

## CITY COUNCIL OF THE CITY OF NOVATO

## ORDINANCE NO. 1656

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING CHAPTER XIX (ZONING) OF THE NOVATO MUNICIPAL CODE ADDING SECTION 19.34.066 (CANNABIS – COMMERCIAL ACTIVITIES) AND AMENDING TABLE 2-7 OF SECTION 19.12.030 (ALLOWABLE USES AND PERMIT REQUIREMENTS), SECTION 19.14.030(B) (SPECIAL PURPOSE DISTRICT LAND USES AND PERMIT REQUIREMENTS) AND SECTION 19.60.020 (DEFINITION OF SPECIALIZED TERMS AND PHRASES) AND FINDING THE AMENDMENTS EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061(b)(3) AND CALIFORNIA BUSINESS AND PROFESSIONS CODE SECTION 26055(H)**

**Section 1. FINDINGS**

The City Council of the City of Novato hereby finds and declares as follows:

**WHEREAS**, pursuant to its police powers and as authorized by the California Compassionate Use Act, the California Medical Cannabis Regulation and Safety Act (“MCRSA”), the Adult Use of Marijuana Act (“AUMA”), SB 94 and the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), the City may enact laws or regulations pertaining to cannabis cultivation, dispensing, manufacturing, distribution, transportation and testing within its jurisdiction; and

**WHEREAS**, the City Council has previously adopted ordinances governing cultivation of cannabis for personal use, as well as urgency ordinances to ban commercial cannabis operations until such time as these permanent regulations were developed and adopted; and

**WHEREAS**, the City of Novato currently regulates only personal cannabis cultivation pursuant to Novato Municipal Code Section 19.34.065; and

**WHEREAS**, the City wishes to establish a uniform regulatory structure for commercial cannabis operations in the City in accordance with state law; and

**WHEREAS**, these amendments to the City’s zoning regulations (Sections 19.12.030, 19.14.030(B) and 19.34.066), together with City Council amendments to Municipal Code Chapter 8 Licensing and Council resolutions adopted hereafter, will create a comprehensive licensing program to regulate commercial cannabis activities in the City; and

**WHEREAS**, notice of the Planning Commission’s public hearing on the Amendments was published in a 1/8<sup>th</sup> page legal ad in the Marin Independent Journal, a newspaper of local circulation, on September 13, 2019; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on September 23, 2019 to consider to consider and receive public testimony on the proposed amendments to Chapter 19, and

**WHEREAS**, following public testimony and deliberation, the Planning Commission voted to expand the zoning designations which would allow cannabis testing labs to all commercial zones which also allow Medical Clinics, Offices and Laboratories, with the exception of Neighborhood Commercial and that recommendation has been incorporated into these amendments; and

**WHEREAS**, the Planning Commission desired to communicate to the City Council their recommendation to re-evaluate the potential to add storefront retail as a permissible commercial cannabis activity as soon as possible; and

**WHEREAS**, notice of the City Council's public hearing on the Amendments was published in a 1/8<sup>th</sup> page legal ad in the Marin Independent Journal, a newspaper of local circulation, on October 11, 2019; and

**WHEREAS**, the City Council held a duly noticed public hearing on October 22, 2019 to consider to consider and receive public testimony on the proposed amendments; and

**WHEREAS**, this ordinance shall become effective only upon adoption of amendments to Municipal Code Chapter 8, Licensing, and upon the effective date of those amendments; and

**NOW THEREFORE**, it is the intent of the City Council of the City of Novato in enacting this ordinance, to provide for the public health, safety and welfare by enacting regulations which provide for the lawful establishment and operation of commercial cannabis manufacturing, sales, distribution, testing and cultivation activities and ensuring clear distinctions between the lawful and unlawful pursuit of commercial cannabis activities.

**Section II. RECITALS**

The foregoing recitals are true and correct and are incorporated into the findings herein.

**Section III. RECORD**

The Record of Proceedings ("Record") upon which the City Council bases its recommendation on the proposed amendments to the Municipal Code includes, but is not limited to: (1) the staff reports, City files and records and other documents, prepared or and/or submitted to the City relating to the proposed amendments; (2) all documentary and oral evidence received at public meeting and hearings or submitted to the City during the comment period relating to the amendments; (3) the City of Novato 1996 General Plan and its EIR; and (4) all other matters of common knowledge to the City Council including, but not limited to, City, State, and Federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas. The custodian of records is the City Clerk of the City of Novato, 922 Machin Avenue, Novato, CA 94945.

## Section IV. FINDINGS

Pursuant to Novato Municipal Code Section 19.56.070(C), the City Council hereby makes the following findings:

- a. The proposed amendments are consistent with the General Plan.

**Facts in Support.** The proposed amendments are intended to create zoning standards applicable to commercial cannabis uses. Following voter approval of Proposition 64, commercial cannabis activities are permissible, so long as local agencies adopt regulations governing the establishment of those activities. These amendments do not make any modification to existing land use designations or where those designations exist. The amendments add new specific uses to existing land use and zoning categories. With no changes proposed to land use categories, the amendments will not create any inconsistencies in the City's General Plan. In addition, the General Plan's Economic Development & Fiscal Vitality Element's Goal 1 is partially furthered by the addition of new uses. That goal reads:

*Goal 1: Provide jobs commensurate in pay and skill level for Novato residents and a balance of tax revenues for the City by expanding and maintaining diversity in Novato's economic base and focusing development efforts on clean, non-polluting businesses.*

- b. The proposed amendments would not be detrimental to the public interest, health, safety, convenience or welfare of the City.

**Facts in Support.** The proposed amendments are intended to comply with all state, regional and local regulations necessary to ensure commercial cannabis activities are lawfully established and operated in compliance with all applicable regulations and best practices to ensure safe and legal access to cannabis by the citizens of the City. The proposed zoning changes will result in land uses in commercially and industrially zoned areas that are compatible with existing and future uses and will not be detrimental to the public interest, health, safety, convenience or welfare of the City.

- c. The proposed project has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA) and the Novato Environmental Review Guidelines.

**Facts in Support.** The proposed amendments have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and it has been determined that they are exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions without any physical project being approved, it can be seen with certainty that there is no possibility that the amendments will have a significant effect on the environment. Specifically and additionally, as part of the review of any Proposal to establish and operate a cannabis business

in the City, the City has the authority to determine the appropriate level of environmental review and should same be necessary, require the Proposer to conduct that review as a condition to the awarding of any entitlement or permit under this Ordinance. This ordinance is also exempt under Business and Professions Code Section 26055 (H) which, until July 1, 2021, exempts the adoption of ordinances, rules or regulations on commercial cannabis which require subsequent discretionary review.

d. The proposed amendment is internally consistent with other applicable provisions of the Zoning Ordinance.

**Facts in Support.** The proposed amendments locate commercial cannabis activities in commercial and industrial zones, and at intensities, compatible with other similar activities allowed in those zones. With adoption of amendments to Table 2-7, Allowable Uses, designating the appropriate zoning categories; Section 19.14.030(B) Special Purpose Districts which specify additional restrictions and requirements on these uses; and Section 19.60.020 Definitions which establishes definitions particular to these specific uses, the amendments are internally consistent with other applicable provisions of Chapter 19 of the Code. The entirety of the Code will apply to medical and adult use cannabis as a new use classification, and identify particulars such as where the use is allowed, the appropriate permit authority, applicable development standards and operating requirements. Based on this compatibility and the additional regulations adopted to ensure security and management of potential nuisance factors, the proposed zoning amendments are consistent with the Zoning Ordinance.

**NOW, THEREFORE,** it is the intent of the City Council of the City of Novato in enacting this ordinance, to provide for the public health, safety and welfare by enacting regulations which provide for the lawful establishment and operation of commercial cannabis manufacturing, sales, distribution, testing and cultivation activities and ensuring clear distinctions between the lawful and unlawful pursuit of commercial cannabis activities.

## **Section V. Amendments**

**The City Council of the City of Novato does ordain as follows:**

Section 19.12.030 – Commercial/Industrial District Land Uses and Permit Requirements, is hereby amended to add specific commercial cannabis uses to certain zones as follows:

**TABLE 2-7  
ALLOWED USES AND PERMIT REQUIREMENTS FOR  
COMMERCIAL/INDUSTRIAL LAND USES**

TABLE 2-7 Allowed Uses and Permit Requirements For Commercial/Industrial Districts		P Permitted Use (2) UP Use Permit Required (3) --- Use Not Allowed						
LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LIO	
<b>MANUFACTURING &amp; PROCESSING USES</b>								
<u>Commercial Cannabis – Indoor Cultivation</u> (2),(17),(18)  (State license types 1, 2, 3, & 5)	---	---	---	---	---	P	P	19.34.066
<u>Commercial Cannabis – Nursery (indoor cultivation only)</u> (2),(17),(18)  (State license type 4)	---	---	---	---	---	P	P	19.34.066
<u>Commercial Cannabis – Manufacturing (non-volatile solvents/no solvents)</u> (2),(17),(18)  (State license types 6, N, P, S)	---	---	---	---	---	P	P	19.34.066
<u>Commercial Cannabis – Manufacturing (volatile solvents)</u> (2),(17),(18)  (State license types 7, N, P, S)	---	---	---	---	---	P	P	19.34.066
<u>Commercial Cannabis – Testing Laboratory</u> (2),(5),(17),(18)  (State license type 8)	P	---	P	P	P	P	P	19.34.066

TABLE 2-7 Allowed Uses and Permit Requirements For Commercial/Industrial Districts		P Permitted Use (2) UP Use Permit Required (3) --- Use Not Allowed						
LAND USE (1)	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	BPO	CN	CG	CDR	CDB	CI	LIO	
<u>Commercial Cannabis – Distribution</u> (2),(17),(18)  (State license types 11 and 13)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
<u>Commercial Cannabis – Microbusiness</u> (2),(17),(18)  (State license type 12, non-storefront retail only)	—	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
RETAIL USES								
<u>Commercial Cannabis – Retail, Non-Storefront</u> (2),(17),(18)  (State license type 9 only)	<u>P</u>	—	—	—	—	<u>P</u>	<u>P</u>	<u>19.34.066</u>
Marijuana Dispensaries	—	—	—	—	—	-	---	

KEY TO ZONING DISTRICT SYMBOLS

BPO	Business and Professional Office	CDB	Downtown Core Business
CN	Neighborhood Commercial	CI	Commercial/Industrial
CG	General Commercial	LIO	Light Industrial/Office
CDR	Downtown Core Retail		

**Notes:** (Only the notes that apply to this page are shown. A full list of notes is provided online at the end of Table 2-7.)

- (1) See Article VI for land use definitions. See Section 19.02.020.F regarding uses not listed.
- (2) Zoning Clearance required (Section 19.42.020). Design Review may also be required; see 19.42.030.
- (3) See Section 19.42.050 for Use Permit processing requirements.
- (4) Accessory use may be allowed in accordance with standards as promulgated by the Novato Fire Protection District and all other local, state and federal laws and regulations.

- (5) Use allowed only on upper floor or rear of site, with ground floor street frontage reserved for predominantly retail, entertainment and personal service uses.
- (17) All commercial cannabis activities are also allowed on any Planned District (PD) zoned property which carries a Novato General Plan land use designation of Commercial/Industrial (CI) or Light Industrial/Office (LIO). In addition, cannabis testing laboratories are also allowed on any property carrying a General Plan land use designation of Business and Professional Office (BPO), General Commercial (GC), or Downtown Core (CD) and Non-Storefront Retail sales of cannabis are also allowed on any property carrying a General Plan land use designation of Business and Professional Office (BPO).
- (18) Commercial cannabis activities must be issued a Commercial Cannabis Business Permit (CCBP) in addition to a Zoning Clearance prior to initiation of activities. See Novato Municipal Code Section 8-11 for licensing requirements and process information.

Section 19.14.030 – Special Purpose District Land Uses and Permit Requirements of the Novato Municipal Code is hereby amended as follows:

- B. *PD District Allowable Land Uses and Permit Requirements.* Allowable land uses, building intensity and/or residential densities, and permit requirements within a PD (Planned) zoning district shall be determined by the Council through the adoption of a Master Plan in accordance with Section 19.42.060. Land uses established through the Master Plan shall be consistent with the General Plan. An approved Master Plan shall constitute a rezoning and zoning text amendment for a particular site. Where provisions of the Master Plan conflict with other provisions of this Zoning Ordinance, the Master Plan shall control pursuant to Section 19.02. PD zoned property, which does not have an approved Master Plan and Precise Development Plan, may be used for agricultural activities as defined in Article 2 Section 19.08, Agricultural and Resource Zoning Districts. Permissible types and numbers of commercial cannabis activities established in Section 8-11 of the Novato Municipal Code and further described in Section 19.34.066 of this chapter, are allowed on any Planned District (PD) zoned property which carries a Novato General Plan land use designation of Commercial/Industrial (CI) or Light Industrial/Office (LIO). In addition to CI and LIO, cannabis testing laboratories are also allowed on any property carrying a General Plan land use designation of Business and Professional Office (BPO), General Commercial (GC), or Downtown Core (CD), and Non-Storefront Retail uses are allowed on any property carrying a land use designation of Business and Professional Office (BPO).

Section 19.34.066 – Cannabis – Commercial Activities of the Novato Municipal Code is hereby added as follows:

- A. *Purpose and Intent.* This section is not intended to give any person or entity authority to operate a commercial cannabis business. That authorization is granted through a licensing process, established in Section 8-11 of the Novato Municipal Code. The purpose of this section, together with Table 2-7 of Section 19.12.030 and Section 19.14.030(B), is to establish the allowable locations and operational limitations of commercial cannabis activities.

- B. *Applicability.* Nothing in this section shall be construed to allow any conduct or activity relating to the cultivation, manufacture, distribution, dispensing, sale, or consumption of cannabis that is otherwise illegal under local or state law, nor shall it be construed, to exempt any cannabis activity from any applicable electrical, plumbing, or other building permit or any land use standard or permitting requirements. No provision of this section shall be deemed a defense or immunity to any action brought against any person by the Marin County District Attorney's office, the Attorney General of the State of California or the United States of America.
  
- C. *Limitations on Activities.* Table 2-7 of Section 19.12.030 establishes the specific types of commercial cannabis activities which can be permitted through the licensing process established in Novato Municipal Code Section 8-11. Section 8-11 also establishes the maximum allowable number of each activity or license type.
  
- D. *Approval Authorities.* All newly established commercial cannabis activities must be approved by the City Council. Subsequent renewals may be granted by the City Manager or designee. A Zoning Clearance, signed by the Community Development Director or designee, is required prior to initiation of commercial cannabis activities. The City Council may adopt resolutions as well as administrative forms and procedures in order to establish operational requirements, standardize the approval process and for record keeping.
  
- E. *Prohibited Activities.* The following commercial cannabis activities are prohibited.
  - 1. No outdoor or mixed light cultivation is allowed.
  - 2. No storefront retail sales are allowed.
  - 3. Microbusinesses shall not include storefront retail sales.
  
- F. *Location Standards.* No commercial cannabis premises shall be established within 600-feet of a school providing instruction in kindergarten, or any grades 1 through 12, daycare center or Youth Center that is in existence at the time the commercial cannabis license is issued.

Division 19.60 - Definitions/Glossary of the Novato Municipal Code is hereby amended as follows:

All of the following definitions will be added except for those shown in ~~strikeout~~ which will be removed and repealed from Division 19.60.

**Division 19.60 - Definitions/Glossary** ..... 6-3

    19.60.010 - Purpose of Article..... 6-3



**C. Definitions, "C."**

**Cannabis Related Definitions.**

~~*Cannabis.* All parts of the plant *Cannabis sativa linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" includes cannabis that is used for medicinal, non-medicinal, or other purposes.~~

~~"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" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.~~

- 1. Cannabis.** This term refers to 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.
- 2. Cannabis accessories.** This term has the same meaning as in Section 11018.2 of the Health and Safety Code.

3. **Cannabis cultivation.** This term includes any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.
4. **Cannabis cultivation area (or canopy).** This term means the total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the drip-line of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.
5. **Cannabis cultivation – indoor.** This term means the cultivation of cannabis within a permanent, lockable structure, using exclusively artificial lighting.
6. **Cannabis cultivation - mixed-light.** This term means the cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures, or light deprivation systems are included in this category.
7. **Cannabis cultivation – outdoor.** This term means the cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering.
8. **Cannabis cultivation site.** This term means the location, premises, leased area(s), property, location or facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where all or any combination of those activities.
9. **Cannabis license.** Cannabis license means a state license issued pursuant to MAUCRSA.
10. **Cannabis licensee.** This term refers to a person issued a state license pursuant to California Business and Professions Code section 26050 and/or other applicable state laws.
11. ~~**Cannabis product.** 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 products.** This term means raw cannabis that has undergone a process whereby the raw agricultural product 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 product” also means marijuana products as defined by Section 11018.1 of the California Health & Safety Code and is not limited to medical cannabis products.

12. **Commercial Cannabis Permit, Cannabis Permit, or Permit.** When used in connection with an authorization granted under the Novato Municipal Code, these terms shall mean a permit issued by the City pursuant to Section 19.34.064 for the operation of a commercial cannabis business within the City.
13. **Commercial cannabis uses.** This term 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” does not include legal medical cannabis or cannabis activities carried out exclusively for one’s personal use that does not involve commercial activity or sales.
14. **Cannabis Distribution facility.** This term means the location or a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed retail 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 retailers 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.
15. **Cannabis Distributor.** This term means any commercial cannabis operation that distributes cannabis or cannabis products between licensees, under a valid state license Type 11, or a state cannabis license type subsequently established.
16. **Cannabis Manufacture.** When used in connection with the processing of commercial cannabis, this term means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
17. **Cannabis - Manufactured.** This term means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.
18. **Cannabis Manufacturer.** When used in connection with the processing of commercial cannabis, this term means a person that produces, prepares, propagates, or compounds manufactured 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, that holds a valid state Type 6 or 7 license, or a state cannabis license type subsequently established, and that holds a valid local license or permit.

19. **Cannabis Manufacturing.** When used in connection with the processing of commercial cannabis, this term 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 operated by a licensee for these activities.
20. **Cannabis - Medical or medicinal cannabis.** These terms are used interchangeably to mean 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”).
21. **Cannabis Microbusiness.** This term 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 found in Business and Professions Code section 26070(a)(3)(A), as may be amended from time to time, which cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and retailer.
22. **Cannabis Non-Storefront Retailer.** This term means a commercial cannabis facility where cannabis and/or cannabis products are offered for retail sale exclusively by delivery; where there is no storefront open to the public, operating under a state license type 9 or a cannabis license type subsequently established. This definition does not include mobile retailers.
23. **Cannabis Nursery.** This term means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. A nursery does not include retail sales.
24. **Cannabis - Person.** When used in connection with commercial cannabis activity, this term means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit, whether organized as a non-profit or for profit entity, and includes the plural as well as the singular number.
25. **Cannabis Premises.** When used in connection with commercial cannabis activity, this term means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and

shall only be occupied by one licensee. “Premises” does not include the leasehold spaces of other tenants on the same parcel or group of parcels joined by common facilities or shared amenities.

26. **Cannabis - Primary caregiver.** This term 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.
27. **Cannabis Processing.** This term means a cultivation site that conducts only trimming, drying, curing, grading, packaging, or labeling of cannabis and non-manufactured cannabis products.
28. **Cannabis - Public place.** When used in connection with commercial cannabis activity, this term means any publicly owned property or property on which a public entity has a right of way or easement. Public place also means any private property that is readily accessible to the public without a challenge or barrier, including but not limited to front yards, driveways, and private businesses.
29. **Cannabis - Qualifying patient or qualified patient.** These terms are used interchangeably and shall have the same meaning as set forth in Health and Safety Code section 11362.7, as may be amended from time to time.
30. **Cannabis - Operator.** When used in connection with commercial cannabis activities, this term means the natural person or designated officer responsible for the operation of any commercial cannabis use.
31. **Cannabis Retailer, cannabis dispensary or dispensary.** These terms are used interchangeably and mean a facility 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, under a state license type 10 or a cannabis license type subsequently established. This definition does not include mobile dispensaries.
32. **Cannabis Sale, sell, and to sell.** These terms are used as appropriate and when used in connection with commercial cannabis activity, shall have the same meaning as set forth in Business and Professions Code section 26001(aa), as the same may be amended from time to time: any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom such cannabis or cannabis product was purchased.
33. **Cannabis Testing service or Testing laboratory.** When used in connection with commercial cannabis activity, these terms mean 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, which is accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity and is licensed by the state. Businesses operating as a testing service or lab offer no services other than such tests and sell no products except testing supplies and materials.

34. **Cannabis - Volatile solvent.** This term means volatile organic compounds, including but not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O<sub>2</sub> or H<sub>2</sub>; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshall.

35. **Cannabis - Youth center.** When used in connection with commercial cannabis activity, this term means any public or private facility that is used only to host recreation or social activities for minors.

## **M. Definitions, "M."**

1. ~~**Marijuana Dispensary.** A facility, place, location, lot building, and/or storefront or mobile retail outlet (as "storefront" and mobile retail outlet" are used in California Health & Safety Code sec. 11362.768) where marijuana is provided or made available for medical purposes, whether or not in accordance with the Compassionate Use Act and/or the Medical Marijuana Program Act, including, but not limited to the cultivation, processing, dispensing, distribution, sharing, transportation, contribution, sale trade or gift of marijuana by any person, entity, operator, provider, business or establishment, for profit or otherwise, or by or through a club, membership, collective, cooperative, or other entity or organization. "Collective" and "cooperative" shall have the same meaning as set forth in the "State Attorney General Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use," August 2008.~~

## **Section VI. Severability**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

## **Section VII. CEQA**

This Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA) and the State CEQA Guidelines and it has been

determined that approval of the ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions without any physical project being approved, it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment. Specifically and additionally, as part of the review of any Proposal to establish and operate a cannabis business in the City, the City has the authority to determine the appropriate level of environmental review and should same be necessary, require the Proposer to conduct that review as a condition to the awarding of any entitlement or permit under this Ordinance. This ordinance is also exempt under Business and Professions Code Section 26055 (H) which, until July 1, 2021, exempts the adoption of ordinances, rules or regulations on commercial cannabis which require subsequent discretionary review. The City Council concurs in these findings and adopts them as its own. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Marin in accordance with CEQA Guidelines.

**Section VIII: Publication and Effective Date**

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption,

or


publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

This ordinance shall become effective 30 days after the date of its passage and adoption.


\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing ordinance was first read at a regular meeting of the Novato City Council on the 22<sup>nd</sup> day of October, 2019, and was passed and adopted at a regular meeting by the City Council of the City of Novato, Marin County, California, held on the 12<sup>th</sup> day of November, 2019 by the following vote, to wit:


AYES: Councilmembers Eklund, Athas, Drew, Lucan  
NOES: Councilmembers  
ABSTAIN: Councilmembers  
ABSENT: Councilmembers

  
\_\_\_\_\_  
Mayor of the City of Novato

Attest:

  
\_\_\_\_\_  
City Clerk of the City of Novato

Approved as to form:

  
\_\_\_\_\_  
City Attorney of the City of Novato