

ORDINANCE NO. 0002-2023

**AN ORDINANCE OF THE CITY OF MCFARLAND ADDING
TITLE 19, CHAPTERS 19.04.010 THROUGH 19.04.370 OF
THE MCFARLAND MUNICIPAL CODE.**

Section 1. Recitals

WHEREAS, the City of McFarland (the “City”) has the authority under Article XI, Section 7 of the California Constitution, to enact regulations for the public peace, morals, and welfare of the City; and

WHEREAS, in 1996, with the adoption of Proposition 215, the California voters approved the Compassionate Use Act (Health and Safety Code § 11362.5) to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances; and

WHEREAS, in 2004, the State Legislature enacted SB 420, the Medical Marijuana Program Act (Health and Safety Code § 11362.7 *et seq.*), clarifying the scope of the Compassionate Use Act, providing additional statutory guidance regarding medical cannabis use, and allowing cities and counties to adopt supplemental rules and regulations; and

WHEREAS, on October 9, 2015, the Governor signed the Medical Marijuana Regulation and Safety Act (“MMRSA”), comprised of California legislative bills AB 243, AB 266, and SB 643, creating a comprehensive state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medicinal marijuana, all subject to local control; and

WHEREAS, on June 27, 2016, the Governor signed SB 837, changing the title of MMRSA to the Medical Cannabis Regulation and Safety Act (“MCRSA”), changing the terminology therein from “medical marijuana” or “marijuana” to “medical cannabis” or “cannabis,” and making other technical changes thereto. SB 837 also adopted regulations relating to the use and diversion of water in connection with the cultivation of cannabis; and

WHEREAS, at the November 8, 2016, general election, the California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”), establishing a comprehensive regulatory and licensing scheme for commercial recreational (adult-use) cannabis operations, and legalizing limited personal adult-use cannabis use, possession, and cultivation; and

WHEREAS, on June 27, 2017, Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the regulatory regimes of MCRSA and AUMA; and

WHEREAS, MAUCRSA, at Business & Professions Code §26050, establishes 20 different types of state licenses, including permit types pertaining to cannabis cultivation, manufacturing, testing, retailing, and distribution, which medicinal and adult-use cannabis businesses must obtain, depending on the nature of the cannabis business, in order to operate legally in the State; and

WHEREAS, MAUCRSA, at Business & Professions Code §26200(a)(1), provides that local jurisdictions may adopt and enforce local ordinances to regulate or prohibit any or all types of medicinal and adult-use business operations licensed by the state under Business & Professions Code §26050, including, but not limited to, by imposing local zoning and land use requirements; and

WHEREAS, MAUCRSA, at Business & Professions Code §26055(d), provides that a State commercial cannabis license may not be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation; and

WHEREAS, MAUCRSA, at Business & Professions Code §26201, provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state for the various types

of medicinal and adult-use commercial cannabis operations licensed by the state under Business & Professions Code §26050 shall be the minimum standards, and that a local jurisdiction may establish additional or more stringent standards, requirements, and regulations; and

WHEREAS, pursuant to MAUCRSA, the California Bureau of Cannabis Control (“BCC”), Department of Food and Agriculture (“CDFA”), and Department of Public Health (“CDPH”) adopted emergency regulations which establish additional State license types and specify the process and requirements for obtaining state licenses to engage in all types of commercial medicinal and adult-use cannabis activities in the State of California (“Regulations”); and

WHEREAS, the Regulations were approved by the State Office of Administrative Law on December 7, 2017; and

WHEREAS, the BCC is now accepting applications for temporary and annual state licenses for commercial cannabis retailers, distributors, microbusinesses, testing laboratories, and cannabis events; and

WHEREAS, the CDPH is now accepting applications for temporary and annual state licenses for commercial cannabis manufacturers; and

WHEREAS, the CDFA is now accepting applications for temporary and annual state licenses for commercial cannabis cultivators, nurseries and processors; and

WHEREAS, several California cities have reported negative impacts of cannabis cultivation and related activities, including but not limited to offensive odors, criminal activity, (such as trespassing, theft, violent robberies and robbery attempts, and the illegal sale and distribution of cannabis), and public health and safety concerns (such as fire hazards and problems associated with mold, fungus, and pests); and

WHEREAS, cannabis plants, as they begin to flower and for a period of two months or more, produce a strong odor, offensive to many people, and detectable far beyond property boundaries if grown outdoors or if grown indoors without proper ventilation, odor control, and other regulations; and

WHEREAS, due to the value of cannabis plants and their strong smell (which alerts others to their locations), cannabis cultivation has been linked to break-ins, robbery, armed robbery, theft and attendant violence and injury, creating an increased risk to public safety; and

WHEREAS, unregulated cannabis cultivation can be harmful to the welfare of the surrounding community and its residents and can constitute a public nuisance, in that cannabis cultivation has been shown to involve avoidance of environmental laws and regulations, and has resulted in the pollution of waters and navigable waterways in the State of California; and

WHEREAS, unregulated indoor cultivation of cannabis has potential adverse effects on the structural integrity of the buildings in which cannabis is cultivated, and the use of high wattage grow lights and excessive use of electricity in such buildings increases the risk of fire, which presents a risk of property damage to the building and neighboring buildings, and endangers the building's occupants and nearby residents; and

WHEREAS, unregulated indoor cultivation of cannabis can also be harmful to the public health, safety and welfare in that electrical modifications risk fires, poor irrigation can cause mold, overloaded circuits can leave entire neighborhoods in the dark, plant chemicals can cause illness, improper carbon dioxide mixed with insufficient ventilation can cause injury or death, and structural changes put first responders in danger if they rush into the unknown; and

WHEREAS, the Attorney General’s August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognize that the cultivation or other concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering and/or crime; and

WHEREAS, there are numerous well publicized studies and reports, as well as numerous documented incidents in Kern County and throughout the State, which show that unregulated cannabis activities have a significant adverse effect on the community; and

WHEREAS, in the absence of a formal regulatory framework, the adverse impacts frequently associated with commercial cannabis activities will occur, resulting in a potentially significant negative impact upon the environment and upon public health, safety, and welfare of the community; and

WHEREAS, outdoor cannabis cultivation and unregulated indoor cannabis cultivation are likely to result in these negative effects on the public health, safety, and welfare in the City, as reflected by the experiences of other cities; and

WHEREAS, the City has a compelling interest in protecting the public health, safety, and welfare of its citizens, residents, visitors and businesses, and in preserving the peace and quiet of the neighborhoods within the City by regulating commercial cannabis activities; and

WHEREAS, based on the foregoing and pursuant to the above-described express statutory authority and its police power, the City desires to explicitly prohibit certain cannabis activities, including outdoor cultivation (for both medicinal and adult-use), and to enact reasonable regulations for other commercial cannabis activities to protect and promote public health, safety and welfare; and

WHEREAS, under U.S. Supreme Court precedent, government agencies generally may conduct regulatory inspections of “closely regulated” businesses without reasonable suspicion that the business subject to inspection has violated a statute or regulation, provided that the governmental agency conducting the inspection has “special needs,” beyond its ordinary interest in enforcement of criminal statutes, to conduct inspections, the regulations in the particular area could not be enforced if public officials could conduct inspections only when they have a reasonable suspicion that a violation has occurred, the businesses subjected to inspection are engaged in a particular category of activity that reduces the reasonable expectation of privacy of those engaged in such activities in relation to the inspections at issue, and the discretion of inspecting officials is reasonably constrained by the authorizing statute (*People v. Maikhio*, 51 Cal.4th 1074, 1091-92 (2011)); and

WHEREAS, commercial cannabis businesses cultivate, manufacture, dispense, distribute, test, or engage in other business activities relating to a historically criminalized substance which is often used for medical purposes, which can cause health and safety issues for those consuming it, which can be unsafe if improperly cultivated, manufactured or handled, and which is subject to illegal diversion, and as a result, state and local government agencies, including the City, have a strong governmental interest in regulating such businesses; and

WHEREAS, businesses engaged in commercial cannabis activities constitute “closely regulated” businesses which have a reduced reasonable expectation of privacy due to the strong governmental interest in regulating such activities to protect against the potential risks to public health and safety relating to such activities, and therefore the probable cause and warrant requirements ordinarily required for law enforcement searches are relaxed as to such businesses; and

WHEREAS, the City has a special need, beyond its ordinary interest in enforcement of criminal statutes, to conduct regulatory inspections of commercial cannabis businesses due to the unique threats to public health, safety and welfare posed by such businesses, including but not limited to risks of fire and explosion resulting from improper cultivation, manufacturing or other processes used by such businesses, and the increased risk of crime, in the absence of proper security measures, resulting from the presence of valuable property on the premises of such businesses; and

WHEREAS, the regulations imposed by this Ordinance could not be effectively enforced if the City’s officials could conduct inspections only when they have a reasonable suspicion that a violation has occurred, because often the threats to public health, safety and welfare arising from a commercial cannabis business will not be apparent from the outside, and any prior notice requirements associated with such inspections would allow such businesses to temporarily conceal or remove the conditions that give rise to such threats for purposes of passing the inspection, only to allow such conditions to return thereafter; and

WHEREAS, based on the foregoing, the City Council intends to authorize reasonable suspicionless inspections of commercial cannabis business in the City by local officials as necessary to enforce this Ordinance and thereby safeguard public health, safety and welfare, and

to impose reasonable constraints on the discretion of such inspecting officials by limiting their inspection authority to confirming compliance with this Ordinance and the applicable laws and regulations referenced herein; and

WHEREAS, in 2017, the City adopted Sections 5.04.045 of Title 5 of the McFarland Municipal Code, 17.08.045 and 17.08.050 of Title 17 of the McFarland Municipal Code pertaining to Cannabis, placing a complete ban on medical and adult use cannabis in the City based upon various health, safety and welfare and land use findings relating to marijuana cultivation, dispensing, and consumption; and

WHEREAS, The City of McFarland (“City”) desires to adopt a Municipal Code Chapter related to Commercial Cannabis Activity;

WHEREAS, The Ordinance updates the Municipal Code to add the definition of Commercial Cannabis Activity, and the Standards for, and Process, Procedures, and Permits necessary for attaining a Commercial Cannabis Activity;

WHEREAS, Adoption of this Ordinance will provide uniform and comprehensive regulations and standards related to Title 19, Chapters 19.04.010 through 19.04.370 of the McFarland Municipal Code.

WHEREAS, Adoption of this Ordinance is in furtherance of the City’s goals and objectives while reducing the potentially negative impacts arising from potentially deficient and/or incomplete/incompatible Municipal Code Chapters.

WHEREAS, it is the intention of the City Council that this Ordinance be interpreted to (1) not allow any person to engage in conduct that endangers others or causes a public nuisance; and (2) be interpreted to be compatible with federal and state enactments and in furtherance of the public purposes that those enactments encompass; and

WHEREAS, all legal prerequisites to the adoption of this ordinance have occurred.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

Section 2. Chapter 19.04 of the McFarland Municipal Code is hereby added to the McFarland Municipal Code to read as follows:

**TITLE 19 - MARIJUANA
CHAPTER – 19.04 COMMERCIAL CANNABIS ACTIVITY**

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Section 19.04.010 - Purpose and Intent.

- (a) It is the purpose and intent of this Chapter to adopt local prohibitions and regulations applicable to commercial cannabis activity as may be permitted by the Medicinal and Adult-Use Cannabis Regulation and Safety Act and other applicable State law, as amended, pertaining to regulation of commercial cannabis and the use of land, in order to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, manufacturing and testing of cannabis and cannabis products in a manner which is responsible and which protects the health, safety, and welfare of the residents of the City, and to enforce rules and regulations consistent with applicable state law including, but not limited to, the Medicinal and Adult-Use Cannabis Regulation and Safety Act, the Adult Use of Marijuana Act, the Compassionate Use Act of 1996, and the Medical Marijuana Program Act. In furtherance of these objectives, this Chapter imposes an annual regulatory permit requirement, employee work permit requirements, and operating requirements applicable to persons who seek to own, operate, or engage in commercial cannabis businesses within the City as authorized under this Chapter or the McFarland Municipal Code. Nothing in this Chapter is intended to authorize any activity which is in violation of state or federal law. The provisions of this Chapter are in addition to the business license requirements applicable to business conducted in the City, and to all other applicable requirements of the McFarland Municipal Code.
- (b) Pursuant to Section 7 of Article XI of the California Constitution, the City is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding commercial cannabis activity, including health and safety, testing, laboratory operations and safety, security, and worker protections established by the State, or any of its agencies, departments, or divisions, shall be the minimum standards applicable in the City, and the provisions of this ordinance shall apply in addition thereto.

Section 19.04.020 - Definitions.

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

- (a) "Building Official" means the Building Official for the City or his/her designee.
- (b) "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or

purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. (c) "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "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 the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. For the purpose of this Chapter, "Cannabis" does not mean industrial hemp as that term is defined by Section 11018.5 of the California Health and Safety Code.

- (c) "Cannabis concentrate" means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health & Safety Code, or a drug, as defined by Section 109925 of the Health & Safety Code.
- (d) "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.
- (e) "Chief of Police" means the Chief of Police for the McFarland Police Department or his/her designee.
- (f) "City Manager" means the City Manager for the City or his/her designee.
- (g) "Commercial cannabis activity" or "commercial cannabis business" includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale (including retail and wholesale) of cannabis or cannabis products conducted or engaged in by any person, except cultivation and possession of cannabis for personal use as governed by McFarland Municipal Code Chapter 8.29, Section 8.29.05 and/or as preempted by State law.
- (h) "Commercial cannabis permit" means a permit issued by the City pursuant to this Chapter to a commercial cannabis business.
- (i) "Cultivation" means any activity involving the propagation, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (j) "Cultivation site" means a facility where cannabis is propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or where all or any combination of those activities occur.
- (k) "Day care center" means, as the term is understood in Business & Professions Code Section 26001(o), as may be amended, any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age childcare centers.
- (l) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer at the customer's home or other location remote from the premises of the commercial cannabis business making the delivery and includes the use by a retailer of any technology platform. "Delivery" does not mean or include storefront sales.
- (m) "Distribution" means the procurement, sale and transport of cannabis and cannabis products between licensees.
- (n) "Distributor" means a licensee engaged in distribution.
- (o) "Edible cannabis product" means a cannabis product that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined

by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.

- (p) Employee – See (ff) Responsible Person.
- (q) "Fire Chief" means the Fire Chief for the City as designated by the Kern County Fire Department, or his or her designee.
- (r) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996.
- (s) "Labeling" means any label or other written, printed, or graphic matter upon a cannabis product, upon its container or wrapper, or that accompanies any cannabis product.
- (t) "License" or "State License" means a license issued by the State of California, or one of its departments or divisions, pursuant to Division 10 of the California Business & Professions Code. "Licensee" means a person holding a State License.
- (u) "Live plants" means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.
- (v) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
- (w) "Manufacturer" means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container; "Manufacturer" includes the activity of manufacturing.
- (x) "Manufacturer 1" means a licensee that manufactures cannabis products using nonvolatile solvents, or no solvents.
- (y) "Manufacturer 2" means a licensee that manufactures cannabis products using volatile solvents.
- (z) "Microbusiness" means a license that does at least three of the following activities at one location: Cultivation- up to 10,000 total square feet, Manufacturing- use of non-volatile solvents, mechanical extraction or infusion, Distribution or Distribution Transport Only, Retail – storefront or non-storefront.
- (aa) "Nursery" means a licensee that produces only cannabis clones, immature cannabis plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- (bb) "Owner" means any person who has an ownership interest in a commercial cannabis business.
- (cc) "Package" means any container or receptacle used for holding cannabis or cannabis products.
- (dd) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, nonprofit organization, or any other group or combination acting as a unit and includes the plural as well as the singular.
- (ee) "Premises" means the designated structure or structures and the surrounding land that is owned, leased or otherwise held under the control of a commercial cannabis permit applicant or permittee where commercial cannabis activity will be or is conducted. This definition does not alter the meaning of the term "Premises" as utilized by the State of California for commercial cannabis licensing.

- (ff) "Responsible person" means any person who is responsible for, or who will oversee or participate in, the direction, control, management, or supervision of a commercial cannabis business.
- (gg) "Retailer" means a person who engages in the retail sale of cannabis or cannabis products to customers.
- (hh) "Sell," "sale" and "to sell" include any transaction whereby, for any consideration, title to cannabis or cannabis products is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting and 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 the cannabis or cannabis product was purchased.
- (ii) "School" means, as the term is understood in Business & Professions Code Section 26054(b), as may be amended, a place of instruction in kindergarten or any grades 1 through 12.
- (jj) "State" means the State of California and all of its departments, divisions and agencies, including but not limited to the Bureau of Cannabis Control, the Department of Public Health, and the Department of Food and Agriculture.
- (kk) "Stacking" means cultivating cannabis plants on platforms or tables and stacking them in multiple layers on top of each other.
- (ll) "Storefront sales" means the retail sale of cannabis or cannabis products directly to customers from a storefront, dispensary, or other permanent building or structure, or in any manner that does not constitute delivery. "Storefront sales" does not include delivery
- (mm) "Testing Laboratory" means a laboratory, facility or entity that offers or performs tests of cannabis or cannabis products and that is both: (1) accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity; and (2) a State licensee.
- (nn) "Topical cannabis" means a cannabis product intended for external application. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (oo) "Volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.
- (pp) "Youth center" means, as the term is understood in Business & Professions Code Section 26001(av), as may be amended, any public or private facility that is primarily used to host recreational or social activities for minors, including but not limited to private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

Section 19.04.030 - Applicability to Personal Cannabis Activity.

This Chapter applies only to commercial cannabis activities. Except as otherwise provided by this Chapter, cultivation of cannabis for personal use is governed by Section 19.04.030 of the McFarland Municipal Code, as may be amended from time to time, and consumption of cannabis is governed by Section 19.04.370 of the McFarland Municipal Code, as may be amended from time to time.

Section 19.04.040 - Permitted Types of Commercial Cannabis Businesses

- (a) Commercial cannabis operations within the City, which comprise the activities of indoor cultivation, mixed-light cultivation, nursery cultivation, retailer, manufacturer, testing laboratory, distributor, and microbusiness are allowed subject to issuance and maintenance of the permits and entitlements set forth in Section 19.04.060, continuing compliance with this Chapter and all other applicable City and State laws and regulations, and issuance and maintenance of a valid and current State license of a classification listed below, as provided for in Business & Professions Code Section 26050 and applicable State regulations:
 1. Type 1A = Cultivation; Specialty Indoor; Small.

2. Type 2A = Cultivation; Indoor; Small.
3. Type 3A = Cultivation; Indoor; Medium.
4. Upon authorization by the State of California, Type 5A = Cultivation; Indoor; Large.
5. Type 6 = Manufacturer 1.
6. Type 7 = Manufacturer 2.
7. Type N = Manufacturer (i.e. no extractions, pursuant to 17 CCR § 40118, as may be amended).
8. Type P = Manufacturer (i.e. packaging and labeling only, pursuant to 17 CCR § 40118, as may be amended).
9. As authorized by California Code of Regulations, Type 9 = Non-Storefront Retailer (i.e. retail sales by delivery only, pursuant to 16 CCR § 5414, as may be amended).
10. Type 10 = Retailer (subject to Section 8.29.050, i.e. delivery only).
11. Type 10 = Store Front Retail. A storefront retailer has a physical location Where cannabis goods are sold. Store front retailers can also deliver cannabis goods.
8. Type 11 = Distributor.
9. Type 12 = Microbusiness (subject to Sections 8.29.05.04(c) and 8.29.050).
10. Type 13 = Distributor (i.e. transport only, pursuant to 16 CCR § 5315, as may be amended)

- (b) Any commercial cannabis activity not expressly authorized by this Chapter is prohibited.
- (c) The number of commercial cannabis permits authorizing the operation of a microbusiness requiring a Type-12 State License that may be active or valid in the City at any given time shall not exceed two (2) permits, or a lower number as may be established by the City Council.
- (d) The number of commercial cannabis permits authorizing the operation of a retail requiring a Type-10 State License that may be active or valid in the City at any given time shall not exceed two (2) permits, or a lower number as may be established by the City Council.
- (e) The number of commercial cannabis permits authorizing the operation of distribution requiring Type 11 and 13 State License that may be active or valid in the City at any given time shall not exceed two (2) permits, or a lower number as may be established by the City Council.
- (f) The number of commercial cannabis permits authorizing the operation of cultivation requiring Type 1A, 2A, 3A, and 5A State License that may be active or valid in the City at any given time shall not exceed two (2) permits, or a lower number as may be established by the City Council.
- (g) The number of commercial cannabis permits authorizing the operation of manufacturing requiring Type 6, 7, N, and P State License that may be active or valid in the City at any given time shall not exceed two (2) permits, or a lower number as may be established by the City Council.

Section 19.04.050 - Prohibited Types of Commercial Cannabis Businesses

- (a) Commercial cannabis businesses within the City which involve the activities of outdoor cultivation and storefront sales are prohibited in the City. This prohibition includes, but is not limited to, commercial cannabis activities licensed by the State license classifications listed below, as provided for in Business & Professions Section 26050 and applicable State regulations:
 1. Type 1= Cultivation; Specialty Outdoor; Small.
 2. Type 1B = Cultivation; Specialty Mixed-Light; Small
 3. Type 1C = Cultivation: Specialty Cottage; Small
 4. Type 2 = Cultivation; Outdoor; Small.
 5. Type 2B = Cultivation; Mixed-Light; Small
 6. Type 3= Cultivation; Outdoor; Medium.
 7. Type 3B = Cultivation; Mixed-Light; Medium

8. Type 4 = Cultivation; Nursery
9. Type 5 = Cultivation; Outdoor; Large.
10. Upon authorization by the State of California, Type 5B = Cultivation; Mixed-Light; Large.
11. Type 8 = Testing Laboratory

- (b) Except as otherwise expressly provided in this Chapter, the prohibition of subsection (a) includes any similar commercial cannabis activities authorized under new or revised State licenses, or any other State authorization, for any type, category, or classification of commercial cannabis activities which involve the above-referenced or similar activities or operations.
- (c) Consistent with Business & Professions Code Section 26080, nothing in this Chapter shall be interpreted to prohibit the use of the public roads of the City by a State licensee in the course of making cannabis deliveries to and from areas outside of the City.

Section 19.04.060 - Required Licenses and Permits.

- (a) It shall be unlawful to own, establish, operate, use, or allow the establishment or activity of a commercial cannabis business, or to participate in a commercial cannabis business as an employee, contractor, agent, volunteer, or in any manner or capacity, other than as provided in this Chapter and pursuant to the following:
 1. A valid and current commercial cannabis permit(s) issued by the City pursuant to this Chapter; and
 2. The equivalent State license(s) for such commercial cannabis business issued pursuant Division 10 of the Business & Professions Code, as may be amended; and
 3. Employee Badge pursuant to Section 19.04.090 ; and
 4. A valid City business license.
- (b) The City Manager is hereby authorized to issue commercial cannabis permits on behalf of the City. The City Manager, or designee, in his or her sole discretion, may issue a commercial cannabis permit only upon confirming that the applicant to whom the permit is to be issued has satisfied all of the requirements of this Chapter and the other applicable provisions of the McFarland Municipal Code, as may be amended from time to time, any regulations promulgated pursuant to this Chapter, and any law or regulation enacted by the State of California or any department of the State governing commercial cannabis activities.
- (c) Commercial cannabis permits shall be governed by the following requirements and limitations:
 1. Commercial cannabis permits may only permit the types of cannabis activity expressly authorized by this Chapter.
 2. No commercial cannabis permit shall authorize public access to any commercial cannabis business. Only persons involved in the bona fide business activities of a commercial cannabis business shall be authorized to access the premises of a commercial cannabis business.
 3. Commercial cannabis businesses shall not employ or grant access to any individual who is under twenty-one (21) years of age.
 4. Each commercial cannabis permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance and must thereupon be renewed. Continued operation of a commercial cannabis business after expiration of a commercial cannabis permit shall be unlawful and a violation of this Chapter.
 5. Prior to issuance of any commercial cannabis permit, each proposed commercial cannabis business shall be subject to the mandatory inspections provided by Section 19.04.150 and shall obtain all required permits or approvals which are otherwise required for the premises by applicable law, including, but not limited to, building permits, California Fire Code approvals, and planning-level permit(s) required by Title 17 Zoning of the McFarland Municipal Code. City Manager may issue a Conditional Commercial Cannabis Permit where the business is actively implementing conditions, obtaining clearances and licenses from local agencies and the state of California. Temporary Certificate of Occupancy may be issued by the Building Official where such occupancy is near completion of required

improvements and where the Building Official and Fire Agency finds that no health and safety factors exists.

6. Consistent with Business and Professions Code Section 26053, a commercial cannabis business conducting multiple commercial cannabis activities shall obtain a commercial cannabis permit authorizing each type and location of commercial cannabis activity prior to engaging in that activity. A commercial cannabis business licensed by the State to conduct multiple commercial cannabis activities shall not receive a commercial cannabis permit authorizing any commercial cannabis activity within the City that is not expressly authorized by this Chapter. An applicant may be issued a commercial cannabis permit authorizing multiple different types of commercial cannabis activities as defined by applicable State license classifications, consistent with the requirements of Business and Professions Code Section 26053 and/or a Type 12 "Microbusiness" State license.
7. Revocation, termination, denial, non-issuance or suspension of a State license shall immediately and automatically terminate the commercial cannabis permit, and all commercial cannabis activity shall immediately cease. Upon reinstatement or receipt of a new State license, the commercial cannabis activity may file for a new permit from the City. While a new application for a commercial cannabis permit is pending, the applicant shall not engage in any commercial cannabis activity. Violations of this Section shall be grounds for denial of an application for a commercial cannabis permit and for the enforcement, penalties and cost recovery prescribed within Section 19.04.107 and any other applicable provisions of the McFarland Municipal Code.
8. The issuance of a commercial cannabis permit shall constitute a revocable privilege and shall not create or establish any vested rights for the development or use of any property.
9. A County Health Depart Permit shall be required of any cannabis business who produces or sales edible cannabis products.
10. A Commercial Cannabis business is not required to acquire a City conditional use permit to operate under this Chapter.

(d) Renewals of commercial cannabis permits shall be governed by the following requirements and limitations:

1. Applications for renewal of commercial cannabis permits shall be filed with the City Manager at least sixty (60) calendar days prior to the expiration date of the permit and shall be subject to all requirements applicable to an application for initial issuance of a commercial cannabis permit.
2. An application for renewal of a commercial cannabis permit shall be denied if any of the following exists:
 - i. The application is filed less than sixty (60) calendar days before expiration of the commercial cannabis permit. Notwithstanding the foregoing, the City Manager, in his discretion, may accept an application filed between thirty (30) and sixty (60) days before expiration based upon a showing of good cause by the applicant for the late filing.
 - ii. The commercial cannabis permit, or any of the other entitlements required for the commercial cannabis to operate in compliance with this Chapter, is suspended or revoked at the time the application for renewal is submitted or is suspended or revoked while the application for renewal is pending.
 - iii. The commercial cannabis business or activity has not been in regular and continuous operation during the four (4) months prior to the submission of the application for renewal.
 - iv. The commercial cannabis business is in noncompliance with any provision of this Chapter, any regulation promulgated pursuant hereto, any other provision of the McFarland Municipal Code applicable to the commercial cannabis business, or any condition of approval of the commercial cannabis permit or any other entitlement issued by the City to the commercial cannabis business.
 - v. The applicant for renewal of the commercial cannabis permit has failed to obtain or renew any required State license or is in violation of any applicable provision of State law or any applicable State regulation.
 - vi. The applicant for renewal has failed to pay in full all fees, administrative fines, penalties and/or charges imposed by the City relating to the

commercial cannabis business, unless assessment of the fees, administrative fines, penalties and/or charges are being appealed.

3. If a renewal application is denied, the applicant may file an appeal. The appeal must be in writing, must identify the grounds for reversing the denial, and must be submitted to the City Clerk within ten (10) days from the date of the denial. The appeal shall be conducted pursuant to Section 19.04.190 (j). In the alternative, the applicant may file a wholly new application for a commercial cannabis permit pursuant to this Chapter. Upon expiration of the commercial cannabis permit and regardless of a pending appeal or new application for a commercial cannabis permit, all of the applicant's commercial cannabis activity shall immediately cease. Violations of this Section shall subject the violator to denial of the appeal or new application for a commercial cannabis permit and/or the enforcement, penalties and cost recovery mechanisms prescribed within this Chapter and/or the McFarland Municipal Code.
4. Any unpaid fees, administrative fines, penalties and/or costs imposed by the City relating to the commercial cannabis business shall be added to the fee for renewal of the commercial cannabis permit, unless assessment of the fees, administrative fines, penalties and/or costs are being appealed.
5. A commercial cannabis permit shall not be renewed until the City receives payment in full of the fee for the commercial cannabis permit renewal application. Said fee shall be governed by and subject to the provisions of Section 19.04.190 (b), unless otherwise provided by resolution of the City Council.

- (e) Failure of a commercial cannabis business to obtain and maintain a valid City business license, and to remain in compliance with all applicable provisions and requirements of that license, shall constitute grounds for denial of an application for renewal of a commercial cannabis permit, suspension, or revocation of a current commercial cannabis permit.

Section 19.04.070 - Existing Commercial Cannabis Businesses.

Commercial cannabis businesses in existence in the City as of the date of adoption of this Chapter may continue to operate under the approved and issued Commercial Cannabis Permit and associated entitlements, Site Development Plan, Development Agreement, or may, upon its annual renewal, utilize this Chapter for permitting and compliance with the requirements of this Chapter. An unpermitted commercial cannabis business that can demonstrate to the City Manager's satisfaction that it is diligently applying to obtain the required permits and licenses, and that it is in good standing and otherwise in compliance with all applicable local and state laws and regulations, may, at the discretion of the City Manager, be temporarily permitted to continue its operations while its applications for the required permits and licenses are pending.

Section 19.04.080 - Security Measures.

- (a) A permitted commercial cannabis business, regardless of building type utilized, shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products at the premises. These security measures shall include, but shall not be limited to, all of the following, in addition to any other security measures deemed necessary by the City Manager or required pursuant to any regulations as may be promulgated by the City Manager in furtherance of the purposes of this Chapter:
1. Preventing persons from remaining on the premises of the commercial cannabis business if they are not engaging in bona fide business activity of the commercial cannabis business.
 2. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
 3. Ensuring that live growing plants which are being cultivated are kept in a secured cultivation site, and that all cannabis and cannabis products are stored in a secured and locked room, safe, or vault at all times. All cannabis and cannabis products, including live plants which are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.
 4. Installing twenty-four (24) hour security surveillance cameras with night vision capability and of at least 1080p HD-quality to monitor all entrances and exits to and from the premises and to monitor all interior spaces, excluding all restroom and changing room facilities, within the commercial cannabis business. The security

surveillance system shall be compatible with software and hardware utilized by the McFarland Police Department and as approved by the Chief of Police or designee. The security surveillance system shall be capable of providing the McFarland Police Department with remote real-time/live access to the video footage during emergency situations, including but not limited to armed robbery, active shooter, hostage, and exposure to hazardous or volatile substances. Video recordings shall be maintained for a minimum of forty-five (45) days. Upon request by the Chief of Police, video recordings will be provided to the McFarland Police Department within twenty-four (24) hours. If the commercial cannabis business refuses to provide the Chief of Police access to the real-time/live video feed or the requested video recordings, the City Attorney shall be authorized to seek reimbursement of all costs, including but not limited to court costs, attorney's fees, filing fees, administrative time and fees and employee time, incurred by the City while seeking a warrant and/or judicial intervention granting the requested access. The requirements of this Section shall be in addition to any other applicable provision of the McFarland Municipal Code.

5. Sensors shall be installed to detect entry and exit from all secure areas.
6. Panic buttons shall be installed in all commercial cannabis businesses. The panic alarms will ring to the Police Department or a private security firm, as determined by the City Manager.
7. A professionally installed, maintained, and monitored alarm system shall be maintained in an operable condition at all times.
8. Any bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building and shall be installed in compliance with all applicable requirements of the McFarland Municipal Code, California Building Code and California Fire Code.
9. Each commercial cannabis business shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage. All doors need to be compliant with fire code for emergency exiting in case of fire and fire personnel entering the building in case of an emergency. All cannabis businesses shall have a generator sufficient to run all security systems and minimal security lighting.
10. All security personnel to be hired or used by each commercial cannabis business shall be licensed by and in good standing with the State Bureau of Security and Investigative Services and shall obtain an Employee Badges pursuant to Section 19.04.090 . At least one such security guard shall be on the premises of each commercial cannabis business during all operating hours. The City Manager may increase the number of security guards required to be on the premises of any commercial cannabis business as a condition of approval of any commercial cannabis permit application, if he or she deems such additional security guards necessary to adequately protect the premises based on the size or other characteristics of the commercial cannabis business or its premises.
11. Fencing shall be installed along the perimeter of the project site. Fencing location, design, and materials shall be approved by the City Manager or designee. Fencing shall be a minimum of 10'-0" with angled or electrified top. The Fire Department has a special permit for electrified fences. Materials shall be limited to wrought iron fencing, masonry, a combination of the two, or alternatives subject to approval by the City Manager or their designee. All fencing shall have angled wrought iron topping or must be electrified. Electronic entry gates for automobiles and pedestrian shall be designed as noted above and the City Manager or designee shall have final approval. Fencing must be in place to the satisfaction of the City Manager or their designee as well as the Building Department prior to being eligible for a certificate of occupancy or a temporary certificate of occupancy.
 - i. Exception:
 1. All Fencing Requirements will be addressed via CUP in all C-2 zones and will not be subject to section (a) 11 of 19.04.080.
12. Any portion of the fencing that is electrified shall comply with all State, Federal and Local laws, including, but not limited to, California Civil Code section 835 and any amendments thereto.

13. Developer must submit a detailed fencing plan to the City Engineer or their designee for approval. Plans may be included within a larger Civil Design Plan required for overall site development approval. At a minimum, the plans must show the layout of all proposed exterior fences with locations of gates for pedestrians and vehicles. Plans must also include typical sections, typical elevations, and details regarding hardware, materials, color, textures, and any additional information requested by the City Engineer upon review of a fencing plan. The use of existing fences must also be shown on the plans, detailed appropriately, and shall be subject to approval on a case-by-case basis by the City Engineer. City Engineer review shall be independent of any necessary review by the Building Department which the Developer must submit plans to for a separate permit following City Engineer approval.
 14. The use of razor wire, barbed wire, or similar materials is strictly prohibited. In cases of masonry walls, all public facing sides must be covered in an approved anti-graffiti material or must have climbing vines attached to the walls which must be maintained over time to the satisfaction of the City Manager. In cases of wrought iron fences, the Developer may install an opaque cover to prevent the public from seeing into the site. In these cases, such a cover must also have an approved anti-graffiti coating. Any graffiti must be immediately removed by the Developer within 72 hours when notified by the City Manager or their designee regardless of when the graffiti first appeared. Similarly, any damage to the perimeter fencing must be immediately repaired within 72 hours when notified by the City Manager or their designee regardless of when the damage first appeared.
 15. Approved colors and textures for public facing portions of fences are as follows unless otherwise approved by the City Manager or their designee:
 - Masonry: Smooth Faced with Pilasters every 20'; split faced
 - Wrought iron and opaque coverings: black or green; opaque covering to be metallic or durable plastic capable of withstanding substantial winds and must be UV and rust resistant.
- (b) Each commercial cannabis business shall provide the City Manager with the identity and contact information for a liaison who shall be reasonably available to meet and discuss compliance with the requirements of the McFarland Municipal Code, state law and/or any other laws and regulations applicable to the commercial cannabis business. The liaison from each cannabis business shall have a standing meeting with the City Manager every 90 days.
- (c) As part of the application and permitting process, each commercial cannabis business shall provide the City Manager with a detailed transportation plan describing the procedures for safely and securely transporting cannabis, cannabis products and/or currency.
- (d) A commercial cannabis business shall notify the Chief of Police within twenty-four (24) hours after discovering any of the following:
1. Significant discrepancies identified in inventory. The level of significance may be determined by regulations promulgated by the City Manager.
 2. Diversion, theft, loss or any criminal activity involving the commercial cannabis business, an employee or any agent of the commercial cannabis business.
 3. The loss or unauthorized alteration of records referring or related to cannabis, cannabis products, employees or agents of the commercial cannabis business.
 4. Any other breach of security.
- (e) A commercial cannabis business shall notify the Chief of Police immediately after discovering any diversion, theft, loss or any criminal activity involving the commercial cannabis business, an employee or any agent of the commercial cannabis business.

Section 19.04.090 - Employee Badge Requirement.

Every employee or independent contractor working at or for a commercial cannabis business or involved in security, delivery or distribution, or other services for a commercial cannabis business shall obtain an employee badge pursuant to Title 4 Cal. Code Regulations Section 15043 or as may be amended. (§15043. Licensee Employee Badge Requirement. All agents, officers, or other persons acting for or employed by a licensee conducting retail sales or participating in a temporary cannabis event shall display a laminated or plastic-coated identification badge always issued by the licensee while engaging in commercial cannabis activity. The identification badge shall, at a

minimum, include the licensee's "doing business as" name and license number, the employee's first name, an employee number exclusively assigned to that employee for identification purposes, and a color photograph of the employee that clearly shows the full front of the employee's face and that is at least 1 inch in width and 1.5 inches in height.).

Persons who are listed as commercial cannabis permit holders or owners thereof, who are subject to criminal history records checks pursuant to Section **19.04.230** (k), shall be required to obtain an Employee Badge if such person also serves as an employee or contractor for the permit holder's commercial cannabis business.

Section 19.04.100 - Right to Occupy and to Use Property.

As a condition precedent to the City's issuance of a commercial cannabis permit pursuant to this Chapter, any person intending to open and to operate a commercial cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location is leased from another person, the applicant for a permit under this Chapter shall provide a signed and notarized statement from the owner of the property to demonstrate the property owner has acknowledged and has consented to the operation of a commercial cannabis business on the property.

Section 19.04.110 - Location of Commercial Cannabis Business - Proximity to Sensitive Uses.

- (a) Commercial cannabis activity shall be authorized **within** the following zoning districts of the City: M-1 limited Manufacturing, M-2 Light Manufacturing, M-3 General Manufacturing, zoning districts. Commercial cannabis activity is prohibited in all other zoning districts of the City. Commercial retail storefront cannabis activity Type - 10 shall be authorized within C-2 Commercial zone districts with an approved Conditional Use Permit only.
- (b) Notwithstanding subsection (a) of this Section, no commercial cannabis business shall be located within six hundred feet (600') from any school, day care center, youth center, public park, or public library ("Sensitive Uses"). Location distance separating Sensitive Uses, as described above, shall be measured from the exterior of the structure(s). Applicant shall prepare locational map verifying locational distance and shall certify that the structure locations meet the six hundred feet separation.
- (c) No commercial cannabis business may operate within any residential zoning district or area of the City.
- (d) A commercial cannabis business generally may not operate adjacent to, across a street or alley from, or within two hundred feet (200') of, any residential zoning district or area of the City. Location distance and/or separating commercial cannabis business, as described above, shall be measured from the exterior of the structure(s). Applicant shall prepare locational map verifying locational distance and shall certify that the structure locations meet the two hundred feet separation. However, if an existing building or facility in a City zoning district enumerated in subsection (a) is located adjacent to or across a street or alley from a residential zoning district or area of the City, a commercial cannabis business may be permitted to operate in such location if, in the opinion of City Manager, the operation of a commercial cannabis business in such location would not tend to cause a public nuisance, nor a situation which may result in repeated police department responses or a negative impact on the adjacent residential units or dwellings. Any subsequent expansion of a commercial cannabis business permitted to operate in such a location, which expansion requires a new or amended commercial cannabis permit, shall also be subject to a determination by the City Manager that the expansion would not tend to cause a public nuisance or a situation which may result in repeated police department responses or a negative impact on the adjacent residential units or dwellings.
- (e) Commercial cannabis businesses shall be required to comply with all zoning, land use, and development regulations applicable to the underlying zoning district in which they are permitted to establish and operate as set forth in Title 17 of the McFarland Municipal Code.
- (f) Any commercial cannabis business which has been determined by the City Manager to be an existing commercial cannabis business on the effective date of this Chapter shall be exempt from compliance with the limitations prescribed in this Section, unless such

location is otherwise determined to constitute a public nuisance or otherwise a disturbance to the adjacent or neighboring uses as determined by the provisions of this Chapter.

Section 19.04.120 - Alcohol and Tobacco Restrictions.

- (a) In accordance with Business & Professions Code Section 26054, as may be amended, no commercial cannabis business shall cause or allow the sale (whether retail or wholesale) of alcoholic beverages or tobacco products on its premises.
- (b) No commercial cannabis business shall cause or allow alcoholic beverages to be dispensed or consumed on its premises.
- (c) No commercial cannabis business shall operate in a location that requires persons to pass through a business that sells alcohol or tobacco to access the premises of the commercial cannabis business, or that requires persons to pass through the premises of the commercial cannabis business to access a business that sells tobacco or alcohol.
- (d) No commercial cannabis business shall operate in a location that is adjacent to a business that sells alcoholic beverages at retail. Applicant shall certify that the commercial cannabis business/structure(s) is not adjacent to a business that sells alcoholic beverages at retail.

Section 19.04.130 - Concurrent Regulation with State.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City concurrently and consistently with State law. Except where an express provision of this Ordinance applies to create an obligation that is more stringent than the minimum standards established by State law, this Chapter shall be construed in accordance with that intent.

Section 19.04.140 - Compliance with Laws.

- (a) It shall be the responsibility of the commercial cannabis permit holder, including its owners and operators, to ensure that the permitted commercial cannabis business is, at all times, operating in compliance with all applicable state and local laws and regulations, as amended, and any conditions of approval of a State license or City-issued commercial cannabis permit or other entitlement.
- (b) Nothing in this Chapter shall be construed as an authorization of any action or conduct in violation of state law or local law with respect to the operation of a commercial cannabis business.
- (c) Nothing in this Chapter shall be construed as an authorization by the City, its elected or appointed officials, employees, agents, representatives and/or consultants, collectively or individually, of any conduct in violation of federal law.

Section 19.04.150 - Inspections and Enforcement.

- (a) No commercial cannabis business shall commence operation, and no commercial cannabis permit application shall be approved for any commercial cannabis business, unless and until:
 - 1. The City Manager, or designee, and Police Chief, or designee, have inspected the premises of the commercial cannabis business and reviewed all written procedures, standards and protocols developed by such business pursuant to this Chapter, and have confirmed in writing that the business is in compliance with all applicable requirements of this Chapter and other applicable provisions of the McFarland Municipal Code, any applicable local regulations, and any applicable state laws, administration or enforcement of which is within their jurisdiction; and
 - 2. The Fire Chief and Building Official have inspected the premises of the commercial cannabis business and reviewed all written procedures, standards and protocols developed by such business pursuant to this Chapter and have confirmed in writing that the premises are in compliance with the California Building Standards Code and the State Fire Marshal regulations, as adopted by the City, and all other applicable building and fire safety-related requirements, administration or enforcement of which is within their jurisdiction.
- (b) In addition to the initial permit inspections pursuant to subsection (a) and after permitted commercial cannabis business activities have commenced, the City Manager, the Building

Official, the Police Chief, and the Fire Chief are authorized to conduct reasonable unannounced and suspicion less inspections of the interior and exterior premises of any commercial cannabis businesses at any time during regular business hours (generally eight (8:00) a.m. and seven (7:00) p.m., Monday through Sunday), for the purpose of ensuring compliance with this Chapter and applicable state law as specified in subsection (a).

1. If any member of the police department observes any activity that they believe may be suspicious, the Police Chief may order an immediate inspection of the grounds or building of a cannabis business. Members of the staff or night security team shall give immediate access to police personnel at any hour of the day or night.
- (c) Each commercial cannabis business shall be subject to two mandatory inspections conducted pursuant to subsection (b) per calendar year. Notwithstanding the foregoing, further inspections may be conducted at any time in response to complaints received by the City relating to violations on the premises of a commercial cannabis business.
- (d) During all inspections conducted pursuant to this Section, the inspecting officials are authorized to photograph and otherwise document the conditions on the premises, and to take such other measures as are reasonably necessary to ascertain whether the business is in compliance with this Chapter, subject to adherence to all HIPAA rights and all other applicable privacy rights unrelated to the purpose and intent of the inspection. Samples of cannabis and cannabis products may be temporarily taken from the commercial cannabis business and retained for the minimum time and to the minimum extent necessary to ascertain compliance with this Chapter, provided that any such samples shall be logged, recorded, and maintained in accordance with the McFarland Police Department standards for evidence.
- (e) For all inspections required by this Section (not including complaint-based inspections), inspection fees sufficient to cover the costs of such inspections shall be paid by each commercial cannabis business as part of such business' commercial cannabis permit application fees or annual permit fees.
- (f) Failure or refusal of a commercial cannabis business, or any owner, manager, employee or agent thereof, to grant access to the premises of the commercial cannabis business to facilitate any inspection pursuant to this Section shall constitute a violation of this Chapter and shall constitute grounds for the City to obtain an inspection warrant to inspect the commercial cannabis business in accordance with State law.
- (g) All inspections shall be subject to adherence to applicable HIPAA rights and other applicable privacy rights unrelated to the purpose and intent of the inspections.
- (h) The requirements and remedies set forth in this Section shall be in addition to all other applicable provisions of the McFarland Municipal Code.

Section 19.04.160 - Fees and Charges.

- (a) No person may commence or continue any commercial cannabis activity in the City without timely paying in full all fees, costs, penalties and charges required in connection with the establishment or operation of a commercial cannabis activity. Fees and charges associated with the establishment or operation of a commercial cannabis activity shall be set by resolution or ordinance of the City Council.
- (b) All commercial cannabis businesses operating pursuant to this Chapter shall pay any and all applicable sales, use, business or other taxes, and all license, registration, or other fees required pursuant to federal, state, and local law.
- (c) Commercial Cannabis Tax Revenues and Rates are established for Commercial Cannabis businesses in accordance with Title III Revenue and Finance, Chapter 3.19.
1. Pursuant to Section 19.04.280 (a), the City has limited the total square footage of Commercial Cannabis to 8,712,000 square feet,
 2. Pursuant to Section 19.04.280 (c), the City has limited the Type 12 Microbusiness to a total of 2 business within the current City limits.
 3. Due to the limitation of square footage for commercial cannabis business, the applicant of and any assignee shall pay, upon approval of each Commercial

Cannabis permit, a minimum sum of \$25,000.00 per quarter, regardless of operational status. The payment shall be paid within 10 days of the approval/conditional approval of a Commercial Cannabis permit.

- i. Should the Commercial Cannabis business be operational, the minimum quarterly payment shall be credited toward that business's following quarter's tax liability.
- ii. Should the Permit Holder fail to begin operations within two years of the first permit's issuance, payment of the quarterly \$25,000.00 minimum required payment shall not be refunded. The quarterly payment is required due to the limited square footage for Commercial Cannabis and is established as a deterrent against non-operational permit holders. The non-operation of permitted Commercial Cannabis establishments is determined to be detrimental to the health and welfare of the City.

Section 19.04.170 - Violations and Enforcement.

- (a) It is unlawful for any person to violate any provision of this Chapter.
- (b) Each and every violation of this Chapter constitutes a misdemeanor punishable in accordance with Chapter 1.20.010 of the McFarland Municipal Code.
- (c) Each and every violation of this Chapter constitutes a public nuisance which may be abated by the City pursuant to the McFarland Municipal Code.
- (d) Violations of this Chapter may be redressed by any and all applicable civil remedies available to the City, including but not limited to civil actions for injunctive relief.
- (e) Violations of this Chapter are subject to all applicable administrative remedies under the McFarland Municipal Code, including but not limited to issuance of administrative citations. Notwithstanding the foregoing, the administrative citation penalty for all violations of this Chapter, within a rolling twelve (12) month period, shall be as follows: one thousand dollars and no cents (\$1,000.00) per violation.
- (f) Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which the violation exists, and shall be penalized pursuant to this Chapter and the applicable provisions of the McFarland Municipal Code.
- (g) The remedies set forth in this Section are cumulative of each other and of any other legal remedies available at law.
- (h) The City Manager may suspend or revoke a commercial cannabis permit when the permit holder or anyone acting on its behalf has committed any of the following acts or maintained any of the following conditions:
 1. Any action or condition which would constitute grounds for denial of a commercial cannabis permit.
 2. Any violation of this Chapter, the McFarland Municipal Code, any applicable state law governing the commercial cannabis business or activity, or any applicable condition of approval of the commercial cannabis permit or any other entitlement pertaining to the operation of the commercial cannabis business.
- (i) Prior to suspending or revoking a commercial cannabis permit, the City Manager shall conduct a hearing. Written notice of the hearing shall be provided to the permit holder at least five (5) calendar days prior to the hearing. The notice shall contain the basis for suspending or revoking the commercial cannabis permit. Notice may be provided by either personal service, U.S. mail and/or posting or depositing the notice at the commercial cannabis business. After the hearing, the City Manager shall provide notice of the decision whether to suspend or revoke the commercial cannabis permit in the same manner applicable to the notice of hearing. The decision of the City Manager shall be final, subject to judicial review pursuant to Code of Civil Procedure Sections 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision. The commercial cannabis permit holder has no right to an administrative appeal of the decision.

- (j) The City Manager may immediately suspend a commercial cannabis permit without notice or hearing, subject to a subsequent hearing prior to reinstatement or revocation pursuant to subsection (i), under the following circumstances:
 - 1. The commercial cannabis permit holder is convicted of a public offense in any court for the violation of any law which would be grounds for denial of a commercial cannabis permit.
 - 2. The City Manager, Chief of Police, Fire Chief or any other authorized public safety or building official determines that immediate suspension is necessary to protect the public health, safety and welfare of the community. The City Manager shall provide notice of the grounds for immediate suspension of the commercial cannabis permit, and the suspension shall only be for as long as reasonably necessary to address the grounds which led to the suspension.

Section 19.04.180 - Limitations on City's Liability.

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

- (a) Execute an agreement indemnifying, defending (at its sole cost and expense), and holding the City and its officers, employees, representatives, and agents harmless from any and all claims, losses, damages, injuries or liabilities associated with permitting or approving the operation of a commercial cannabis activity or the operation thereof or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.
- (b) Maintain insurance at coverages, limits, and with conditions thereon determined necessary by the City Manager, in consultation with the City Attorney. Commercial General Liability insurance shall be maintained at all times with coverage limits that meet or exceed one million dollars (\$1,000,000.00) per occurrence and in the aggregate. In the alternative to maintaining Commercial General Liability insurance, a commercial cannabis permit holder may post a bond, in a form subject to approval by the City Attorney, with the City in the minimum amount of one million dollars (\$1,000,000.00). The City Manager may, in his or her sole discretion, increase the minimum bond amount required by a commercial cannabis permit holder.
- (c) Reimburse the City for any and all costs and expenses, including attorneys' fees and costs and court costs, that the City may be required to pay as a result of any legal challenge related to the City's approval of a commercial cannabis permit pursuant to this Chapter or the City's approval of the operation of a commercial cannabis activity. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the obligations imposed under this Section.

The City may revoke a commercial cannabis permit for failure to maintain the required insurance or bond. The City may provide a commercial cannabis permit holder with written notice of its intent to revoke the commercial cannabis permit and for failure to maintain the required insurance or bond. Within seven (7) calendar days from the date upon the notice of intent to terminate, a commercial cannabis permit holder shall tender to the City proof that it has obtained the required insurance or posted the required bond. If a commercial cannabis permit holder fails to timely provide proof of the required insurance or bond to the City, the commercial cannabis permit shall be revoked, and the commercial cannabis permit holder shall immediately cease all commercial cannabis business activities. Failure to immediately cease all commercial cannabis business activities shall subject the commercial cannabis permit holder to the penalties, enforcement and cost recovery provisions established within the McFarland Municipal Code and any other legal remedies available to the City.

Section 19.04.190 - Commercial Cannabis Permit Application Procedures and Requirements.

- (a) In addition to the authority granted pursuant to the express provisions of this Section and Chapter, to the extent consistent with this Chapter and other applicable law, the City Council may by resolution adopt such fees, and the City Manager may adopt such forms and procedures, as are necessary to implement this Chapter with respect to the review,

processing, evaluation, selection, investigation, approval, denial, renewal, suspension, and revocation of commercial cannabis permits and related appeals.

- (b) The owner of a proposed commercial cannabis operation shall file an application with the City Manager upon a form provided by the City and shall pay an application filing fee as established by resolution of the City Council, as may be amended from time to time. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, it shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial amount of the trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, application review and processing shall cease and shall not continue until such additional amounts are paid.
- (c) Each commercial cannabis permit application shall contain, at minimum, the following:
 - 1. The printed full name, signature, date of birth, social security number, a color photocopy of the California Driver's license or equivalent form of identification approved by the City Manager, and current address and telephone number of all owners of and responsible persons for the commercial cannabis business that is the subject of the application.
 - 2. Signed consent of each owner and responsible person, who is identified pursuant to subsection (c)(1) and who is not required to obtain an employee badge pursuant to Section 19.04.090, to a fingerprint-based state and federal criminal history records check conducted by the City or an agency authorized or requested to do so by the City, including but not limited to fingerprint analysis conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager.
 - 3. The address of the commercial cannabis business to which correspondence from the City is to be sent, if other than the permitted premises.
 - 4. The names and addresses of all businesses operated by, and the employment of, the applicant and its owners for the five (5) years immediately preceding the date of the application.
 - 5. Any litigation in which the applicant(s) has been involved within the five (5) years immediately preceding the date of the application and a statement of whether any business currently operated by the applicant(s) or operated by the applicant(s) within the five (5) years immediately preceding the date of the application has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended within the five (5) years immediately preceding the date of the application.
 - 6. The address of any commercial cannabis business currently being operated by the applicant or any of its owners, or which has been previously operated by any of them.
 - 7. The existing and/or anticipated supply sources and product supply chain for all cannabis and cannabis products entering and leaving the commercial cannabis business, including the site(s) where cultivation occurs, where the cannabis or cannabis products are processed or manufactured, where any required testing of cannabis or cannabis products occurs, and distribution information. Packaging and labelling information and criteria, demonstrating compliance with Section 19.04.230 (w), shall also be included.
 - 8. Odor control devices and techniques demonstrating compliance with Section 19.04.230 (i), sufficient to prevent odors from cannabis from being detectable off of the premises.
 - 9. Procedures for safety and adequately identifying, storing, managing, and disposing of all litter, waste, hazardous materials, contaminants, or adulterated, deteriorated or excess cannabis or cannabis products or byproducts of the commercial cannabis business, and demonstrating compliance with Section 19.04.230 (t).
 - 10. Information reflecting adequate capitalization of the commercial cannabis business.
 - 11. Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures.

12. A detail of the operating procedures to be utilized at the facility, including a description of how chemicals and fertilizers will be stored, handled, used and disposed of, manufacturing methods, the transportation process, inventory procedures, and quality control procedures.
13. A site plan and floor plan of the premises of the commercial cannabis business denoting the property lines and the layout of all structures and areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception or waiting areas, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses, indicating compliance with the California Building Standards Code and Title 17 of the McFarland Municipal Code.
14. A plan for the proposed signage at the site, including size, height, colors and design of all signage, demonstrating compliance with Section 19.04.230 (g). A City sign permit issued pursuant to applicable provisions of the McFarland Municipal Code shall be required.
15. A security plan satisfactorily addressing all required security measures identified in Section 19.04.080 and lighting as required by Section 19.04.230 (x).
16. Standard operating procedures detailing how operations will comply with state and local regulations, how safety and quality of products will be ensured, record-keeping procedures for financing, testing, and adverse event recording, and product recall procedures.
17. Proposed days and hours of operation.
18. Recycling and waste disposal procedures reflecting, to the extent practicable, efficiency and conservation of materials and resources used in the commercial cannabis business.
19. Youth access restriction procedures demonstrating compliance with Section 19.04.230 (h).
20. A transportation plan providing procedures for safely and securely transporting all cannabis, cannabis products and currency to and from the premises.
21. A detailed description of energy and water usage plan enumerating best practices and leading industry practices in efficient utilization of both resources.
22. Evidence of compliance with all applicable insurance-related requirements of this Chapter and State law, including but not limited to Section 19.04.180. Endorsements reflecting the City's status as an additional insured on all required policies shall also be included.
23. A copy of the valid and current City business license held by the applicant.
24. A copy of the valid and current seller's permit issued by the California Department of Tax and Fee Administration (formerly the Board of Equalization) to the applicant, or confirmation from said agency that a seller's permit is not required. If a seller's permit is required but the applicant has not yet received it, an attestation that the applicant is currently applying for a seller's permit shall suffice, provided that a copy of the permit shall be provided to the City immediately upon being obtained by the applicant, and the applicant shall not commence activities for which a seller's permit is required until it is obtained.
25. Identification of any and all other licenses and permits currently or formerly held by the applicant, and any other applications pending review for the applicant, relating to commercial cannabis activities, from any licensing or permitting authority, and specific identification of any licenses or permits denied to, suspended for, or revoked from the applicant.
26. Signed acknowledgment of the requirements of this Chapter, including biannual inspections as established within Section 19.04.150.
27. Signed authorization for the City Manager to seek verification of the information contained in the application.
28. A signed statement by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
29. Any other information deemed necessary by the City Manager.

(d) A commercial cannabis permit application may be denied based upon any of the following grounds:

1. The applicant has been issued a state or local permit or license to conduct commercial cannabis activities (in California or another state) and the permit or license has been suspended or revoked, or the applicant has otherwise been

sanctioned or subjected to administrative disciplinary action relating to the permit or license by any licensing or permitting authority, or the applicant has been involved in a cannabis business that was ordered closed by a civil injunction or other court order based on a violation of law.

2. The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a serious or violent offense as listed within California Penal Code Sections 667.5 and 1192.7(c), or the applicant has been convicted of any other offense listed within Business and Professions Code Section 26057.
3. The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a misdemeanor involving theft, dishonesty, fraud, narcotics sales or narcotic trafficking within the five (5) years preceding the date of the application.
4. The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has been convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined within the Federal Controlled Substance Act, unless the applicant received a Certificate of Rehabilitation as defined in that Act, within the ten (10) years preceding the date of the application.
5. The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has engaged in misconduct related to the ownership, qualifications, functions or duties of their position with the commercial cannabis business.
6. The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, has engaged in unlawful, fraudulent, unfair, or deceptive business practices as defined by the McFarland Municipal Code and/or state or federal law.
7. The applicant, or any owner or responsible person of the commercial cannabis business that is the subject of the application, is under the age of twenty-one (21).
8. The applicant has violated or failed to comply with any of the requirements of this Chapter or other applicable state or local laws or regulations, or any condition of any entitlement issued to the commercial cannabis business, as determined by the City Manager.

A conviction within the meaning of this Chapter means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

This Section shall not constitute an exhaustive list of grounds for denial of a commercial cannabis application. The City Manager may promulgate regulations identifying additional grounds for denial.

- (e) The City Manager shall review each application to determine whether it contains all of the required information. If the application does not contain all of the required information, it shall be returned to the applicant for completion. The City Manager shall endeavor to conclude his or her review within ninety (90) days of the filing of the application. If additional time is necessary, the City Manager will advise the applicant of an estimated review time.
- (f) In reviewing an application for a commercial cannabis permit, the City Manager may request whatever additional information is deemed necessary to determine whether the application meets the requirements of this Chapter or other applicable local laws or regulations.
- (g) The City Manager shall have the authority to either approve or deny the application for a commercial cannabis permit. The City Manager shall approve the application if and only if it meets all applicable requirements of this Chapter. Notwithstanding any other provision of this Chapter, the City Manager, when approving a commercial cannabis permit, may place any additional limitations and conditions on the operation of a commercial cannabis business as he or she deems necessary, consistent with the with this Chapter and any regulations promulgated pursuant hereto.

- (h) Payment of an annual commercial cannabis permit fee, in an amount set by resolution of the City Council sufficient to cover the City's annual costs of administering the mandatory regulatory functions of this Ordinance in regard to the permitted commercial cannabis business, including but not limited to inspections, audits and investigations, shall be required before issuance or renewal of any commercial cannabis permit pursuant to this Chapter. The fee may be established as a trust deposit for actual costs. The fee, or initial trust deposit, shall be in an amount the City Manager estimates will cover the City's annual costs as described in this paragraph. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial amount is not sufficient, the applicant shall provide additional amounts as necessary upon request from the City. Failure to pay such additional amounts within thirty (30) days of a request by the City shall constitute a violation of this Ordinance and grounds for denial, non-renewal or revocation of the subject commercial cannabis permit.
- (i) When an application is denied, the City Manager shall provide a statement of decision giving the reasons for the denial and the findings upon which the decision is based. Notice of the denial may be provided by either personal service or U.S. mail. Notice is presumed to be served upon the applicant once deposit into the U.S. mail. Any person denied a commercial cannabis permit shall have the right to appeal such denial in accordance with this Section.
- (j) Any appeal of a denial of an application shall be filed and conducted as prescribed in this subsection.
1. Within ten (10) calendar days from the date of the denial of an application, the aggrieved party may appeal such action by filing with the City Clerk a written appeal setting forth the grounds for reversing the denial. The time requirement for filing an appeal shall be deemed jurisdictional and may not be waived. Appeals not timely filed or not setting forth the basis for the appeal are defective and shall be dismissed.
 2. Upon receipt of such written appeal, the City Clerk shall set the matter for a hearing before the City Manager. The hearing shall be conducted pursuant to the following procedures:
 - i. All hearings shall be recorded. Any party may, at their sole expense, have the hearing transcribed by a certified shorthand reporter.
 - ii. Hearings need not be conducted according to the technical rules of evidence.
 - iii. Any relevant evidence shall be admitted, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
 - iv. Oral evidence shall be taken only on oath or affirmation. The City Manager shall have the power to administer oaths.
 - v. Irrelevant and unduly repetitious evidence shall be excluded.
 - vi. Each party shall have the right to: call and examine witnesses on any matter relevant to the issues of the hearing; introduce documentary and physical evidence; cross-examine opposing witnesses on any matter relevant to the issues of the hearing, subject to the control of the City Manager, including the imposition of reasonable alternatives to cross-examination; impeach any witness regardless of which party first called the witness to testify; rebut the evidence; and be represented by anyone who is lawfully permitted to do so.
 - vii. The City Manager may take official notice, either during the hearing or after submission of the matter for decision, of any fact which may be judicially noticed by the courts of this state or of official records, regulations, rules, and decisions of state and local agencies, boards and departments and of City ordinances. In addition, the City Manager may take official notice of matters in its own files and of prior proceedings under this chapter involving the same issues. If applicable, the City Manager may also take official notice of any generally accepted technical or scientific matter within their expertise. The parties present at the hearing shall be informed of the matters to be noticed, and those matters should be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable

opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, and

- viii. The City Manager may provide for reasonable continuances of the hearing, on his/her own initiative or at the request of a party, as necessary to properly conduct the appeal.

The hearing shall be set for hearing in a reasonable time after the date of filing the appeal with the City Clerk, but in no event later than ninety (90) days from the date of such filing. At least ten (10) days prior to the date of the hearing on the appeal, the City shall notify the appellant of the time and the place of the hearing. Notice may be provided by either personal service or U.S. mail. Notice is presumed to be served upon deposit into the U.S. mail.

- 3. At the conclusion of the hearing, the City Manager shall deliberate and reach a decision within fifteen (15) calendar days. The decision and the reason(s) for the decision shall be reduced to writing. The City Manager may affirm, reverse, or modify the denial issued pursuant to this Code as the facts and law warrant, subject to the following limitations:
 - i. The City Manager shall not have authority to waive any requirements of the McFarland Municipal Code or other applicable law.
 - ii. Nothing in these procedures shall be deemed to authorize the City Manager to deviate from unambiguous provisions of the governing code or statute, or well-established interpretations of the same, based upon expert opinions or other reliable evidence.

A copy of the decision shall be sent by mail or otherwise to the appellant. Where known, a copy may also be provided by email.

- 4. The decision of the City Manager shall be subject to a further administrative appeal to the Planning Commission, which shall be conducted in accordance with the procedures and requirements applicable to the appeal to the City Manager pursuant to this subsection. The decision of the Planning Commission shall be subject to further administrative appeal to the City Council, which shall be conducted in accordance with the procedures and requirements applicable to the appeal to the City Manager pursuant to this subsection.
- 5. The decision of the City Council on the appeal shall constitute a final administrative decision. The appellant may thereafter file a petition for writ of mandate in superior court pursuant to Code of Civil Procedure Section 1094.5 and 1094.6 within ninety (90) calendar days of the date of the decision.

Section 19.04.200 Development Agreement.

A qualified applicant, pursuant to subsection (b) of this Section, may apply to enter into a development agreement with the City pertaining to a commercial cannabis operation. The provisions of this Section shall apply to such applications.

(a) Content and Procedures.

- (1) Development agreements entered into pursuant to this Chapter shall set forth the terms and conditions under which the commercial cannabis business will operate that are in addition to the requirements of this Chapter, including, but not limited to, public outreach and education, community benefit, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare of the City.
- (2) The procedures for commercial cannabis development agreements shall comply with Resolution 2021-0043 and Article 2.5 of Chapter 4 of Division 1 of Title 7 of the California Government Code. To the extent there is a conflict between this Chapter and Resolution 2021-0043 with respect to a development agreement for a commercial cannabis business, this Chapter shall govern.

- (b) **Qualified Applicant.** Development agreements are for substantial development projects, often requiring an investment in infrastructure and/or improvements, payment of development impact fees, and contribution of non-restricted funds that benefit the community. Such agreements are special contracts to be negotiated with

property owners or those with an interest in the land. A qualified applicant is a person who meets all of the following criteria, with satisfaction of each criterion to be determined in the sole discretion of the City Manager:

- (1) The applicant has a pending or approved application for a commercial cannabis permit on file with the City pertaining to the real property that will be subject to the development agreement.
 - (2) The applicant holds a legal or equitable interest in the real property that will be the site of the commercial cannabis business. If the applicant does not own the property, the applicant must have a legal right to purchase or develop the property and/or notarized written consent from the owner of the property to operate a commercial cannabis business on the property and to enter into a development agreement with the City pertaining to the property.
- (c) Filing Requirements.
- (1) Only a qualified applicant may file an application to enter into a development agreement. An applicant shall provide, to the satisfaction of the City Manager, written proof of meeting the criteria in subsection (b) above, as well as proof of the authority of any agent or representative to act for the applicant.
 - (2) The City Manager shall prescribe the form for each application, notice and documents provided for or required under this Section for the preparation and implementation of development agreements. The applicant shall complete and submit such an application form to the City Manager, along with a deposit for the estimated direct and indirect costs of processing the development agreement. Each applicant pursuant to this Section shall be required to pay a development agreement application fee, in an amount established by resolution of the City Council, sufficient to cover the City's costs of review and processing of the development agreement application pursuant to this Section. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of reviewing and processing the application. If a trust deposit-based fee is established, the trust deposit shall be used and drawn upon as a retainer to cover the actual costs incurred by the City. If the initial trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days upon of a request from the City. If the applicant fails to do so, the application review and processing shall cease and shall not continue until such additional amounts are paid.
 - (3) The City Manager shall require an applicant to submit such information and supporting data as the City Manager considers necessary to process the application, including but not limited to a community benefit assessment to evaluate the benefits the development agreement will provide to the community.
- (d) Processing Requirements.
- (1) The City Manager shall endorse on the application the date it is received. An application or related document shall not be complete until an estimated deposit for the cost of processing has been paid to the City. The City Manager shall review the application and determine any additional requirements necessary to complete processing of the application. If within thirty (30) days of receiving the application the City Manager finds that all required information has not been submitted or the application is otherwise incomplete or inaccurate, the processing of the application and the running of any limits shall be suspended upon written notice to the applicant and a new thirty (30) day period shall commence once the required material is received by the City Manager.
 - (2) If the City Manager finds that the application is complete, it shall be accepted for filing and the applicant so notified. After receiving the required

information and determining that the application is complete, the City Manager shall prepare a staff report and recommendation to the Planning Commission and City Council stating whether or not the agreement as proposed or in an amended form would be consistent with policies of the City, this Chapter and any applicable general or specific plan. The City Attorney shall review the proposed development agreement as to legal form.

- (3) Notice of a hearing regarding the development agreement shall be given by the City Manager and shall comply with the requirements of Section 65867 of the California Government Code, as may be amended, as well as in the manner set forth in this Code.
 - (4) The Planning Commission shall review the proposed development agreement and provide a recommendation to the City Council to approve, approve with modifications or deny the proposed development agreement. If the Planning Commission fails to take action within sixty (60) days of opening the hearing on the matter, such failure shall be deemed to have made a recommendation of denial to the City Council unless the applicant has requested an extension of time, either in writing or on the record, which has been approved by the Planning Commission prior to the running of the sixtieth day.
 - (5) The proposed development agreement shall be set for hearing and consideration before the City Council within sixty (60) days of the recommendation of the Planning Commission, unless the applicant agrees in writing to an extension of time with the City Manager prior to the matter being heard by the City Council.
 - (6) Within ten (10) calendar days after the City enters into any development agreement pursuant to this Section, the City Clerk shall have the agreement recorded with the County Recorder. If the parties to the agreement or their successors in interest amend or cancel the agreement as provided in Section 65868 of the California Government Code, or if the City terminates or modifies the agreement as provided in Section 65865.1 of the California Government Code for failure of the applicant to comply in good faith with the terms or conditions of the agreement, the City Clerk shall have notice of such action recorded with the County Recorder.
- (e) Findings and Development Agreement Conditions. After the City Council completes the public hearing, the City Council may not approve the development agreement unless it finds that the provisions of the agreement:
- (1) Are consistent with the goals, objectives, and policies of the general plan and any applicable specific plan;
 - (2) Are compatible with the uses authorized in and the regulations prescribed by this Chapter, zoning district in which the activity is located, and area in which the real property is located;
 - (3) Will not be detrimental to the health, safety, environmental quality, and general welfare of the community;
 - (4) Will provide for or result in contributions, services or facilities that benefit the community, which may include, but are not limited to, public facilities, improvements, and services, parks, recreation and open space improvements, public art, youth sports programs, other public youth benefit programs, substance abuse awareness and recovery programs, and other public service programs.
 - (5) Will not adversely affect the orderly development of property or the preservation of property values;
 - (6) Provides for payment by the applicant of all costs associated with preparing and entering into the agreement; and

- (7) Provides for a reasonable penalty for any violation of the development agreement.
- (f) Effectiveness of a development agreement pursuant to this Section shall be contingent upon issuance of a commercial cannabis permit and all other entitlements necessary to operate a commercial cannabis business on the subject property.
- (g) Modifications and Extensions.
 - (1) The provisions of Section 65868 of the California Government Code shall apply for all modifications, with the exception of Minor Modifications, extensions or other amendments of the terms of a development agreement subject to this Chapter.
 - (2) Either party may propose an amendment or termination of an approved development agreement subject to the following:
 - (i) The procedure for amending or terminating the development agreement is the same as the procedure for entering into an agreement in the first instance.
 - (ii) The development agreement may be amended or cancelled only by the mutual consent of the parties, as provided in Section 65868 of the California Government Code.
 - (3) Nothing herein shall limit the City's ability to terminate or modify the agreement consistent with Section 65865.1 or 65865.3 of the California Government Code, or as may be amended.
 - (4) Minor modifications to a Development Agreement may be authorized by the City Manager, upon consultation with the City Attorney.
 - (5) The Development Agreement may necessitate further planning and development of the Project and may demonstrate that refinements and changes are appropriate with respect to the details and performance in implementing the Project under a Development Agreement. The Development Agreement may permit a certain degree of flexibility with respect to the details of the development of the Project and with respect to those items covered in general terms under a Development Agreement. A Minor Changes (as hereinafter defined) when found to be necessary or appropriate, a written request shall be submitted to the City Manager, unless otherwise required by federal, state or local ordinance and/or regulation, effectuate such changes or adjustments through administrative amendments executed by the City Manager or designee. Upon approval of a Minor Modification, it shall be attached as addenda and become a part of the Development Agreement. Minor Modifications shall be recorded with the Development Agreement.
 - (6) The term "Minor Changes" or "minor modifications" collectively means:
 - (a) minor deviations to the Project Approvals that are permitted under the Existing City Requirements and are reasonably approved by the City Manager;
 - (b) a reduction in the parking ratio requirements for the Project under consistent with the McFarland Municipal Code, provided that (i) the reduction does not exceed ten percent (10%) of the Code requirement, and (ii) the reduction is approved by the City Manager, which approval shall not be unreasonably withheld or denied; or
 - (c) such other changes, modifications or adjustments to the Project Approvals, which the City Manager determines are consistent with the overall intent of the Project Approvals and which do not materially alter the overall nature, scope, or design of the Project, and which are consistent with the requirements of Chapter 19.04 of the McFarland

Municipal Code and any commercial cannabis activity regulations or policies established by the City Manager.

- (7) Assumption Agreement(s) - No Modification. An Assumption Agreement shall be subject to the terms of an approved Development Agreement. An Assumption Agreement shall not limit, restrict, modify, alter, amend or otherwise change in any manner the rights and obligations of an Assignor or Assignee under the DA, and in the event of any conflict between the terms and provisions of an Assumption Agreement and the terms and provisions of the DA, the terms and provisions of the DA shall control.
- (8) In effecting any Minor Changes, the City shall cooperate with the Developer, provided that the permitted uses are not modified from those in the Project Approvals and any changes are in accordance with the Existing City Requirements. Minor Changes shall not be deemed to be an amendment to a Development Agreement under California Government Code section 65868 but are ministerial clarifications and adjustments, and unless otherwise required by law, no such administrative amendments shall require prior notice or hearing by the City Council. Any amendment or change requiring a environmental impact report, or a supplement thereto, pursuant to CEQA shall not be considered a Minor Change, but shall be considered substantive amendment which shall be reviewed and approved by the City Council as determined by the applicable provisions of the McFarland Municipal Code relating to the hearing and approval procedures for the specific Project Approval.

Section 19.04.210 - Records and Reporting.

- (a) Commercial cannabis operations shall maintain on the permitted premises the following records either in paper or electronic form:
1. The full name, address, and telephone numbers of the owner and lessee of the property.
 2. The name, date of birth, address, and telephone number of each employee and independent contractor of the commercial cannabis operation; the date each was hired or retained; and the nature of each person's participation in the commercial cannabis business.
 3. Copies of all required state licenses.
 4. An inventory record documenting the dates and amounts of cannabis and cannabis products received at the site, the daily amounts of cannabis and cannabis products on the site, and the daily amounts of cannabis and cannabis products leaving the site for any reason, including but not limited to cannabis that is sold, delivered, or distributed.
 5. A written accounting of all expenditures, costs, revenues and profits of the commercial cannabis operation, including but not limited to cash and in-kind transactions.
 6. A copy of all insurance policies related to the operation of the commercial cannabis operation.
 7. A copy of the commercial cannabis operation's most recent year's financial statement and tax return.
 8. Proof of a valid and current permit issued by the City in accordance with this chapter, and the equivalent State of California license to operate the commercial cannabis business. Every commercial cannabis business shall display at all times during business hours the City permit issued pursuant to the provisions of this Chapter, and the equivalent State license, in a conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.
- (b) Subject to HIPAA rights and regulations unrelated to the purpose and intent of the inspection, each commercial cannabis business shall allow City officials, upon request, to inspect all books, accounts, records, information and data required to be maintained by the cannabis business pursuant to this Chapter or otherwise relevant to its permitted activities for the purpose of facilitating any inspection, audit or investigation deemed necessary by

the City. Such records shall be produced within twenty-four (24) hours after receipt of the City's request.

- (c) By December 1 of each year, each commercial cannabis business shall file with the City Manager a complete audited report detailing its financial operations for the previous fiscal year, including its gross revenues, net profits, and total expenditures, which report shall be certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The report shall also include a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the report shall be made available to the City in standard electronic format which shall be compatible with Microsoft Office programs and software and which can easily be imported into either Excel, Access or any other contemporary software designated by the City Manager, and shall be subject to audit by the City.
- (d) All records required by this Chapter shall be maintained by commercial cannabis businesses for a period of not less than seven (7) years, and commercial cannabis businesses shall maintain accurate records of all commercial cannabis activities. All such records shall be made available for immediate inspection by the City upon request consistent with California Business and Professions Code Section 26160.

Section 19.04.220 - Prohibition on Transfer of Commercial Cannabis Permits.

- (a) No commercial cannabis business shall operate under a commercial cannabis permit issued pursuant to this Chapter at any place or location other than that identified in the commercial cannabis permit.
- (b) Any permit issued pursuant to this Chapter shall be null and void upon sale or transfer of ownership of the commercial cannabis business.
- (c) Any attempt to transfer or any transfer of a commercial cannabis permit issued pursuant to this Chapter shall be void and the commercial cannabis permit shall be deemed immediately revoked and no longer of any force or effect.
- (d) Notwithstanding (a) or (b) above, the City Manager may conditionally approve a Commercial Cannabis Business permit transfer subject to the proposed transferee submittal of all required application materials (new Commercial Cannabis Permit), pays all applicable fees and charges, and independently meets the requirements of this Chapter. Prior to approval or conditional approval of a transfer, the existing Commercial Cannabis permit must have met all the applicable requirements. Before being eligible for a Commercial Cannabis Business permit transfer, the Commercial Cannabis Business must first have been operating the Cannabis Business for 12 months in the City and has followed all State and local cannabis regulations.

Section 19.04.230 - General Operating Requirements for Commercial Cannabis Businesses.

In addition to those operating requirements specifically set forth elsewhere in this Chapter and except as may otherwise be expressly set forth in this Chapter, the following operating requirements shall apply to all commercial cannabis businesses operating in the City:

- (a) Hours of Operation. Normal business hours for commercial cannabis businesses are eight (8:00) a.m. and seven (7:00) p.m., Monday through Sunday. Subject to the night-time operating restrictions applicable to retail storefront sales and deliveries set forth in Section 19.04.270, commercial cannabis businesses may operate outside normal business hours, provided that any business activity conducted outside of normal business hours shall be sensitive to surrounding land uses and occupants and shall not result in excessive light, noise or other impacts that could cause a nuisance to members of the surrounding community.
- (b) Restriction on Consumption. Cannabis shall not be consumed on the premises of any commercial cannabis businesses, except that medicinal cannabis may be consumed within a clinic, health care facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health & Safety Code, as stated in Section 19.04.060 of the McFarland Municipal Code.

- (c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the public right-of-way or other public area or any adjacent property. No outdoor storage of cannabis or cannabis products is permitted at any time.
- (d) Reporting and Tracking of Product and of Gross Sales. Each commercial cannabis business shall have in place a point-of-sale tracking system to track and to report on all aspects of the commercial cannabis business including, but not limited to, such matters as tracking of cannabis and cannabis products, inventory data, and gross sales (by weight and by sale price) and shall ensure that such information is compatible with the City's recordkeeping systems. The system must have the capability to produce historical transactional data for review by the City. All information provided to the City pursuant to this subsection shall be confidential and shall not be disclosed, except as may otherwise be required under law.
- (e) All cannabis and cannabis products sold, cultivated, manufactured, delivered, distributed or tested shall be cultivated, manufactured, delivered, distributed or tested by State licensees that maintain operations in full conformance with the state and local laws and regulations.
- (f) Emergency Contact. Each commercial cannabis business shall provide the City Manager with the name and telephone number (office and mobile) of an on-site employee or owner to whom emergency notice can be provided on a 24-hour per day, 7-day per week basis.
- (g) Signage and Notices.
 - 1. In addition to the requirements otherwise set forth in this Section, business identification signage for a commercial cannabis business shall conform to the signage requirements of the McFarland Municipal Code, including, but not limited to, issuance of a City of McFarland sign permit.
 - 2. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis business or elsewhere including, but not limited to, the public right-of-way.
 - 3. No signs placed on the premises of a commercial cannabis business shall obstruct any entrance or exit to the building or any window.
 - 4. Each entrance to a commercial cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis business is prohibited.
 - 5. Signage shall not be directly illuminated, internally or externally. No banners, flags or other prohibited signs may be used at any time.
- (h) Minors. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial cannabis business. It is unlawful and a violation of this Chapter for any person to employ any person at a commercial cannabis business who is not at least twenty-one (21) years of age. The entrance to the commercial cannabis business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the commercial cannabis business.
- (i) Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis business that is distinctive to its operation is not detected off the premises, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the public, or within any other unit located inside the same building as the commercial cannabis business. As such, commercial cannabis businesses must install and maintain the following equipment or any other equipment which the City Manager determines has the same or better effectiveness:
 - 1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;

2. An air system that creates negative air pressure between the commercial cannabis business's interior and exterior so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.
- (j) Display of Commercial Cannabis Permit, State License and City Business License. The original copy of the commercial cannabis permit issued by the City pursuant to this Chapter, the required State license, and the business license issued by the City pursuant to the McFarland Municipal Code shall be posted inside the commercial cannabis business in a location readily visible to the public.
- (k) Criminal History Records Check.
1. Every owner of each commercial cannabis business must submit to annual fingerprint-based state and federal criminal history records checks, conducted by the City or another agency authorized or requested to do so by the City, as an application requirement in connection with each application for issuance or renewal of a commercial cannabis permit for the commercial cannabis business.
 2. The criminal history records check may be conducted utilizing the California Department of Justice Live Scan system or any other system deemed necessary or appropriate in the discretion of the City Manager. The City Manager is authorized to request subsequent notification service, if Live Scan is used, or an equivalent service, if another system is used, sufficient to obtain ongoing notifications of criminal offenses committed by owners of commercial cannabis businesses. In the event the City Manager does so, and such subsequent notification or equivalent service reveals a conviction or other conduct, such a conviction or other conduct shall constitute grounds for immediate suspension or revocation of the subject commercial cannabis permit.
 3. Owners and responsible persons shall be disqualified from involvement with a commercial cannabis business where the results of a criminal history records check would constitute grounds for denial.
 4. A fee for the City's costs of conducting the criminal history records check, as established by resolution of the City Council, shall be paid at the time the application for a commercial cannabis permit is submitted. The fee may be established as a trust deposit for actual costs. The fee, or the initial trust deposit, shall be in an amount the City Manager estimates will cover the costs of conducting the criminal history records check, including City review and processing services and any third-party fees. If a trust deposit-based fee is established, it shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If the initial trust deposit is not sufficient, the applicant shall provide additional amounts as necessary within thirty (30) days of a request from the City. If the applicant fails to do so, the investigation shall cease and shall not continue until such additional amounts are paid.
 5. In the alternative to subsection (k)(4) above, the commercial cannabis business or the subject owner, may provide the City Manager with a completed criminal history records check performed by a third-party vendor, as deemed necessary or appropriate in the discretion of the City Manager. If this alternative is used, the fee established pursuant to subsection (k)(4) above shall not apply, except as may be necessary for the City to confirm the validity and the results of the records check used.
- (l) Upon completion of the investigation or in the event the applicant withdraws its application, any unused amount of any trust deposit made pursuant to this Chapter will be refunded to the applicant within thirty (30) days of request by the applicant.
- (m) Loitering. The owner and/or operator of a commercial cannabis business shall prohibit loitering on the premises of the commercial cannabis business.
- (n) Permits and other Approvals. Prior to the establishment or operation of any commercial cannabis business, the person intending to establish a commercial cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such commercial cannabis business intends to establish and to operate.

- (o) Greenhouses. Greenhouses may be utilized only for commercial cannabis cultivation businesses, including nurseries. Greenhouses used for cannabis cultivation shall be fully enclosed permanent structures with solid walls that are clad in an opaque material with climate control, such as heating and ventilation capabilities and supplemental artificial lighting, and that use a combination of natural and supplemental artificial lighting. The cultivation activities conducted within a greenhouse shall not be visible from any public right-of-way or adjacent private property. All greenhouses shall comply with the requirements of this Chapter and the McFarland Municipal Code, including the adopted requirements of the California Building Code, the California Fire Code and any other code adopted or incorporated by reference within the McFarland Municipal Code, as amended. Greenhouse must have a minimum of 2,000 square feet.
- (p) No commercial cannabis business may store food grade alcohol or any other volatile chemical, solvent or substance in an amount which exceeds the maximum authorized amount determined by the Fire Chief. Subject to the foregoing, use of food grade alcohol solely for the purposes of cleaning machinery and dissolving wax, unless otherwise prohibited by the State, is allowed.
- (q) Commercial cannabis businesses shall comply with all pesticide use requirements of local, state and federal law.
- (r) All weighing devices used by commercial cannabis businesses shall be maintained in compliance with local, state or federal law and applicable regulations regarding device registration with the Agricultural Commissioner.
- (s) Commercial cannabis businesses shall comply with all applicable provisions of the California Building Standards Code, as adopted or incorporated into the McFarland Municipal Code.
- (t) Commercial cannabis businesses shall comply with all local, state and federal laws and regulations and best practices applicable to storage and disposal of chemicals, solid waste, contaminants, hazardous materials, adulterated, deteriorated or excess cannabis and cannabis products, and all byproducts of the commercial cannabis business.
- (u) In no case shall any commercial cannabis business utilize any volatile solvents or other flammable, explosive or toxic substances to process or manufacture cannabis products in the City, except as expressly authorized pursuant to both a Type 7 State license and a City-issued commercial cannabis permit.
- (v) All food products, food storage facilities, food-related utensils, equipment and materials shall be approved, used, managed and handled in accordance to the provisions of the California Retail Food Code, California Health and Safety Code Sections 113700 through 114437. All food products shall be protected from contamination at all times, and all food handlers must be clean, in good health and free from communicable diseases.
- (w) All cannabis and cannabis products, prior to leaving any licensed premises for transfer to any retailer, shall be properly labeled and placed in resealable, tamper-evident, child-resistant packaging, shall include a unique identifier for the purposes of identifying and tracking cannabis and cannabis products, and shall otherwise comply with applicable State laws, including Business and Professions Code Section 26120, and applicable State regulations, all as may be amended from time to time.
- (x) The premises of all commercial cannabis businesses shall have sufficient lighting such that all areas subject to monitoring by the security surveillance camera system shall be always visible to all cameras of the system.

Section 19.04.240 - Operating Requirements for Cultivation Businesses and Nurseries.

- (a) Outdoor commercial cultivation and outdoor nursery activity is prohibited.
- (b) If a commercial cannabis business includes nursery activities, only one nursery may be located on the premises of the commercial cannabis business, and the nursery activity must be permitted pursuant to this Chapter and State law.
- (c) Cannabis cultivation and nursery activity shall be conducted in accordance with state and local laws related to land conversion, grading, electricity, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters.
- (d) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- (e) In no case shall any hazardous, flammable or explosive substances be used to process or manufacture cannabis products on site, except as otherwise stated in this Chapter pertaining to food grade alcohol.
- (f) The cultivation of cannabis and any nursery activity shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial cannabis business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.
- (g) Stacking shall be allowed in a given structure only to the point that measuring the total canopy of each level of stacking is cumulatively no greater than the maximum canopy size allowed under State laws or regulations applicable to the State cultivation license held by the commercial cannabis business.
- (h) All applicants for a commercial cannabis permit for cultivation or nursery activity shall submit the following, which shall be subject to approval by the City Manager prior to issuance of a commercial cannabis permit to the applicant, in addition to the information otherwise required for a commercial cannabis permit application:
 - 1. An operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, proper disposal of waste materials, and a description of the nursery or cultivation activities and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.
 - 2. A description of a legal water source, irrigation plan, and projected water use.
 - 3. Identification of the source of electrical power and plan for compliance with applicable Building Codes and related codes.
 - 4. Plan for addressing odor and other public nuisances which may result from the nursery or cultivation site.

Section 19.04.250 Cannabis Manufacturing Business Operating Requirements.

- (a) Manufacturer 1 (Type 6) permittees shall utilize only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
- (b) Manufacturer 2 (Type 7) permittees shall utilize only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:
 - 1. 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.).
 - 2. 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.

3. A licensed engineer certifies that the system is commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).
 4. The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.
- (c) No compressed gases used in the manufacturing process shall be stored on the premises of any manufacturer in excess of the amount authorized by the Fire Chief
 - (d) No manufacturer may engage in the retail sale, by delivery or otherwise, of any manufactured cannabis products, including edible cannabis products, on a retail basis in the City.
 - (e) All cannabis products shall be properly packaged and labeled in accordance with Business & Professions Code Section 26120 and applicable State regulations before leaving the commercial cannabis manufacturing business. All edible cannabis products must be in an opaque (non-see-through) package.
 - (f) Manufacturers shall comply with all applicable federal, State and local laws and regulations relating to manufacturing safety procedures.

Section 19.04.260 - Reserved

Section 19.04.270 - Cannabis Retail/Delivery Businesses Operating Requirements

- (a) Retail sales of cannabis and cannabis products in the City shall be conducted by storefront or delivery pursuant to the provisions of 19.04.
- (b) No commercial cannabis retailer offering storefront purchase shall be located within 1000 feet from another commercial cannabis storefront retailer. The distance specified in this section shall be the horizontal distance measured in a straight line from the property line of one commercial cannabis storefront retailer to the closest property line of the lot on which another commercial cannabis business is located without regard to intervening structures.
- (c) A Storefront Retailer shall operate in compliance with state and local laws and regulations, including but not limited to State Laws, at all times. Such laws and regulations shall include, but are not limited to:
 - a. A Storefront Retailer shall Sell no more than 28.5 grams of nonconcentrated Cannabis in a single day to a single customer.
 - b. A Storefront Retailer shall Sell no more than eight grams of Cannabis Concentrate, including Cannabis Concentrate contained in Cannabis Products, in a single day to a single customer.
 - c. A Storefront Retailer shall Sell no more than six immature Cannabis plants in a single day to a single customer.
 - d. A Storefront Retailer shall not Sell edible Cannabis Products containing more than 10 milligrams of THC per serving.
 - e. A Storefront Retailer shall not Sell edible Cannabis Products containing more than 100 milligrams of THC per package.
 - f. A Storefront Retailer shall not Sell Cannabis Products that are in the shape of a human being, either realistic or caricature, animal, insect, or fruit.

- g. A Storefront Retailer shall not Sell Cannabis-infused beverages or powder, gel, or other concentrate with instruction for the preparation of Cannabis-infused beverages.
 - h. A Storefront Retailer shall not provide free Cannabis or Cannabis Products to any Person.
 - i. A Storefront Retailer shall notify customers of the following verbally (or by written agreement) and by posting of a notice or notices in a minimum of 24-point font conspicuously within the Storefront Retailer Premises:
 - i. "The sale or diversion of cannabis or cannabis products without a license issued by the City of Chula Vista is a violation of State law and the Chula Vista Municipal Code."
 - ii. "Secondary sale, barter, or distribution of cannabis or cannabis products purchased from [Insert Name of Licensee] is a crime and can lead to arrest."
 - iii. "Patrons must immediately leave the premises and not consume cannabis or cannabis products until at home or in an equivalent private location. Staff shall monitor the location and vicinity to ensure compliance."
 - iv. "Commercial cannabis businesses shall post viewable, written warnings that the use of cannabis or cannabis products may impair a person's ability to drive a motor vehicle or operate heavy machinery."
 - v. "CALIFORNIA PROP. 65 WARNING: Smoking of cannabis and cannabis-derived products will expose you and those in your immediate vicinity to cannabis smoke. Cannabis smoke is known by the State of California to cause cancer."
 - j. All restroom facilities on the Premises shall remain locked and under the control of management. (Ord. 3418 § 2, 2018).
- (d) Adult use retailers/delivery shall verify the age of all customers to ensure persons under the age of 21 are not permitted on the premises. Entrances into the retailer shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the retailer to separate it from the reception/lobby area.
 - (e) All commercial cannabis businesses conducting deliveries shall have permitted premises in the City from which all deliveries to addresses in the City or outside of the City shall be conducted.
 - (f) The premises of all commercial cannabis businesses that are permitted to conduct deliveries but not permitted for retail storefront sales shall be closed to the general public at all times and shall be accessible only to employees and persons with a bona fide business or regulatory purpose for accessing the premises.
 - (g) In accordance with Business & Professions Code Section 26070.1, cannabis or cannabis products purchased by a customer shall not leave the permitted premises of a retailer unless they are placed in an opaque package.
 - (h) Retailers shall not accept, possess, or sell cannabis or cannabis products that are not packaged and labeled as they will be sold at final sale and in accordance with Business & Professions Code Section 26120, as may be amended. Retailers shall not package or label cannabis or cannabis products.
 - (i) No employee or other person acting on behalf of a commercial cannabis operation permitted to conduct deliveries may possess or deliver more than \$3,000 worth of cannabis or cannabis products at any given time.

- (j) No delivery shall be made to any person other than the person who requested the delivery, except when the person requesting the delivery is a qualified patient and the person receiving the delivery is his or her primary caregiver, or vice versa.
- (k) Any person who is present on the permitted premises of a commercial cannabis business permitted to conduct deliveries who is not an employee, officer, agent, or representative of the retailer must sign in and wear a "visitor" identification badge at all times while on the premises.
- (l) Proof of the required State license and commercial cannabis permit, and a copy of all requests/orders for deliveries being conducted, shall be carried at all times in all vehicles being used to make deliveries, and shall be immediately available upon request from law enforcement officers.
- (m) Deliveries shall not be conducted between the hours of 11:00 p.m. and 7:00 a.m.

Section 19.04.280 - Total Area Devoted to Commercial Cannabis Businesses

- (a) No more than 200 acres or eight million, seven hundred and twelve thousand (8,712,000) square feet of area shall be permitted for use by commercial cannabis businesses in the City. Notwithstanding the foregoing, land annexed into the City after the date of enactment of this Chapter shall not be subject to, nor shall be counted toward, this restriction.
- (b) The square footage of premises of each permitted commercial cannabis business shall be a minimum of 2,000 square feet in area. A coexisting, Commercial Cannabis business, subtenant, may be located, with the City Manager or designee's approval or conditional approval, in a building area of less than 2,000 square feet where the Commercial Cannabis business is in conjunction with another approved Commercial Cannabis activity permitted in a building larger than 2,000 square feet.
- (c) Accessory Structures in Support of Commercial Cannabis Businesses may, at the City Manager's or designee approval or conditional approval, be authorized. The ratio of 1:1 square footage (Accessory Structure vs Commercial Cannabis Business) shall not exceed 25,000 square feet. (Example: Commercial Cannabis Business with 25,000 square feet may be authorized to have up to 25,000 square feet of Accessory Structures). All Accessory Structures shall be affixed to concrete foundations and must conform to the California Building Code (CBC), California Electrical Code (CEC) and American Mechanical Code (AMC). Accessory structures shall meet the requirements of Section 19.04.080 Security Measures and must have exterior lights around all four sides or appropriate detached lighting as approved by the City. Accessory structure(s) may be less than the minimum square footage as established in 19.04.280 (b). Accessory Structures shall be screened from public view – design of screening shall be at the discretion of the City Manager or designee. Accessory Structures square footage shall be included as established by Section 19.04.280 Total Area Devoted to Commercial Cannabis Businesses. Temporary buildings for a Non-Store Front Delivery license may be permitted by the City Manager or his designee. However, reasonable progress must be made on a permanent structure, or the license may be revoked. The permanent fencing requirements required by this chapter, for the site, shall apply to these temporary buildings.

Section 19.04.290 - Periodic Review by the City Council.

Upon request of the City Manager, the City Attorney and the Chief of Police shall report to the City Council with findings on the operation of any commercial cannabis business permitted pursuant to this Chapter and a recommendation as to whether the business should be permitted to continue operating for the remaining period of its commercial cannabis permit (in addition to whatever other recommendations may be made) and whether the City should renew the permit upon application for renewal. Any termination or revocation of a permit based on such findings shall be in accordance with the provisions of this Chapter.

Section 19.04.300 - Promulgation of Regulations and Standards.

The City Manager, in his or her discretion, is authorized to promulgate reasonable regulations as he or she deems necessary to implement procedures or requirements in furtherance of the purposes of this Chapter. Regulations promulgated by the City Manager shall have the same force and effect

of law and shall become effective upon the date of approval and execution of such regulations by the City Manager.

Section 19.04.310 - Community Relations.

- (a) Each commercial cannabis business shall provide the City Manager with the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the commercial cannabis business can be provided.
- (b) The owner, manager, and community relations representative of a commercial cannabis permit holder operating in the City shall, upon request of the City Manager, meet to discuss costs, benefits, and other community issues resulting from implementation or application of this Chapter.

Section 19.04.320 - Unpaid Fees Deemed Debt to City.

The amount of any unpaid fee, cost or charge imposed pursuant to this Chapter shall be deemed a civil debt to the City that is recoverable in any court of competent jurisdiction.

Section 19.04.330 - Permit Holder Responsible for Violations.

Commercial cannabis permit holders shall be responsible for all violations of State or local laws or regulations, whether or not committed by the permit holder or any employee or agent of the permit holder, which occur in or on the premises of the commercial cannabis business, whether or not said violations occur within the permit holder's presence.

Section 19.04.340 – Effect on Other Ordinances

Except as designated in this chapter, the provisions of this chapter shall control for regulation of commercial cannabis businesses as defined herein if other provisions of the code conflict therewith. This chapter shall not, however, relieve any person of his or her duty to comply with such laws if additional obligations, duties, or prohibitions are imposed thereby.

Section 19.04.350 – Unlawful Businesses Prohibited

In no event shall any business license be granted for any use or activity that is illegal or unlawful under federal, state or city laws or regulations. No business license issued hereunder shall be construed as authorizing the conduct of or continuance of any illegal or unlawful business, or the furnishing, sale or provisioning of any service, good or product that is illegal under this code, the laws of the State of California, or the laws of the United States of America. Notwithstanding the foregoing, a business license may be granted for businesses permitted under this chapter, provided the applicant has complied with all provisions of this code and state law.

Section 19.04.360 – City Manager Designee

The City Manager may designate a staff member to be the City Manager's designee and act on some or all the City Manager decisions of this chapter.

Section 19.04.370 Consumption of Marijuana or Marijuana Products

- (a) No person shall smoke, ingest, or otherwise consume marijuana or marijuana products, whether recreational or medical, within the city limits of the City of McFarland, unless such smoking, ingesting or consumption occurs entirely within a private residence. "Within a private residence" shall mean inside habitable areas and shall not include garages, whether attached or detached, and other accessory buildings unless those buildings are at all times fully enclosed during the consumption.
- (b) Medical marijuana may also be consumed within a clinic, health care facility, residential care facility, or residential hospice licensed pursuant to applicable provisions of the California Health and Safety Code.
- (c) All consumption shall be done in a manner so as to not cause a nuisance to nearby residents with noxious odors or other adverse health and safety impacts.

Section 3. Notice. The City clerk shall certify to the passage and adoption of this ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 5. Effective Date. This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

Section 6. Certification; Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED, PASSED at a regular meeting of the City Council of the City of McFarland, California on the 9th day of February, 2023, by the following vote:

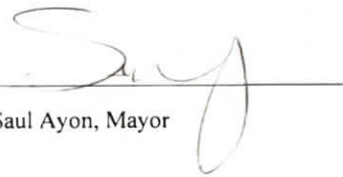
ADOPTED at a regular meeting of the City Council of the City of McFarland, California on the 23rd day of February, 2023, by the following vote:

	Aye	Nae	Abstain	Absent
Saul Ayon	✓			
Ricardo Cano	✓			
Anita Gonzales	✓			
Amador Ayon	✓			
María T. Perez	✓			


Francisca Alvarado, City Clerk

I hereby certify that the foregoing Ordinance was duly and regularly adopted by the City Council of the City of McFarland by a regular meeting thereof held on February 23, 2023.

ATTEST:


Saul Ayon, Mayor

APPROVED AS TO FORM:


Nathan Hodges, City Attorney

