasons for the disapproval. Notification of disapproval shall be deemed complete upon deposit by first class mail to the applicant to the address indicated on the application. No permit shall be issued unless a successful appeal of the disapproval is made within the requisite time frame.
- C. Appeal of Disapproval.
 - 1. Within ten (10) days after the city manager serves notice of disapproval, an applicant may appeal the disapproval by notifying the city clerk in writing of the appeal, the reasons for the appeal, and paying any applicable fees.
 - 2. The city clerk shall set a hearing on the appeal and shall fix a date and time certain, within thirty (30) days after the receipt of the applicant's appeal, unless the city and the applicant agree to a longer time, to

consider the appeal. In no case will a hearing be continued for more than ninety (90) days from receipt of applicant's appeal. The city clerk shall provide notice of the date, time and place of hearing, at least seven (7) days prior to the date of the hearing.

3. The city council shall hear the applicant's appeal, determine the order of procedure, and rule on all objections to admissibility of evidence. The applicant and the city manager shall each have the right to submit documents, call and examine witnesses, cross-examine witnesses and argue their respective positions. The proceeding shall be informal, the technical rules of evidence shall not apply, and all evidence shall be admissible which is of the kind that reasonably prudent persons rely upon in making decisions.
 4. An appellant's failure to attend a hearing shall constitute an abandonment of the appeal and a failure to exhaust administrative remedies.
 5. The city council shall issue or cause to be issued a written decision within twenty-one (21) days after the close of the hearing. The decision of the city council shall be final.
 6. An appellant may seek judicial review of the city council's decision by filing a petition for review with the superior court, pursuant to Code of Civil Procedure sections 1094.5 and 1094.6, within ninety days after the effective date of the city council's notice of decision.
- D. Grounds for Denial, Revocation or Suspension of Permit. The granting of a permit or a renewal thereof may be denied and an existing permit revoked or suspended if:
1. The cannabis business owner has knowingly made a false statement in the application or in any reports or other documents furnished to the city.
 2. The cannabis business owner has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the cannabis business for which the application is made, which includes but is not limited to:
 - i. A violent felony conviction, as specified in Penal Code section 667.5(c).
 - ii. A serious felony conviction, as specified in Penal Code section 1192.7.
 - iii. A felony conviction involving fraud, deceit or embezzlement.
 - iv. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or

peddling any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

- v. A felony conviction for drug trafficking with an enhancement pursuant to Health and Safety Code sections 11370.4 or 11379.8.
3. The cannabis business or a cannabis business owner has been sanctioned by a licensing authority or other city or county for unauthorized commercial cannabis activity.
4. The granting or renewing of the permit would perpetuate or encourage any of the following:
 - i. Distribution of cannabis or cannabis products to minors;
 - ii. Generation of revenue from the sale of cannabis or cannabis products to fund criminal enterprises, gangs or cartels;
 - iii. Diversion of cannabis or cannabis products to jurisdictions outside of the state where cannabis and cannabis products are unlawful under state or local law;
 - iv. Trafficking of other illegal drugs or facilitation of other illegal activity;
 - v. Violence and the use of firearms in the cultivation and distribution of cannabis and cannabis products;
 - vi. The use of public lands in the cultivation of cannabis; or
 - vii. The use of federal property for commercial cannabis activity.
5. For any other reason that would allow the state to deny a license under MAUCRSA.
6. Fails to pay required city fees and taxes.
7. Violates any provision of MAUCRSA, this chapter or any other permits issued by the city for the commercial cannabis activity, such as a conditional use permit.
8. Except as provided in subsections (D)(2)(iv) and (v) of this section, an application for a permit shall not be denied if the sole ground for denial is based upon a prior conviction of either section 11350 or section 11357 of the Health and Safety Code. An application for a permit also shall not be denied if the state would be prohibited from denying a license pursuant to either section 26057, subdivision (b)(5), or section 26059 of the Business and Professions Code. Conviction of any controlled substance felony subsequent to permit issuance shall be grounds for revocation of a permit or denial of the renewal of a permit.

E. Suspension and Revocation.

1. If the city manager deems continuation of any commercial cannabis activity will cause a significant threat to the health, safety, or welfare of the public, the city manager may suspend the permit and all rights and privileges thereunder until the city council renders a written decision on the revocation of the permit.
2. The city manager shall give notice to the cannabis business of his or her intent to revoke a permit in the same manner as notice of disapproval and provide the city clerk with a copy of the notice.
3. The appeal rights and hearing for the revocation of the permit shall be set and conducted in the same manner as an appeal of disapproval under section 5.34.05(C). The decision of the city council shall be final.

5.34.06 Permit Issuance

- A. Before issuing any permit the city manager shall determine that all of the following requirements have been met:
 1. The application is complete and all applicable city taxes and fees have been paid.
 2. All land use permits have been approved and all conditions of approval have been met or are in good standing.
 3. There are no outstanding notices of nuisance or other unresolved code compliance issues at the site of the proposed commercial cannabis activity or related to the cannabis business owner(s).
- B. By accepting the permit, each permittee agrees to indemnify, defend and hold harmless to the fullest extent permitted by law the city, its officers, agents and employees from and against any and all actual and alleged damages, claims, liabilities, costs (including attorney's fees), suits or other expenses resulting from and arising out of or in connection with permittee's operations, except such liability caused by the sole active negligence or willful misconduct of city, its officers, agents and employees.
- C. The permit shall be valid for one (1) year from the date of issuance.

5.34.07 Transfer of Permit or Modifications to Permit

- B. A permit is nontransferable to another location, and no transfer to another cannabis business owner or modifications to a permitted facility may be made except in accordance with this section.
- C. A request for change in permit ownership shall be submitted to the city manager on a city form at least sixty (60) days prior to the anticipated transfer, together with any applicable fee(s). Requests submitted less than sixty (60) days before the transfer will be processed only in the city's discretion and may be subject to an expedited processing fee. A new owner(s) shall meet all

requirements for applicants of an initial permit. The request shall include the following information:

1. Identifying information for the new cannabis business owner(s) and management as required in an initial permit application;
 2. A written certification by the new cannabis business owner(s) as required in an initial permit application;
 3. The specific date on which the transfer is to occur; and
 4. Acknowledgement of full responsibility for complying with the existing permit.
- D. A request to modify the security plan shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- E. A request for change in cannabis business contact information shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- F. A request for change in cannabis business trade or business name shall be submitted to the city manager on a city form at least thirty (30) days prior to the anticipated change, together with the applicable fee.
- G. A permit renewal application and any applicable fees must be submitted to city manager at least sixty (60) days before the expiration of the permit. Failure to submit a renewal application prior to the expiration date of the permit will result in the automatic expiration of the permit on the expiration date. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that the new standards are met. No person shall have any entitlement or vested right to receive a permit under this chapter.

5.34.08 Standard Provisions for all Commercial Cannabis Activities

- A. All commercial cannabis activities shall have all appropriate state licensing required prior to commencement of use.
- B. No permittee shall sell cannabis or cannabis products to persons under 21 years of age; allow any person under 21 years of age on its premises; or employ or retain persons under 21 years of age. No permittee shall sell medicinal cannabis products to persons under 18 years of age unless accompanied by a parent or guardian.
- C. All commercial cannabis activities shall maintain a 600 foot distance from all properties containing schools, pre-schools, licensed day care facilities, and parks.

- D. All commercial cannabis activities shall obtain and maintain a business license from the city.
- E. Commercial cannabis activities shall not be allowed as a home occupation.
- F. All applications shall provide an operations plan containing at a minimum the following items:
 - 1. General project information
 - i. Site plan providing both a graphic and written representation of the applicant's intended development. The plan shall adhere to the general site plan standards contained in section 17.29.030 and shall include all structures, storage and circulation patterns of the site.
 - ii. Written project description containing:
 - a. General project description.
 - b. A statement of present and proposed ownership.
 - c. A complete list of all individuals and entities with a financial interest in the operation.
 - d. A list and description of all uses shown in the provided site plan.
 - iii. Floor plan showing the locations of all proposed activities.
 - iv. Sign plan consistent with the provisions outlined in section 17.52 of this code.
 - v. Agreement to maintain at all times commercial general liability providing coverage on an occurrence basis for bodily injury, including death, of one (1) or more persons, property damage and personal injury with limits of not less than one million dollars (\$1,000,000.00) per occurrence and comprehensive automobile liability (owned, non-owned, hired) providing coverage on an occurrence basis for bodily injury, including death, of one (1) or more persons, property damage and personal injury, with limits of not less than one million dollars (\$1,000,000.00). The commercial general liability policy shall provide contractual liability, shall include a severability of interest or equivalent wording, shall specify that insurance coverage afforded to the city shall be primary, and shall name the city, its officials and employees as additional insured. Failure to maintain insurance as required herein at all times shall be grounds for suspension of the permit immediately, and ultimately, revocation.
 - 2. Security provisions.

- i. Operations shall provide adequate security on the premises, including lighting, security cameras, security personnel and alarms, to ensure the safety of persons and to protect the premises from theft. Security camera footage shall be retained a minimum of 30 days.
- ii. The plan shall include the name, phone number and email of community relations staff whom may be contacted at any time regarding operational problems associated with the commercial cannabis activity.
- iii. A current register of the names of all employees currently employed by the use shall be provided and maintained on site. Employee register and contact information shall be current and up-to-date at all times. Any changes made to the employee register shall be provided to the city manager within thirty (30) days.
- iv. All employees either direct or via contract shall undergo a background check by the city police department. An individual may fail the background check if they have been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the police chief determines that the applicant, owner, or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the police chief shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, owner, licensee to be issued a license based on the evidence found through the review. In determining which offences are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the police chief shall include, but not be limited to, the following:
 - a. A violent felony conviction, as specified in subdivision (c) of section 667.5 of the Penal Code.
 - b. A serious felony conviction, as specified in subdivision (c) of section 1192.7 of the Penal Code.
 - c. A felony conviction involving fraud, deceit, or embezzlement.
 - d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substances to a minor; or selling, offering to sell, furnishing, offering to furnish,

administering, or giving any controlled substance to a minor.

- e. A felony conviction for drug trafficking with enhancements pursuant to section 11370.4 or 11379.8 of the Health and Safety Code.
- f. Any other conviction that may disqualify an applicant/owner or permittee under state law.
- v. Verification that the security provisions for the operation have been reviewed and approved by the city police department prior to the issuance of a development permit.

3. Public health and safety provisions

- i. Facility improvement plan demonstrating that the operation is compliant with all applicable public health and safety provisions of the International Building Code. The facility improvement plan shall be reviewed and approved by the applicable fire agency and city building division prior to the issuance of a development permit.
 - ii. Statement of proposed water usage.
 - iii. Wastewater disposal plan reviewed and approved by the city utilities division prior to the issuance of any development permit. The wastewater disposal plan shall include any specific designs for pre-treatment of waste prior to entering municipal sewer system. No waste containing hazardous materials or other containments shall be permitted to enter the municipal sewer system consistent with Chapter 13.20 of this municipal code concerning "Sewer Use And Pretreatment."
 - iv. Solid waste disposal plan, including the management of cannabis related waste.
 - v. Hazardous waste management plan to be approved by Lake County Health Department.
 - vi. Odor prevention plan that will prevent obnoxious odors or fumes from being emitted beyond the operation limits that are perceptible by a reasonable person. Minimum design specifications should include odor absorbing ventilation and exhaust systems.
- G. All commercial cannabis activities shall submit an annual performance review report demonstrating compliance with required provisions of this section and all specific operating provisions and licensing required at the time of development approval. Failure to submit an annual report or failure to comply with required

provisions will result in revocation of the operating permit. The annual performance review report shall include inspection by city.

- H. All permittees shall comply with the state track and trace requirements for cannabis and cannabis products.
- I. The rights and privileges to conduct commercial cannabis activities on a specific parcel do not attach to title to the property and are not conveyed with the lease or sale of the property. Accordingly, a permit may not be sold, assigned, leased or otherwise conveyed or transferred by the person or entity holding the permit to any third party not named on the application without complying with this chapter and any other applicable law.
- J. Except as provided herein, all other cannabis activities are prohibited.

5.34.09 Commercial Cannabis Performance Standards

A. Commercial Cannabis Cultivation Standards. (Type 1A, 1C, 2A, 3A, 4 & 12)

1. Use type includes:

- i. Cultivation of cannabis
- ii. Cannabis nursery including the production of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, cultivation of cannabis for sale to licensed commercial cannabis cultivators and licensed retail establishments. No retail sales are permitted.
- iii. Cannabis processing such as drying, curing, grading, or trimming.
- iv. Accessory uses related to the planting, growing, harvesting, drying, curing, grading, or the trimming of cannabis

2. Specific Provisions:

- i. All commercial cannabis cultivation operations shall not engage in the retail sale of any product goods or services, excluding microbusiness with retail. Only wholesale activities are permitted.
- ii. All cultivation activities shall take place indoors, out of sight of the general public. No greenhouses shall be allowed.
- iii. All cannabis cultivation, that includes processing such as drying, curing, grading, or trimming shall take place indoors.
- iv. The permittee shall use best management practices to minimize water use with cannabis cultivation. This would include the use of low flow irrigation. The permit shall include a plan for water use associated with the cultivation.

- v. If manufacturing of cannabis takes place on the site of the cannabis cultivation, compliance with the manufacturing standards of this chapter are also required.
- vi. The applicant shall prepare an integrated management plan consistent with the regulations associated with the California Department of Toxic Substances Control for all chemical, biological and cultural methods to control or prevent the introduction of pests on the cultivation site.

B. Commercial Cannabis Manufacturing Standards. (Type 6 & 7)

1. Use type includes:

- i. Extractions using mechanical methods or nonvolatile solvents.
- ii. Extractions using volatile solvents.

2. Specific Provisions:

- i. Commercial cannabis manufacturing activities shall not conduct or engage in the retail sale of any product goods or services. Only wholesale activities are permitted.
- ii. Applicant shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents.
- iii. All commercial cannabis manufacturing shall take place indoors.
- iv. The permittee shall use best management practices to minimize water use with cannabis manufacturing.
- v. The permittee shall provide a list to the public works director and Lakeport Fire Department of all solvents, gasses and/or chemicals prior to commencement of use. No solvents, gasses and/or chemicals shall be allowed to enter the city's wastewater system.
- vi. Manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
 - a. The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
 - b. The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

- c. Receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility and meets the following: the California Fire Code; the National Fire Protection Association (NFPA) standards; International Building Code (IBC); and the International Fire Code (IFC).

C. Commercial Cannabis Testing Standards. (Type 8)

1. Use type includes:

- i. Testing of cannabis and cannabis products.
- ii. Businesses and research institutions engaged in the research of cannabis and cannabis products, or devices used for the use of cannabis and cannabis products.
- iii. Business offices related to cannabis.
- iv. Accessory uses related to the testing of cannabis and cannabis products.

2. Specific Provisions

- i. Commercial cannabis testing operations shall not conduct or engage in the retail sale of any product goods or services.
- ii. The permittee shall use best management practices to minimize water use with cannabis testing.

D. Distribution of Commercial Cannabis (Type 11)

1. Use type includes:

- i. Businesses engaged in the distribution of commercial cannabis, cannabis products, or devices used for the use of cannabis products.
- ii. The procurement, sale, and transport of cannabis and cannabis products between entities licensed under state law.
- iii. Transporting cannabis or cannabis products.
- iv. Conducting quality assurance review to ensure compliance with labeling and packing requirements.
- v. Accessory uses related to the procurement, sale, and transport of cannabis and cannabis products.

2. Specific Provisions:

- i. A distributor permittee shall be bonded and insured at a minimum level established by the licensing authority.
- ii.

- iii. All cannabis and cannabis products held bought, and sold be a cannabis distributor shall be obtained from a legal source and shall have the state issued track and trace information.

E. Commercial Cannabis Retailers Standards. (Type 10 & 12)

1. Use type includes:

- i. Retailer storefront with sales of cannabis, cannabis products or devices is prohibited.
- ii. Retailer storefront with the delivery of cannabis, cannabis products or devices is prohibited.
- iii. Retailer delivery of cannabis, cannabis products or devices.
- iv. Storefront retail with onsite consumption is prohibited.
- v. Microbusinesses with storefront retail included is prohibited.
- vi. Microbusinesses with retailer delivery of cannabis, cannabis products or devices.

2. Specific Provisions:

- i. A commercial cannabis permit for retailer issued in compliance with Section 5.34.04 shall be required for any cannabis retailer operating within the city. Cannabis retailers shall also be subject to permit requirements and regulations established by the state and those established by the city council through resolution or ordinance. Additionally, cannabis retailers must comply with all other applicable building codes and requirements, including accessibility requirements. Permits shall only be issued to cannabis retailers coming under state cannabis license Types 10 (Retailers) and 12 (Microbusiness). Commercial cannabis permits for retailers shall be subject to the requirements and limitations set forth in this Chapter.
- ii. No exterior signage or symbols shall be displayed which advertises the availability of cannabis using drug-related symbols which are attractive to minors or which is carried out in a manner intended to encourage persons under twenty-one (21) years of age to consume cannabis or cannabis products, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.
- iii. No cannabis retailer shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages on the same premises. No alcoholic beverages shall be allowed or consumed on the premises.

- iv. No cannabis retailer shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the permit. A retailer may sell live starter plants, clones and seeds from qualified nurseries, but shall not cultivate or clone cannabis (unless the retailer holds a microbusiness or cultivation license from the state and such activities are allowed on the same premises under state law).
- v. No cannabis shall be smoked on the premises. The term “premises” includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings.
- vi. The following signs, in measurements of not less than eight by ten inches (8x10”), shall be clearly and legibly posted in a conspicuous location inside the retailer where they will be visible to customers in the normal course of a transaction, stating:
 - a. “The sale of cannabis without a state license is illegal.”
 - b. “Smoking cannabis on this property, within twenty feet (20’) of the retailer, or in any public place is illegal under California law.”
 - c. For medical cannabis retailers: “No one under the age of eighteen (18) shall be allowed on the premises, unless they are a qualified patient or a primary caregiver.”
 - d. For nonmedical cannabis retailers: “No one under the age of twenty-one (21) shall be allowed on the premises.”
- vii. Any commercial cannabis permit issued to microbusiness with a Type 12 state license, or a state cannabis license type subsequently established, that contains a retailer operation, will be subject to the permit procedures and requirements for cannabis retailers under this section 5.34.09(E). Any commercial cannabis permit issued to a microbusiness with a cultivation, manufacturing and/or distribution component will also be subject to the requirements of section 5.34.09(A), (B), (C) and/or (D) for those operations.
- viii. Except as provided in section 5.34.09(E)(2)(vii) for microbusinesses, commercial cannabis cultivation and manufacturing are prohibited on the same premises.
 - ii. Cannabis retailers shall contain no window displays that are visible by normal unaided vision from a public place.
 - iii. All cannabis deliveries shall have all records identifying the originating location and terminus of the cannabis or cannabis

products, as well as all corresponding licenses consistent with all applicable state licensing requirements.

- iv. The operating plan for all cannabis deliveries shall include driver identification and license information for all employees engaged in delivery operations. Vehicle information including license, year, make and model shall also be listed in the operating plan.
- v. Vehicles used in the delivery of cannabis shall have no signage and shall be un-marked.
- vi. The sale of ancillary products, including books, herbal supplements, and devices facilitating the consumption of cannabis shall occur in a manner consistent with this section, and in compliance with all state requirements.
- vii. The maximum retail days and hours of operations shall be Monday through Sunday, 9:00 a.m. through 7:00 p.m.

F. Cannabis Events within the city are prohibited.

5.34.10 Fees

The city council shall, by resolution, establish a schedule of fees for commercial cannabis license applications, amendments, renewals and other matters pertaining to this chapter. The schedule of fees may be changed or modified by resolution of the city council. Applicants and permittees also shall pay the amount as prescribed by the Department of Justice of the State of California for the processing of applicant's fingerprints. None of the above fees shall be prorated, or refunded in the event of a denial, suspension or revocation of the permit. Failure to pay the applicable fees is grounds for denial of an application.

5.34.11 Enforcement

- A. Any person violating any provision of this chapter or misrepresenting any material fact in demonstrating compliance with requirements for engaging in a commercial cannabis activity shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars or by imprisonment for not more than twelve months, or by both such fine and imprisonment.
- B. Any violation of this chapter is declared to be a public nuisance as defined in section 370 of the Penal Code, section 3480 of the Civil Code and Chapter 8.22 of this municipal code and shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the city of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The city may also pursue any and all remedies and actions available and

applicable under local and state law for any violation committed by the commercial cannabis owner, its managers, members or any person related or associated with the commercial cannabis activity.

- C. Any violation of the terms and conditions of the commercial cannabis activity in this chapter shall be grounds for suspension and revocation of the permit.

5.34.12 Liability

The provisions of this chapter shall not be construed to protect the record property owner(s) of a legal parcel associated with any commercial cannabis activity, his or her lessees, tenants, and other participants in the operation of a commercial cannabis activity, and/or members of collectives and/or cooperatives associated with such activity, from prosecution pursuant to any laws that may prohibit the cultivation, sale, and/or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of cannabis remain violations of federal law as of the date of adoption of the ordinance creating this chapter and this chapter is not intended to, and does not, protect any of the above described persons from arrest or prosecution under those federal laws. The record property owner(s) of a legal parcel associated with any commercial cannabis activity, his or her lessees, tenants, and other participants in such activity, and/or members of collectives and/or cooperatives associated with such use, assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from engaging in a commercial cannabis activity. Further, to the fullest extent permitted by law, any actions taken under the provisions of this chapter by any public officer or employee of the city or the city itself shall not become a personal liability of such person or the liability of the city.

SECTION 2. Section 17.08.050.J of 17.08, Regulations for the Professional Office District or “PO” District, of the Lakeport Municipal Code is hereby added as follows:

- J. Commercial cannabis testing subject to the regulations set forth in Chapter 5.34.

SECTION 3. Section 17.10.050.N of 17.10, Regulations for the Major Retail or “C-2” District, of the Lakeport Municipal Code is hereby added as follows:

- N. Commercial cannabis consisting of testing subject to the regulations set forth in Chapter 5.34.

SECTION 4. Section 17.11.050.K of 17.11, Regulations for the Service Commercial or “C-3” District, of the Lakeport Municipal Code is hereby added as follows:

- K. Commercial cannabis consisting of cultivation, manufacturing without volatile solvents, testing, distribution and retailers activities subject to the regulations set forth in Chapter 5.34.

SECTION 5. Section 17.13.040.R of 17.07, Regulations for Industrial or “I” Zoning District, of the Lakeport Municipal Code is hereby added as follows:

- R. Commercial cannabis consisting of cultivation, manufacturing with and without volatile solvents, testing, distribution and retailers activities subject to the regulations set forth in Chapter 5.34.

SECTION 6. Severability: Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 7. CEQA. This ordinance is exempt from review under the California Environmental Quality Act (CEQA). Pursuant to section 15061(b)(3) of the CEQA Guidelines, CEQA applies only to projects which have the potential for causing a significant effect on the environment. Additionally, the revision to the Lakeport Municipal Code provides for a discretionary review process for the approval of commercial cannabis related permits and is eligible for the exemption from the CEQA Guidelines provided in Section 26055(h) of the California Business and Professions Code. Furthermore, the ordinance constitutes a regulatory action to assure the protection of the environment and is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines.

SECTION 8. Effective Date. This ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 9. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting the entire text.

INTRODUCED and first read at a regular meeting of the City Council on the 21st day of November, 2017, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

FINAL PASSAGE AND ADOPTION by the City Council of Lakeport occurred at a meeting thereof held on the 2nd day of January 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

MIREYA TURNER, MAYOR

ATTEST:

KELLY BUENDIA, City Clerk
City of Lakeport