



CITY OF LAKEPORT

CITY COUNCIL/PLANNING COMMISSION

MEMORANDUM	
RE: Discussion on Amending the Lakeport Municipal Code to address Commercial Cannabis in the City of Lakeport	MEETING DATE: 10/25/2017
SUBMITTED BY: Kevin M. Ingram, Community Development Director Daniel Chance, Associate Planner	
PURPOSE OF REPORT: <input type="checkbox"/> Information only <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Commission Action	

WHAT IS BEING ASKED OF THE CITY COUNCIL AND PLANNING COMMISSION:

The Planning Commission is being asked to discuss and review potential amendment options to the Lakeport Municipal Code regarding the regulations of commercial cannabis in the City of Lakeport. Proposed amendments include, but are not limited to following:

- Development and review of performance standards that would establish regulations and criteria for the various commercial cannabis uses.
- Consideration of appropriate zoning districts in which to allow commercial cannabis uses.
- Establish level of review standards for different types of commercial cannabis uses.
- Consider definitions that would define the various commercial cannabis uses.

Following the public hearing and discussion by the Planning Commission staff intends to finalize a draft ordinance for commercial cannabis uses and set a formal public hearing for its consideration by the Planning Commission on November 8, 2017.

BACKGROUND:

In response to the adoption of AUMA and MAUCRSA, commonly referred to as Proposition 64 and SB 94 respectfully, the City of Lakeport is beginning to look at potential revisions to the Lakeport Municipal Code as it pertains to commercial cannabis: cultivation, retail sales, processing/manufacturing and licensing/taxation. Commercial cultivation requires amending the City’s ordinance to allow such use.

Under SB 94, the State developed a regulatory structure for licensing the various uses associated with commercial cannabis. Local jurisdictions may pass their own regulations providing additional elements of local control. However, in accordance with SB 94 these local regulations must be in place by January 1, 2018. Given the upcoming deadline, the City formed a Working Group consisting of two City Council Members, the City Manager, the City Attorney, the Police Chief, and the Community Development Director reviewed possible amendments to the City’s Municipal Code. The Working Group developed a preliminary set of possible development standards addressing various commercial cannabis uses and forwarded there recommendations to the Planning Commission for their review and input. Additionally, the Working Group developed a matrix (Attachment 4), utilizing the commercial cannabis licensing types outlined by the State identifying potential commercial zoning designations in the City of Lakeport where such uses could occur. The State licensing includes the following:

- Cannabis Cultivation: Type 1, 1A, 1B, 1C, 2, 2A, 2B, 3, 3A, 3B. That would address indoor, outdoor, and mixed light for cannabis cultivation, as well as various size of operations.

- Cannabis Nursery: Type 4. Cannabis nursery.
- Manufacturing: Type 6 & 7. Manufacturing (Type 6) and manufacturing with solvents (Type 7).
- Testing: Type 8. Cannabis testing.
- Dispensary General: Type 10 & 10A. Retail sales of cannabis.
- Distribution: Type 11. The transportation and storage of cannabis.
- Microbusiness: Type 12. Use that would allow smaller cultivation, manufacturing and retail.

The Planning Commission held a public meeting at their special meeting of September 20, 2017 to review the proposals of the working group. The Planning Commission took public comment and made several recommendations and suggestions. A principal concern of the Planning Commission was public outreach to make sure the community was well informed of pending action by the City on this important topic. Staff has since that meeting formed a dedicated page upon the City’s website on the topic and undertaken an aggressive outreach campaign that has included press releases, newspaper articles, social media blasts and more.

On October 3, 2017, the City Council and Planning Commission held a joint meeting to take additional public input and discuss possible commercial cannabis regulations and concerns. At this meeting staff was requested to investigate the number of parcels that were zoned “C-3”, Service Commercial and “I”, Industrial and roughly how many of these properties were available for development. Staff found the following:

- There are a total of 47 parcels zoned “C-3”, Service Commercial in the City of Lakeport totaling 54.27 acres. Of this 54.27 acres—5.5 acres are vacant, 6.3 acres are partially developed and 12.9 acres are developed.
- There are a total of 13 parcels zoned “I”, Industrial in the City of Lakeport totaling 28.2 acres. Of this 28.2 acres—2.0 acres are vacant, 13.3 acres are partially developed and 12.9 acres are developed.

The Planning Commission, at its meeting of October 11, 2017, provided an opportunity for the public to voice their suggestions and concerns for the preparation of a draft commercial cannabis ordinance.

DISCUSSION:

Based upon the several public meetings, of the past couple of months, staff has prepared a working draft of performance standards for the possible regulation of commercial cannabis in the City of Lakeport (Attachment 1). In addition to the draft performance standards staff has compiled a listing of major discussion points which still require decisions:

- Buffers: Terminology utilized in current draft performance standards is slightly different than what is outlined within State law; however SB 94 does provide local jurisdictions with the ability to set their own standards pertaining to buffers. Consider amending local ordinance provisions to align to Section 26054(b) of the California Business and Professions Code. (See Attachment 6).
- Background Checks: The current draft performance standards language related to the performance of background investigations of permittees (Section 17.28.010.FF.2.g.ii.4) is slightly different than language provided within State law. Consider amending this section to align with Section 26057 of the California Business and Professions Code. (See Attachment 6).
- Permit Ownership Transfer: In general, land use development permits run with the land regardless of any change in ownership. Section 17.28.010.FF.2.j of the draft ordinance seeks to require the granting of a new development permit when there is a change in ownership. This is likely not an enforceable provision under State law. Consider amending this clause to contain language contained in Section 26055 of the California Business and Professions Code (Attachment 6). This would require the issuance of a State Cannabis License prior to a business operating when there is a change in ownership similar to the process that occurs when there is a change in ownership of a bar. An alternative option recommended by the City Attorney is to consider placing commercial cannabis performance standards

in a location outside of the Zoning Ordinance (i.e. Title 5, Business Taxes, Licenses and Regulations). Several of other jurisdictions have been utilizing this approach.

- Pesticide Regulations: Sections 17.28.010.FF.3.b.vi and 17.28.010.FF.6.b.ii within the draft performance standards currently require review and approval of pending applications by the Lake County Agricultural Commissioner. The current Lake County Agricultural Commissioner has expressed his desire to not be involved in cannabis regulation. As such it may be within the City's best interest to consider alternative language for these two sections ensuring that issues regarding pesticide usage and weights and measures are adhered to without necessitating the review of the application by the Lake County Agricultural Commissioner. It is important to note that all cultivation within the City is proposed to be limited to indoor only.
- Review of Manufacturing Facility by Engineer: Under the current draft performance standards any application for Commercial Cannabis Manufacturing requires proposed plans to be reviewed by a "licensed engineer" to certify that it is in compliance with "good engineering practices." (Section 17.28.010.FF.4.b.viii). The Commission is being requested to discuss whether or not this provision is necessary and at a minimum clarify the type of engineer necessary to perform the review.
- Microbusiness: The current draft ordinance is relatively silent on this topic. AMUA provides a microbusiness license category that enables small-scale growers to operate on the model of a craft microbreweries or boutique wineries—the cannabis may be grown, processed, and sold onsite at the retail and wholesale levels. The Planning Commission should discuss whether or not this is an appropriate use to be considered within the City of Lakeport. Staff has proposed a definition to be considered (Attachment 3) and has also provided some draft performance standard language to be considered within the 'Commercial Cannabis Retailers Standards Options' (Attachment 2).
- Storefront Retail: As discussed at the September 20, 2017 Planning Commission meeting and the October 3, 2017 Joint City Council and Planning Commission meeting staff has drafted some potential performance standards guiding retail cannabis sales (Attachment 2). The Planning Commission is asked first to consider whether or not it believes storefront retail to be appropriate for the City of Lakeport. If yes, then the Planning Commission should discuss the appropriateness of staff's recommended performance standards and identify appropriate zoning districts for cannabis retail.
- Application Selection Criteria: As discussed at the September 20, 2017 Planning Commission meeting and the October 3, 2017 Joint City Council and Planning Commission meeting staff has drafted some application selection criteria to address the possibility that several permit applications are received at the same time. Proposed selection criteria would establish a prioritization schedule for the processing of proposed applications. The Planning Commission is asked first to consider whether or not it believes such selection criteria is required. If yes, then the Planning Commission should discuss the appropriateness of staff's recommendations on this topic. Staff has prepared some basic application prioritization practices within Attachment 2, 'Commercial Cannabis Retailers Standards'. Essentially prioritization would be based upon the completeness of the required operations planned outlined in 17.28.010.FF.2.g.
- Appropriate Zoning Districts: The City's Cannabis Working Group drafted an initial matrix (Attachment 4) outlining what types of development permits (i.e. allowed use, zoning permit, use permit) are required for each associated commercial uses and which Zoning Districts (i.e. C-3 and I) permit associated commercial uses. At the September 20, 2017 Planning Commission several recommendations were made proposing changes to this matrix. Principal among these recommendations was the consideration of allowing some commercial cannabis uses in the C-2, Major Retail; PO, Professional Office; and CB, Community Business zoning districts.

- County Ordinance Exclusion Area: It was brought to staff's attention during the October 3, 2017 Joint City Council and Planning Commission meeting that the County's draft ordinance included an exclusionary for cannabis uses in the City of Lakeport's Sphere of Influence. Staff has reviewed the proposed 'Cannabis Cultivation Exclusion Combining District' proposal by the County and confirmed that this exclusionary zone only applies to cultivation related activities and does not apply to commercial cannabis related uses.

The above list only intended to help guide discussion in the preparation of a complete draft ordinance. Additional public input is desired and encouraged.

SUGGESTED MOTION:

N/A

- Attachments:**
1. Draft Performance Standards
 2. Commercial Cannabis Retailers Standards Option
 3. Draft Definitions
 4. Proposed Commercial Cannabis Zoning Matrix
 5. Commercial Cannabis Buffers & Use Area Maps
 6. California Business & Professions Code Section Excerpts

Attachment 1:

Commercial Cannabis Draft Performance Standards

Chapter 17.28

PERFORMANCE STANDARDS

17.28.010.FF. Commercial Cannabis

1. Purpose. The purpose of these regulations is to establish standards to ensure that the development of commercial cannabis (retail, cultivation, manufacturing, testing and distribution) 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 nearby residents and businesses. These performance standards shall apply to all commercial cannabis activities in the City of Lakeport. A Zoning Permit or Use Permit (based on the Zoning District) shall be required for all types of commercial cannabis that meets the location, development, and/or operational standards of this section.
2. Standard Provisions for all Commercial Cannabis Uses.
 - a. All Commercial Cannabis uses 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. No cannabis or cannabis product shall be smoked, ingested or otherwise consumed on the property.
 - d. All Commercial cannabis shall maintain a 600 foot distance from all properties containing schools, pre-schools, large family day care facilities, and parks.
 - e. All commercial cannabis shall obtain a Business License from the City
 - f. Commercial cannabis uses shall not be allowed as a Home Occupation.
 - g. Operations Plan. All applications shall provide an operations plan containing at a minimum the following items:
 - i. General Project Information
 1. 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.
 2. 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.
 3. Floor plan showing the locations of all proposed uses.
 4. Sign plan consistent with the provisions outlined in Section 17.52 of this code.
- ii. Security Provisions.
1. 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.
 2. 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 use.
 3. 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 Lakeport Police Department within thirty (30) days.
 4. All employees either direct or via contract shall undergo a background check by the Lakeport Police Department. An individual may fail the background check if employee has 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 or permittee 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, and shall evaluate the suitability of the applicant or permittee be issued a license based on the evidence found through the review.

In determining which offenses are substantially related to 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 felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
- b. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
- c. A serious felony conviction, as specified in subdivision (c) 1192.7 of the Penal Code.
- d. A felony conviction involving fraud, deceit, or embezzlement.
- e. Any other conviction that may disqualify an applicant/owner or permittee under state law.**

5. Verification that the security provisions for the operation have been reviewed and approved by the Lakeport Police Department prior to the issuance of a development permit.

iii. Public Health and Safety Provisions

1. Facility improvement plan demonstrating that the operation is compliant with all applicable public health and safety provisions of the International Building Code. Said provisions shall be reviewed and approved by the Lakeport Fire Department and Lakeport Building Division prior to the issuance of a development permit.
2. Statement of proposed water usage.
3. Wastewater disposal plan reviewed and approved by the Lakeport Utilities Division prior to the issuance of any development permit. Said 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 Lakeport Municipal sewer system consistent with Chapter 13.20 of the Lakeport Municipal Code concerning "Sewer Use And Pretreatment".
4. Solid waste disposal plan, including the management of cannabis related waste.

5. Hazardous Materials Plan, all permittees shall prepare a Hazardous Waste Management Plan to be approved by Lake County Health Department.
6. Odor Prevention Provisions
 - a. No obnoxious odors or fumes shall be emitted beyond the operation limits that are perceptible by a reasonable person. Minimum design specifications should include odor absorbing ventilation and exhaust systems.
- h. All commercial cannabis operations 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 and annual report or failure to comply with required provisions will result in revocation of operating permit. The annual performance review report shall include inspection by City, If there are no violations of the permit or state license during the first two years, the inspection frequency may be reduced by the Community Development Director to not less than once every five years.
- i. ~~Track Tag~~ and Trace: All permittees shall comply with the State and California ~~Track Tag~~ and Trace requirements **for cannabis and cannabis products**.
- j. The rights and privileges to conduct 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, zoning or use permit may not be sold, assigned, leased or otherwise conveyed or transferred by the person or entity holding the zoning or use permit to any third party not named on the application without a modification of the zoning or use permit

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

- a. 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 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
- b. Specific Provisions:

- i. All commercial cannabis cultivation operations shall not engage in the retail sale of any product goods or services. 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 include section 4 (Manufacturing Standards).
- vi. The applicant shall prepare an Integrated Management Plan to be reviewed and approved by the Lake County Agricultural Commission for all chemical, biological and cultural methods to control or prevent the introduction of pests on the cultivation site.

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

- a. Use type includes: 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, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.
- b. Specific Provisions:
 - i. Commercial cannabis manufacturing uses 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 of all solvents, gasses and chemicals prior to commencement of use. No

solvents, gasses and chemicals shall be allowed to enter the City's waste water system.

- vi. Manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements: 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.).
- vii. 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.
- viii. A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices
- ix. 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:
 - 1. The California Fire Code.
 - 2. The National Fire Protection Association (NFPA) standards.
 - 3. International Building Code (IBC).
 - 4. The International Fire Code (IFC).

5. Commercial Cannabis Testing Standards. (Type 8)

- a. 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 ~~medical~~ use of cannabis **and cannabis** products.
 - iii. Business offices related to cannabis.
 - iv. Accessory uses related to the testing of cannabis and cannabis products.
- b. 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.

6. Distribution of Commercial Cannabis (Type 11)

- a. Use type includes:

- i. Businesses engaged in the distribution of commercial cannabis, cannabis products, or devices used for the medicinal use of cannabis products.
 - ii. The procurement, sale, and transport of medicinal cannabis and medicinal cannabis products between entities licensed pursuant to California Code.
 - iii. Transporting cannabis or cannabis products.
 - ~~iv. Accessory uses related to the procurement, sale, and transport of cannabis and cannabis products between licensees. Conducting quality assurance review to ensure compliance with labeling and packing requirements.~~
 - v. Conducting quality assurance review to ensure compliance with labeling and packing requirements.
 - vi. ~~Transporting cannabis or cannabis products.~~ Accessory uses related to the procurement, sale, and transport of cannabis and cannabis products.
- b. Specific Provisions:
- i. A distributor permittee shall be bonded and insured at a minimum level established by the licensing authority.
 - ii. All cannabis distributor shall display a copy of the inspection receipt issued by the Lake County Sealer of Weights and Measures for all weighing and measuring devices.
 - 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 tag** and trace information.

7. Commercial Cannabis Retailers Standards. (Type 10) [SEE ATTACHMENT 2]

8. Enforcement.

- A. Right of Entry. Persons designated by resolution as code enforcement officers of the city are authorized to enter upon and inspect private properties to ensure compliance with the provisions of this chapter. Reasonable advance notice of any such entry and inspection shall be provided and, before entry, consent shall be obtained in writing from the owner or other person in lawful possession of the property. If consent cannot for any reason be obtained, an inspection warrant shall be obtained from a court of law prior to any such entry and inspection. In those cases where consent is denied, the city may seek to recover the costs it incurs in obtaining a warrant from the property owner and/or person in lawful possession of the property.**
- B. Public Nuisance. The maintaining, cultivating or growing of cannabis upon private property within the city, unless in full compliance with the provisions 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 the Lakeport Municipal Code.

- C. Citable Offense. Every person who, in violation of the provisions of this chapter, maintains, permits or allows cannabis to be grown upon his or her property or premises, and every person occupying, renting or leasing the property or premises of another who maintains, permits or allows cannabis to be grown thereon in violation of this chapter, is guilty of an infraction punishable as set forth in Section [1.08.010](#). After written notice is provided to any such person of such violation, the continued existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense.*
- D. Issuance of Citations. All persons designated by resolution as code enforcement officers of the city are authorized to issue citations to persons deemed to be in violation of the provisions of this chapter. Such citations shall be expeditiously processed through use of the administrative citation process or where appropriate through filing an infraction in the appropriate court of law.*
- E. Remedies Nonexclusive. The remedies provided herein shall not be the exclusive means of enforcing the provisions of this chapter nor the exclusive means available to the city to address problems associated with the cultivation of cannabis, whether for medical or other purposes. The city shall continue to have available to it the ability to pursue abatement of nuisances and other problems related to cannabis cultivation under Penal Code Sections [372](#) and [373a](#), Civil Code Section [3491](#) and other applicable provisions of law. The city is also entitled to recover its abatement costs, including attorney fees if any, in the manner provided by the Lakeport Municipal Code.*

9. Liability.

The provisions of this chapter shall not be construed to protect the record property owner(s) of a legal parcel associated with the cultivation of cannabis, his or her lessees, tenants, and other participants in the cultivation of cannabis, and/or members of collectives and/or cooperatives associated with the cultivation of cannabis, 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 the cultivation of cannabis, his or her lessees, tenants, and other participants in the cultivation of cannabis, and/or members of collectives and/or cooperatives associated with the cultivation of cannabis, assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from the cultivation of cannabis. 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.

Attachment 2:

Commercial Cannabis Retailers Standards Options

COMMERCIAL CANNABIS RETAILERS STANDARDS

17.28.010.FF.7

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

a. Use type includes:

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

b. Specific Provisions:

- i. No more than two (2) cannabis retailers shall be permitted within the City at any one time.
- ii. Cannabis retailers shall not exceed one thousand five hundred square feet (1,500 square feet), exclusive of office space, restrooms and other non-dispensary retail or educational uses.
 1. No dispensary may increase in size without amending the use permit. The size limitation shall be included in the operational plan required by 18.15.050(F), of this Chapter.
- iii. Permit Requirements and Application Procedure. A commercial cannabis permit for retailer issued in compliance with Section 17.28.010.FF.2 and this Section 17.28.010.FF.7 shall be required for any retailer dispensary operating within the City of Lakeport. 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 dispensaries 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 and shall be issued according to the following procedure:

1. The City Council shall, following an open application period and review of applications by the Community Development Director, consider commercial cannabis permit applications for retailers meeting all minimum qualifications at a properly noticed public hearing. The City Council may approve up to two (2) commercial cannabis permits for two (2) retailers to operate in the City at the same time, with necessary conditions.
 2. If a commercial cannabis permit for a retailer becomes available within twelve (12) months of a previous application period, City Staff may first review all minimally qualified applications from the prior application process, and consider them for submittal to the City Council prior to opening a new application process. If a new application process is opened, prior applicants may inform City Staff in writing that they wish to re-submit their application rather than file a new application.
 3. The City Council may adopt by resolution such forms, fees, and procedures as are necessary to implement this Chapter with respect to the initial selection, future selection, investigation process, renewal, revocation, and suspension of cannabis dispensary use permits. Such procedures may include a priority ranking system, and appointment of staff review panel for cannabis retailers use permits.
- iv. Compliance with Operating Plan and Conditions Required. In addition to the general requirements of Section 17.28.010.FF.2, a cannabis retailer shall submit, as a part of the use permit application, the operating plan shall provide that the retailer shall require, at a minimum, a doctor's written recommendation in compliance with state law for medical cannabis sales, as well as photo identification for any person entering the site.
 - v. Retail Supply. (a) A retailer may possess no more than (5) pounds of dried cannabis at any one time in addition to live plants for sale for medicinal purposes that are in a vegetative (not mature) state.
 - vi. 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.

- vii. No 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. No alcoholic beverages shall be allowed or consumed on the premises.
- viii. No cannabis retailer shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the use 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 uses are allowed on the same premises under state law). A retailer may sell manufactured cannabis, including edible products, and vaporizing devices if allowed by a permit issued by the Department of Health Services. Not more than ten percent (10%) of the retailer area, up to a maximum of fifty (50) square feet may be devoted to the sale of incidental goods for personal cannabis cultivation and use, but shall not include clothing, posters or other promotional items.
- ix. No cannabis shall be smoked on the premises, unless allowed under a condition of approval. The term “premises” includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. Onsite consumption of cannabis may be allowed if the cannabis retailer use permit explicitly allows it, and if done in accordance with state laws and regulations, as may be amended from time to time, and any conditions placed on the commercial cannabis permit, including those related to ventilation and odor control.
- x. Required Signage. 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:
 - 1. “The sale of cannabis without a state license is illegal.”
 - 2. “Smoking cannabis on this property, within twenty feet (20’) of the retailer, or in any public place is illegal under California law.”
 - 3. For medical cannabis dispensaries: “No one under the age of eighteen (18) shall be allowed on the premises, unless they are a qualified patient or a primary caregiver.”
 - 4. For nonmedical cannabis retailers: “No one under the age of twenty-one (21) shall be allowed on the premises.”

- xi. Microbusinesses. 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 Section 17.28.010.FF.7. Any such permit will count toward the City's maximum number of retailers. Any commercial cannabis permit issued to a microbusiness with a cultivation, manufacturing, testing and/or distribution component will also be subject to the requirements of Section 17.28.010.FF.3, 4, 5 and 6 for those operations.
- xii. Commercial cannabis cultivation, manufacturing and testing are prohibited on the same premises.
- xiii. Retail facility shall contain no window displays.
- xiv. All cannabis ~~transporters~~ **deliveries** shall have all records identifying the originating location and terminus of the cannabis, as well as all corresponding licenses **consistent with all applicable State licensing requirements**.
- xv. Required employee registrar shall contain driver identification and license information. Vehicle information including license, year, make and model shall also be listed in the registrar.
- xvi. Vehicles used in the delivery of cannabis shall have no signage and shall be un-marked.
- xvii. 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.
- xviii. Operating Hours. The maximum retail days and hours of operations shall be as follows:
 - 1. Monday through Saturday: 9:00 a.m. - 7:00 p.m.
 - 2. Sunday: 12:00 p.m. - 5:00 p.m.

- xix. Medicinal cannabis products or devices shall only be sold to an individual possessing a valid medicinal marijuana card and over the age of 18 years of age unless with a parent or guardian.

Attachment 3:

Draft Commercial Cannabis Definitions

DEFINITIONS

To be added to LMC Section 17.37

“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, that has psychoactive or medical properties, 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. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26000(f), as both may be amended from time to time. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. 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.

“Cannabis commercial uses” 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. “Commercial cannabis uses also means any cannabis activity licensed pursuant to additional state laws regulating such businesses. Commercial cannabis uses shall not include legal medical cannabis or cannabis activities carried out exclusively for one’s personal use that does not involve commercial activity or sales.

“Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.

“Cannabis dispensary” or “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 an establishment that delivers cannabis and/or cannabis, products as part of a retail sale.

“Cannabis distribution” means the location or a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries or delivery operations, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes, prior to transport to licensed dispensaries or delivery operations. This facility requires a Type 11 license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) or a state cannabis license type subsequently established.

“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 licensee for these activities.

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

“Cannabis nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

“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.

“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.

“Medical cannabis” or “medicinal cannabis” means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (“CUA,” Health and Safety Code section 11362.7 *et seq.*), the Medical Marijuana Program Act (“MMPA,” Health and Safety Code section 11362.7 *et seq.*) and the Medical Cannabis Regulation and Safety Act (“MCRSA,” Business and Professions Code section 19300 *et seq.*) and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”).

“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.

“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.

Attachment 4:

Proposed Commercial Cannabis Zoning Matrix

City of Lakeport Cannabis Regulation Matrix

Permit Type	State License Type(s)	R-1	R-2	R-3	R-5	PO	C-1	C-2	C-3	I
Personal/Medicinal Cultivation		P	P	P	P					
Commercial Cultivation	1A, 1C, 2A, 3A, 4 & 12									
Manufacturing	6 & 7								UP	UP
Testing	8					?	?	?	UP	UP
Distribution	11								ZP	ZP
Retailers	10 & 12					?	?	?	?	?

State License Types:

Type 1 - Cultivation specialty outdoor, up to 5,000 sq. ft. of canopy or 50 Plants

Type 1A - Cultivation; Specialty indoor. Up to 5,000 sq. ft.

Type 1B - Cultivation; Specialty mixed light. Using exclusively artificial lighting

Type 1C - Specialty Cottage, Combo natural / artificial light, 2,500 sq. ft. or less canopy/ 25 plants

Type 2 - Cultivation: outdoor up to 5,000 sq. ft.

Type 2A - Cultivation; Indoor 5,001- 10,000 sq. ft.

Type 2B - Cultivation; mixed light 5,001- 10,000 sq. ft.

Type 3 - Cultivation; Outdoor 10,001 sq. ft. -1 Acre

Type 3A - Cultivation: Indoor 10,001 - 22,000 sq. ft.

Type 3B - Cultivation; Mixed light 10,001 - 22,000 sq. ft.

Type 4 - Cultivation; Nursery, Indoor only

Type 6 - Manufacturer 1 for products not using volatile solvents

Type 7 - Manufacturer 2 for products using volatile solvents

Type 8 - Testing

Type 10 - Dispensary; General

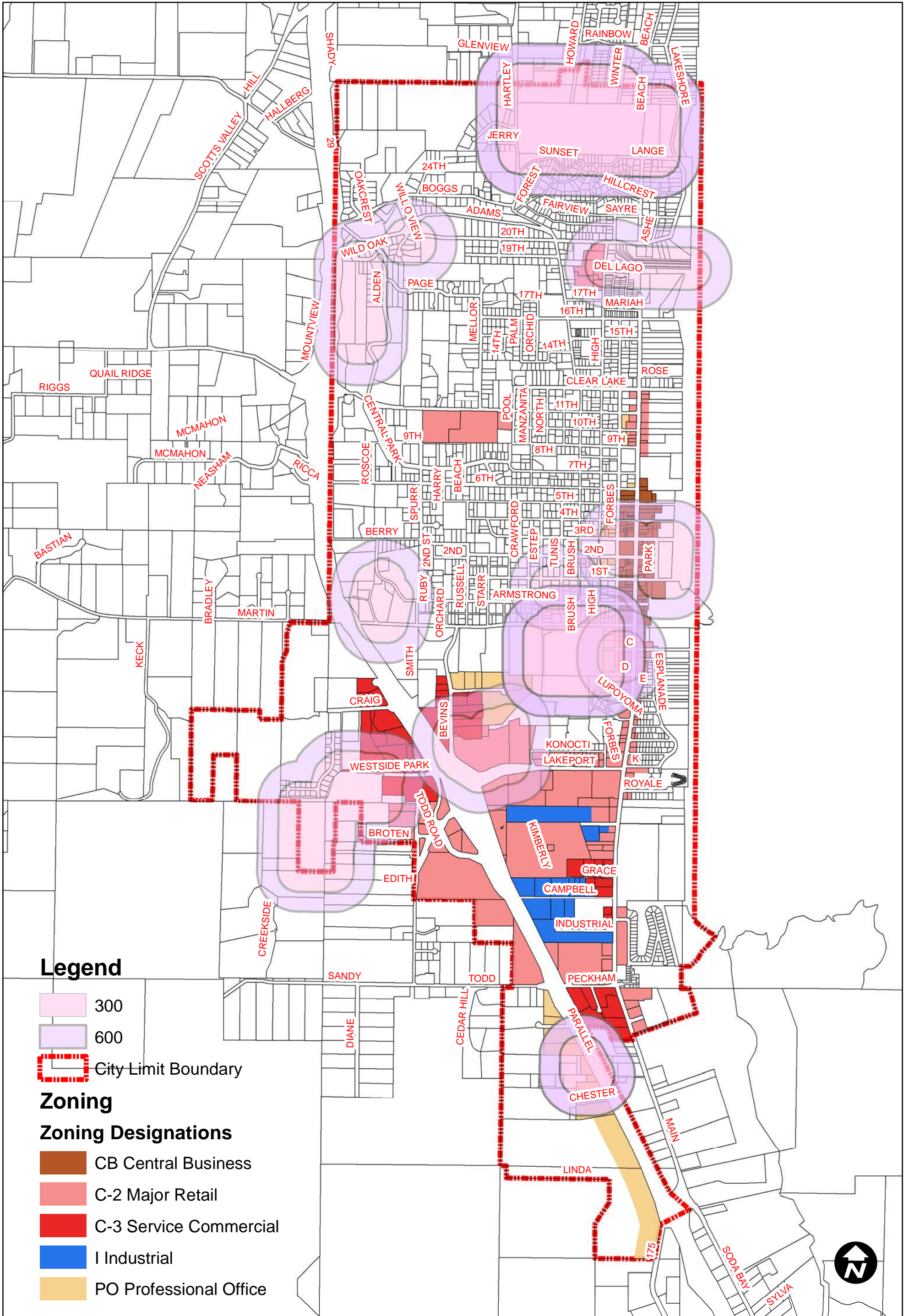
Type 10A - Dispensary; no more than three retail sites

Type 11 - Distribution

Type 12 - Microbusiness

Attachment 5:

Commercial Cannabis Buffers & Use Area Maps



Projected coordinate system name: NAD 1983 State Plane California II FIPS 0402 Feet
 Geographic coordinate system name: GCS North American 1983

**Current Draft Ordinance Buffers--Commercial Cannabis Use Areas
 (Schools, Pre-schools/Large Family Daycares, Parks)**

Attachment 6:

California Business & Professions Code Section Excerpts

Business and Professions Code (BPC)

Division 10. Cannabis Excerpts

26054(b):

A premises licensed under this division shall not be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

26055:

- (a) Licensing authorities may issue state licenses only to qualified applicants.
- (b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate pursuant to that license within California until a new license is obtained.
- (c) A licensee shall not change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until written approval by the licensing authority has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.
- (d) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.
- (e) An applicant may voluntarily provide proof of a license, permit, or other authorization from the local jurisdiction verifying that the applicant is in compliance with the local jurisdiction. An applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction shall be presumed to be in compliance with all local ordinances unless the licensing authority is notified otherwise by the local jurisdiction. The licensing authority shall notify the contact person for the local jurisdiction of any applicant that voluntarily submits a valid, unexpired license, permit, or other authorization from the local jurisdiction.
- (f)

- (1) A local jurisdiction shall provide to the bureau a copy of any ordinance or regulation related to commercial cannabis activity and the name and contact information for the person who will serve as the contact for state licensing authorities regarding commercial cannabis activity within the jurisdiction. If a local jurisdiction does not provide a contact person, the bureau shall assume that the clerk of the legislative body of the local jurisdiction is the contact person.
- (2) Whenever there is a change in a local ordinance or regulation adopted pursuant to Section 26200 or a change in the contact person for the jurisdiction, the local jurisdiction shall provide that information to the bureau.
- (3) The bureau shall share the information required by this subdivision with the other licensing authorities.

(g)

- (1) The licensing authority shall deny an application for a license under this division for a commercial cannabis activity that the local jurisdiction has notified the bureau is prohibited in accordance with subdivision (f). The licensing authority shall notify the contact person for the local jurisdiction of each application denied due to the local jurisdictions indication that the commercial cannabis activity for which a license is sought is prohibited by a local ordinance or regulation.
- (2) Prior to issuing a state license under this division for any commercial cannabis activity, if an applicant has not provided adequate proof of compliance with local laws pursuant to subdivision (e):
 - (A) The licensing authority shall notify the contact person for the local jurisdiction of the receipt of an application for commercial cannabis activity within their jurisdiction.
 - (B) A local jurisdiction may notify the licensing authority that the applicant is not in compliance with a local ordinance or regulation. In this instance, the licensing authority shall deny the application.
 - (C) A local jurisdiction may notify the licensing authority that the applicant is in compliance with all applicable local ordinances and regulations. In this instance, the licensing authority may proceed with the licensing process.
 - (D) If the local jurisdiction does not provide notification of compliance or noncompliance with applicable local ordinances or regulations, or otherwise does not provide notification indicating that the completion of the local permitting process is still pending, within 60 business days of receiving the inquiry from a licensing authority submitted pursuant to subparagraph (A), the licensing authority shall make a rebuttable presumption that the applicant is in compliance with all local ordinances

and regulations adopted in accordance with Section 26200, except as provided in subparagraphs (E) and (F).

- (E) At any time after expiration of the 60-business-day period set forth in subparagraph (D), the local jurisdiction may provide written notification to the licensing authority that the applicant or licensee is not in compliance with a local ordinance or regulation adopted in accordance with Section 26200. Upon receiving this notification, the licensing authority shall not presume that the applicant or licensee has complied with all local ordinances and regulations adopted in accordance with Section 26200, and may commence disciplinary action in accordance with Chapter 3 (commencing with Section 26030). If the licensing authority does not take action against the licensee before the time of the renewal of the license, the license shall not be renewed until and unless the local jurisdiction notifies the licensing authority that the licensee is once again in compliance with local ordinances.
 - (F) A presumption by a licensing authority pursuant to this paragraph that an applicant has complied with all local ordinances and regulations adopted in accordance with Section 26200 shall not prevent, impair, or preempt the local government from enforcing all applicable local ordinances or regulations against the applicant, nor shall the presumption confer any right, vested or otherwise, upon the applicant to commence or continue operating in any local jurisdiction except in accordance with all local ordinances or regulations.
- (3) For purposes of this section, “notification” includes written notification or access by a licensing authority to a local jurisdiction’s registry, database, or other platform designated by a local jurisdiction, containing information specified by the licensing authority, on applicants to determine local compliance.
- (h) Without limiting any other statutory exemption or categorical exemption, Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the adoption of an ordinance, rule, or regulation by a local jurisdiction that requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity. To qualify for this exemption, the discretionary review in any such law, ordinance, rule, or regulation shall include any applicable environmental review pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code. This subdivision shall become inoperative on July 1, 2019.
 - (i) A local or state public agency may charge and collect a fee from a person proposing a project pursuant to subdivision (a) of Section 21089 of the Public Resources Code.

26057:

- (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.
- (b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:
 - (1) Failure or inability to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow, water quality, and fish and wildlife.
 - (2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.
 - (3) Failure to provide information required by the licensing authority.
 - (4) The applicant, owner, or licensee has 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 licensing authority 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 licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant or owner, and shall evaluate the suitability of the applicant, owner, or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority 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 substance 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.
- (5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.
- (6) The applicant, or any of its officers, directors, or owners, has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
- (7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial cannabis activities, has had a license suspended or revoked under this division in the three years immediately preceding the date the application is filed with the licensing authority.
- (8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
- (9) Any other condition specified in law.