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Chapter 6.36 COMMERCIAL CANNABIS ACTIVITY.

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Section 6.36.010. Purpose and Intent

It is the purpose and intent of this Chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") to accommodate the needs of medically-ill persons in need of and provide access to cannabis for medicinal purposes and implement the desire of California voters who approved the Adult Use of Marijuana Act ("AUMA") by Proposition 64 in November 2016, while imposing sensible regulations on the use of land to protect the City’s residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to regulate the commercial cannabis activity in a responsible manner to protect the health, safety, and welfare of the residents of Tracy and to enforce rules and regulations consistent with state law. It is the further purpose and intent of this Chapter to require all commercial cannabis operators meeting the established requirements to obtain and renew annually a regulatory permit to operate a cannabis business in Tracy. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes that violate state or local law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to operate a cannabis business in the City, such as a conditional use permit issued pursuant to Title 10 of this Code, and are in addition to any permits, licenses and approval required under state, county, or other law.

Section 6.36.020. Legal Authority.

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of MAUCRSA, and any subsequent state legislation and/or regulations regarding same, the City of Tracy is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing and permitting of commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Tracy to all commercial cannabis activity.

Section 6.36.030. Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. 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) "A-license" means a state license issued under this Chapter for cannabis or cannabis products that are intended for adults who are 21 years of age and older (adult-use) and who do not possess a physician’s recommendation.
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(b) “A-licensee” means any person holding a license under Business and Professions Code Section 26000 et seq. for cannabis or cannabis products that are intended for adults who are 21 years of age and older (adult-use) and who do not possess a physician’s recommendation.

(c) “Applicant” means an owner applying for a cannabis business permit or cannabis employee permit pursuant to this Chapter.

(d) “Batch” means a specific quantity of homogeneous cannabis or cannabis product that is one of the following types:
   (1) “Harvest batch” means a specifically identified quantity of dried flower or trim, leaves, and other cannabis plant matter that is uniform in strain, harvested at the same time, and, if applicable, cultivated using the same pesticides and other agricultural chemicals and harvested at the same time.
   (2) “Manufactured cannabis batch” means either of the following:
      (A) An amount of cannabis concentrates or extract that is produced in one production cycle using the same extraction methods and standard operating procedures.
      (B) An amount of a type of manufactured cannabis produced in one production cycle using the same formulation and standard operating procedures.

(e) “Bureau” means the Bureau of Cannabis Control within the California Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation.

(f) “Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

(g) “Cannabis accessories” has the same meaning as in Section 11018.2 of the Health and Safety Code.

(h) “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this Chapter. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.
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(i) "Cannabis employee permit" means a regulatory permit issued by the City pursuant to this Chapter to persons working, volunteering, interning, or apprenticing at any cannabis business operating in the City.

(j) "Cannabis product" means a product containing cannabis or cannabis, including, but not limited to, manufactured cannabis, and shall have the same meaning as in Section 11018.1 of the Health and Safety Code. For purposes of this Chapter, "cannabis" does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

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

(l) "City" or "City of Tracy" means the City of Tracy, a California general law City.

(m) "Commercial cannabis activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products as provided for in this Chapter.

(n) "Commercial cannabis business" or "Cannabis business" means any business or operation which engages in medicinal or adult-use commercial cannabis activity.

(o) "Commercial cannabis business permit" or "City cannabis business permit" means a regulatory permit issued by the City pursuant to this Chapter to a person operating a cannabis business in the City. This permit is required before any commercial cannabis activity may be conducted in the City and does not constitute a land use entitlement nor a conditional use permit. The issuance of a cannabis business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted or imposed by the City governing the commercial cannabis activity at issue.

(p) "Customer" means a natural person 21 years of age or older or a natural person 18 years of age or older who possesses a physician’s recommendation.

(q) "Day care center" has the same meaning as in Section 1596.76 of the Health and Safety Code.

(r) "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer.

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

(t) "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between licensees.

(u) "Distributor" means a person holding a valid commercial cannabis state license for distribution, required by state law to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a license manufacturer, for sale to a licensed retailer.

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

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

(x) “Greenhouse” means a fully enclosed fixed, permanent structure that is clad in transparent or translucent material with its own irrigation and climate control, such as heating and ventilation capabilities and supplemental and artificial lighting, and that uses a combination of natural and supplemental lighting for cultivation. A greenhouse used for purposes of cannabis cultivation is subject to the MAUCRSA and related state and local regulations, rather than the California Food and Agricultural Code, and its related state and local regulations.

(y) “Kind” means applicable type or designation regarding a particular cannabis variant or cannabis product type, including, but not limited to, strain name or other grower trademark, or growing area designation.

(z) “Labeling” means any label or other written, printed, or graphic matter upon a cannabis product, upon its container.

(aa) “Labor peace agreement” means an agreement between a licensee and any bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(ab) “License” means a state license issued under this Chapter, and includes both an A-license and an M-license, as well as a testing laboratory license.

(ac) “Licensee” means any person holding a license under this Chapter, regardless of whether the license held is an A-license or an M-license, and includes the holder of a testing laboratory license.

(ad) “Licensing authority” means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

(ae) “Live plants” means living cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(af) “Local jurisdiction” means a city or county.

(ag) “Lot” means a batch or a specifically identified portion of a batch.

(ah) “M-license” means a state license issued under this Chapter for commercial cannabis activity involving medicinal cannabis.

(ai) “M-licensee” means any person holding a license under this Chapter for commercial cannabis activity involving medicinal cannabis.
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(aj) “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

(ak) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, extraction or other manufactured product intended for internal consumption through inhalation or oral ingestion or for topical application.

(al) “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, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or container.

(am) “Manufacturing site” means a location that produces, prepares, propagates, or compounds cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a person issued a valid commercial cannabis business permit for manufacturing from the City of Tracy and, a valid state license as required for manufacturing of cannabis products.

(an) “Medicinal cannabis” or “medicinal cannabis product” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

(ao) “Natural person” is an individual human being as opposed to an artificial or legal person like a company which may be a private entity or non-governmental organization or public government organization.

(ap) “Non-Storefront retailer” means a cannabis business that conducts sales of cannabis or cannabis products to customers exclusively by delivery and whose premises are closed to the public. The term “Non-Storefront Retailer” is synonymous with the terms “delivery only” or “delivery service.”

(aq) “Operation” means any act for which licensure is required under the provisions of this Chapter, or any commercial transfer of cannabis or cannabis products.

(ar) “Owner” means any of the following:

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

2. The chief executive officer of a nonprofit or other entity.

3. A member of the board of directors of a nonprofit.

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

(as) “Package” means any container or receptacle used for holding cannabis or cannabis products.

(at) “Patient” or “qualified patient” shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.
(au) “Person” includes any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

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

(aw) “Physician’s recommendation” means a recommendation by a physician and surgeon that a patient use cannabis provided in accordance with the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code.

(ax) “Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

(ay) “Retailer” means a cannabis business issued a state license for the retail sale and delivery of cannabis or cannabis products to customers. “Retailer” shall have the same meaning as Business and Professions Code section 26070 and as may be amended from time to time.

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

(ba) “State License” means a permit or license issued by the State of California, or one of its departments or divisions, under MAUCRSA and any subsequent State of California legislation regarding the same to engage in commercial cannabis activity.

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

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

   (2) Licensed by the bureau.

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

(bd) “Transport” means the transfer of cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized by the MAUCRSA which may be amended or repealed by any subsequent State of California legislation regarding the same.
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(b) “Unique identifier” means an alphanumeric code or designation used for reference to a specific plant on a licensed premises and any cannabis or cannabis product derived or manufactured from that plant.

(bf) “Youth center” has the same meaning as in Section 11353.1 of the Health and Safety Code.

Section 6.36.040. Commercial Cannabis Activities Prohibited Unless Specifically Authorized by this Chapter.

Except as specifically authorized in this Chapter, the commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, retail sale, delivery, distribution or transportation (other than as provided under Bus. & Prof. Code section 26090(e)), of cannabis or cannabis product is expressly prohibited in the City of Tracy.

Section 6.36.050. Compliance with State and Local Laws.

It is the responsibility of the owners and operators of the cannabis business to ensure that it is always operating in a manner compliant with all applicable state and local laws, policies, rules, and regulations including, but not limited to, the California Health and Safety Code, the City adopted Building Code, Plumbing Code, Electrical Code, Mechanical Code, Fire Code, the Tracy Municipal Code, the Tracy Zoning Code, all requirements and conditions related to the land use entitlement process, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions that violate state law or local law with respect to the operation of a cannabis business. It shall be the responsibility of the owners and the operators of the cannabis business to ensure that the cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, including for as long as applicable, the Compassionate Use Act (“Prop. 215”) and the Medical Cannabis Program Act (“MMPA”) (collectively “the Medical Cannabis Collective Laws”), any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions that violate state law regarding the operation of a commercial cannabis business.


(a) No person may engage in any commercial cannabis activity within the City of Tracy unless the person (1) has a valid Cannabis business permit from the City of Tracy; (2) has a valid State License; and (3) is currently in compliance with all applicable state and local laws and regulations pertaining to the cannabis business and the commercial cannabis activities
and land use and zoning requirements, including obtaining a valid conditional use permit.

Section 6.36.070. Maximum Number and Type of Authorized Commercial Cannabis Businesses Permitted.

Maximum Number and Type of Authorized Cannabis Businesses Permitted. The number of each type of cannabis business that shall be permitted to operate in the City at any one given time shall be as follows:

Medicinal (M-License) Non-Storefront Retailer; maximum of two (2).

This Section is only intended to create a maximum number of cannabis businesses that may be issued permits to operate in the City under each category. Nothing in this Chapter creates a mandate that the City Council must issue any or all of the cannabis business permits if it is determined that the applicants do not meet the standards which are established in the application requirements or further amendments to the application process.

(a) Each year following the Police Chief’s initial award of cannabis business permits, if any, or at any time in the City Council’s discretion, the City Council may reassess the number of cannabis business permits which are authorized for issuance. The City Council, in its discretion, may determine by ordinance that the number of commercial cannabis permits should stay the same, or be increased.


(a) The City Council shall adopt by resolution the procedures to govern the application process, and the manner in which the decision to issue a cannabis business permit(s), which resolution shall authorize City staff to provide detailed objective review criteria to be evaluated on a point system or equivalent quantitative evaluation scale tied to each set of review criteria (“Review Criteria”) and to prepare the necessary forms, adopt any necessary rules to the application, regulations and processes, solicit applications, and conduct evaluate the applicants.

(b) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.

(c) After the initial review of applications, ranking, and scoring under the Review Criteria by the Development Services Director or designee, Finance Director or designee, and Fire Chief or designee (“Review Committee”), the
Review Committee shall make a recommendation to the Police Chief or designee, who shall make a final selection in accordance with Section 6.36.0970.

(d) THE CITY’S RESERVATION OF RIGHTS:

The City reserves the right to reject any or all applications. Prior to cannabis business permit issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California state law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to cannabis business permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other justification provided, an application RISKS BEING REJECTED for any of the following reasons:

1. Application was received after designated time and date.
2. Application did not contain the required elements, exhibits, nor organized in the required format.
3. Application was considered not fully responsive to this request for permit application.

Section 6.36.090. Selection of Cannabis Business Permittee(s).

(a) The top four applicants identified by the Review Committee may be invited to attend a public hearing with the Police Chief or designee, where they may be expected to make a public presentation regarding their application. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary.

(b) The Police Chief or designee shall determine which top applicants will be granted a cannabis business permit. The Police Chief’s or designee’s decision as to the selection of permittees shall be appealable to the City Manager. Such appeals shall comply with Chapter 1.12 of this Code.

(c) Issuance of a cannabis business permit does not constitute a land use entitlement nor does it constitute a land use permit. Following the Police Chief’s selection, the prevailing candidates(s) shall apply to the City’s Development Services Department to obtain a conditional use permit pursuant to Section 10.08.4250 and any other required land use approvals.
or entitlements for the permittee’s premises. Land use approvals shall include compliance with all applicable provisions of CEQA.

(f) Furthermore, no permittee shall begin operations, notwithstanding the issuance of a cannabis business permit, unless all of the state and local laws and regulations have been complied with, including but not limited to the requirements of this Chapter and Section 10.08.3196.

(g) Notwithstanding anything in this Chapter to the contrary, the City reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a cannabis business permit until a permit is actually issued, and then only for the duration of the term specified in the permit. Each applicant assumes the risk that, at any time prior to the issuance of a cannabis business permit, the City Council may terminate or delay the program created under this Chapter.

(h) If an application is denied for a cannabis business permit, a new application may not be filed for one (1) year from the date of the denial.

(i) Each person granted a cannabis business permit shall pay the permit fee established by resolution of the City Council, to cover the costs of administering the cannabis business permit regulatory program created in this Chapter.

Section 6.36.100. Expiration of Cannabis Business Permits.

Each cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Cannabis business permits may be renewed as provided in Section 6.36.120.

Section 6.36.110. Revocation of Permits.

Cannabis business permits may be revoked for any violation of state law and/or any local law, rule, regulation or operational procedure, including but not limited to Section 6.36.040 Compliance with State and Local Laws, and/or any other regulations adopted pursuant to this Chapter.
Section 6.36.120. Renewal Applications.

(a) An application for renewal of a cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.

(b) The renewal application shall contain all the information required for new applications.

(c) The applicant shall pay a fee in an amount set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.

(d) An application for renewal of a cannabis business permit shall be rejected if any of the following exists:

(1) The application is filed less than sixty (60) days before its expiration.

(2) The cannabis business permit is suspended or revoked at the time of the application.

(3) The cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application.

(4) The cannabis business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter.

(5) The permittee fails to or is unable to renew its state license.

(6) If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, of the City's Municipal Code, the conditions of approval associated with the conditional use permit or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the cannabis business permit.

(e) The Police Chief or designee(s) is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the Police Chief or designee(s) is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the Police Chief or designee(s) shall be directed to the City Manager and shall be handled pursuant to Chapter 1.12.
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(f) If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.

(g) If an existing cannabis business permit holder fails to renew their permit, the City may, in its discretion, solicit and consider permit applications from other applicants pursuant to Sections 6.36.080 and 6.36.090.

Section 6.36.130. Effect of State License Suspension, Revocation, or Termination.

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis business, such revocation or termination shall constitute grounds for revoking a City cannabis business permit.

Section 6.36.140. Change in contact information; updated registration form.

(a) Any time the contact information listed on cannabis business permit has changed, the business shall re-register with the Police Chief or designee(s). The process and the fees for re-registration shall be the same as the process and fees set forth in section 6.36.120.

(b) Within fifteen (15) calendar days of any other change in the information provided in the application or any change in status of compliance with the provisions of this Chapter, including any change in the cannabis business ownership or management members, the applicant shall file an updated registration form with the Police Chief or designee(s) for review along with a registration amendment fee, as set forth in section 6.36.120.

Section 6.36.150. Transfer of Cannabis Business Permit.

(a) The holder of a cannabis business permit shall not transfer ownership or control of the permit to another person or entity unless and until the transferee obtains an amendment to their state license issued by the Bureau of Cannabis Control, if required, and an amendment to the permit from the Police Chief stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the Police Chief or designee(s) in accordance with all provisions of this Chapter (as though the transferee were applying for an original cannabis business permit) accompanied by a transfer fee in an amount set by resolution of the City Council, and the Police Chief or designee(s)
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determines that the transferee passed the background check required for permittees and meets all other requirements of this Chapter.

(b) Cannabis business permits issued through the grant of a transfer by the Police Chief shall be valid for a period of one year beginning on the day the Police Chief approves the transfer of the permit. Before the transferee's permit expires, the transferee shall apply for a renewal permit in the manner required by this Chapter.

(c) Changes in ownership of a permittee’s business structure or a substantial change in the ownership of a permittee business entity (changes that result in a change of more than 51% of the original ownership), must be approved by the Police Chief or designee(s) through the transfer process contained in this subsection (a). Failure to comply with this provision is grounds for permit revocation.

(d) A permittee may change the form of business entity without applying to the Police Chief or designee(s) for a transfer of permit, provided that either:

(1) The membership of the new business entity is substantially similar to original permit holder business entity (at least 51% of the membership is identical), or

(2) If the original permittee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA and to comply with Section 6.36.060, subdivision (b), provided that the Board of Directors (or in the case of an unincorporated association, the individual(s) listed on the City permit application) of the original permittee entity are the same as the new business entity.

Although a transfer is not required in these two circumstances, the permit holder is required to notify the City Manager or designee(s) in writing of the change within ten (10) days of the change. Failure to comply with this provision is grounds for permit revocation.

(e) No cannabis business permit may be transferred when the Police Chief or designee has notified the permittee that the permit has been or may be suspended or revoked.

(f) Any attempt to transfer a cannabis business permit either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the permit.
Section 6.36.160. Cannabis Employee Permit Required.

(a) Any person who is an employee or who otherwise works within a cannabis business must be legally authorized to do so under applicable state law.

(b) Any person who is an employee or who otherwise works within a cannabis business must obtain a cannabis employee permit from the City prior to performing any work at any cannabis business.

(c) Applications for a cannabis employee permit shall be developed, made available, and processed by the Police Chief or designee(s), and shall include, but not be limited to, the following information:

1. Name, address, and phone number of the applicant;

2. Age and verification of applicant. A copy of a birth certificate, driver’s license, government issued identification card, passport or other proof that the applicant is at twenty-one (21) years of age must be submitted with the application;

3. Name, address of the cannabis business where the person will be employed, and the name and phone number of the primary manager of that business;

4. A list of any crimes enumerated in California Business and Professions Code Section 26507(b)(4) for which the applicant has been convicted;

5. Name, address, and contact person for any previous employers from which the applicant was fired, resigned, or asked to leave and the reasons for such dismissal or firing;

6. The application shall be accompanied by fingerprints and a recent photograph of the applicant in a form and manner as required by the Police Chief or designee(s).

7. A fee paid in an amount set by resolution of the City Council in an amount necessary to cover the costs of administering the cannabis employee permit program. The fee is non-refundable and shall not be returned in the event the employee permit is denied or revoked.

(d) The Police Chief or designee(s) shall review the application for completeness, shall conduct a background check to determine whether the applicant was convicted of a crime or left a previous employer for reasons that show the applicant:
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(1) Has been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code sections 186.11, 470, 484, and 504a, respectively; or

(2) Has committed a felony or misdemeanor involving fraud, deceit, embezzlement; or

(3) Was convicted of a violent felony, a crime of moral turpitude; or

(4) The illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, except for cannabis related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.

Discovery of these facts showing that the applicant is dishonest or has been convicted of those types of crimes are grounds for denial of the permit. Where the applicant’s sentence (including any term of probation, incarceration, or supervised release) for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is completed, such underlying conviction shall not be the sole ground for denial of a commercial cannabis work permit. Furthermore, an applicant shall not be denied a permit if the denial is based solely on any of the following (i) a conviction for any crime listed in subsection (d) (4) above for which the applicant has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the California Penal Code or (ii) a conviction that was subsequently dismissed pursuant to Sections 1203.4, 1203.4a, or 1203.41 of the California Penal Code or any other provision of state law allowing for dismissal of a conviction.

(e) The Police Chief or designee(s) shall issue the cannabis employee permit or a written denial to the applicant within thirty (30) calendar days of the date the application was deemed complete. In the event the cannabis employee permit cannot be issued within this time period then the Police Chief or designee(s) may issue a temporary employee permit for an employee upon completing a preliminary background check and if the business can demonstrate to the Police Chief or designee(s) that the employee is necessary for the operation of the business. The temporary permit may be immediately revoked by the Police Chief or designee(s) upon determination that the applicant has failed the background check or upon the issuance of the permanent employee permit.

(f) A cannabis employee permit shall be valid for a twelve (12) month period and must be renewed on an annual basis. Renewal applications shall contain all the information required in subsection 6.36.070 (b) above
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including the payment of a renewal application fee in an amount to be set by resolution of the City Council.

(g) In the event an employee permit holder voluntarily or involuntarily separates from employment from the cannabis business, the permit holder shall notify the Police Chief or designee(s) in writing of the change within ten (10) calendar days, or the employee permit shall be suspended or revoked. The failure to notify the City of the change in employment status may result in the permit holder being ineligible for an employee permit in the future.

(h) The City may immediately revoke the cannabis employee permit should the permit holder be convicted of a crime listed in subsections (d) and (i) above or if facts become known to the Police Chief or designee(s) that the permit holder has engaged in activities showing that he or she is dishonest. The following are additional grounds for revoking a cannabis employee permit based on the specific role and function of that employee:

(i) A cannabis employee permit for drivers, delivery persons, or any person delivering cannabis on behalf of a cannabis non-storefront retailer to customers shall be revoked if the employee permit holder:
   (1) Sells or provides cannabis or cannabis products to a minor;
   (2) Attempts to give away cannabis or cannabis products;
   (3) Acts to illegally divert cannabis or cannabis products to the black market, including stealing cash; stealing the licensee’s product for personal consumption; or selling the licensee’s product and keeping the proceeds of the sale; or
   (4) Is cited for driving under the influence of alcohol, cannabis or another illicit drug while on- or off-duty.

(j) The Police Chief or designee(s) is hereby authorized to promulgate all regulations necessary to implement the work permit process and requirements.

(k) The applicant may appeal the denial or revocation of a cannabis employee permit to the City Manager by filing a notice of appeal with the City Clerk within ten (10) working days of the date the applicant received the notice of denial or revocation, which appeal shall be conducted as set forth in Chapter 1.12 of this Code.

Section 6.36.180. City Business License.

Prior to commencing operations, a cannabis business shall obtain a City of Tracy business license.
Section 6.36.190. Limitations on City’s Liability.

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

(a) The applicant must execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at applicant’s sole cost and expense), and hold the City of Tracy, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City’s issuance of the cannabis business permit, the City’s decision to approve the operation of the commercial cannabis business or activity, the process used by the City in making its decision, or the alleged violation of any state or local laws by the cannabis business or any of its officers, employees or agents.

(b) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Attorney and/or Risk Manager.

(c) Reimburse the City of Tracy for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Tracy may be required to pay as a result of any legal challenge related to the City’s approval of the applicant’s cannabis business permit, or related to the City’s approval of a commercial cannabis activity. The City of Tracy may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

Section 6.36.200. Records and Recordkeeping.

(a) Each owner and operator of a cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a commercial cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each cannabis business shall file a sworn statement detailing the number of sales by the commercial cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid. On an annual basis, each owner and operator
shall submit to the City a financial audit of the business’s operations conducted by an independent certified public accountant. Each permittee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager or designee(s).

(b) Each owner and operator of a commercial cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis business, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the commercial cannabis business. The register required by this paragraph shall be provided to the Police Chief or designee(s) upon a reasonable request.

(c) All cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes in accordance with the MAUCRSA.

(d) Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPPA) and other applicable regulations, each cannabis business shall allow City of Tracy officials to have access to the business’s books, records, accounts, together with any other data or documents relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City’s request, unless otherwise stipulated in writing by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City’s software and hardware.


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

(1) Preventing individuals from remaining on the premises of the cannabis business if they are not engaging in an activity directly related to the permitted operations of the cannabis business.
(2) Establishing limited access areas accessible only to authorized commercial cannabis business personnel.

(3) All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products that are being sold for retail purposes shall be kept in a manner as to prevent diversion, theft, and loss.

(4) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. The commercial cannabis business shall be responsible for ensuring that the security surveillance camera’s footage is remotely accessible by the Police Chief or designee(s), and that it is compatible with the City’s software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the Police Chief or designee(s). Video recordings shall be maintained for a minimum of ninety (90) days, or as required under state law, and shall be made available to the Police Chief or designee(s) upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business.

Section 6.36.220. Restriction on Alcohol & Tobacco Sales.

(a) It shall be unlawful to cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis business.

(b) It shall be unlawful to cause or permit the sale of tobacco products on or about the premises of the cannabis business.

Section 6.36.230. Fees and Charges.

(a) No person may commence or continue any cannabis activity in the City, without timely paying in full all fees and charges required for the operation of a cannabis business. Fees and charges associated with regulation of a cannabis business shall be established by resolution of the City Council which may be amended from time to time.

(b) All cannabis businesses authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license,
registration, and other fees required under state and local law. Each cannabis business shall cooperate with the City or designee(s) with respect to any reasonable request to audit the cannabis business' books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

Section 6.36.240. Miscellaneous Operating Requirements.

(a) Cannabis businesses may operate only during the hours specified in the cannabis business permit issued by the City.

(b) Restriction on Customer Consumption. Cannabis shall not be consumed by any retail customer on the premises of any cannabis businesses.

(c) No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a cannabis business permit, or on any of the vehicles owned or used as part of the cannabis business. No outdoor storage of cannabis or cannabis products is permitted at any time.

(d) Reporting and Tracking of Product and of Gross Sales. Each cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. Said tracking system must be in compliance with state’s designated track-and-trace system of METRC. The commercial cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system must have the capability to produce historical transactional data for review. Furthermore, any system selected must be approved and authorized by the Police Chief or designee(s) prior to being used by the permittee.

(e) There shall not be a physician located in or around any cannabis business at any time for the purpose of evaluating patients for the issuance of a cannabis recommendation or card where applicable.

(f) Emergency Contact. Each cannabis business shall provide the Police Chief or designee(s) with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
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(g) Minors.

(1) Persons under the age of twenty-one (21) years shall not be allowed on the premises of a cannabis business. It shall be 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.

(h) Odor Control. Odor control devices and techniques shall be incorporated in all 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 outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis business. As such, cannabis businesses must install and take all measures, including installing equipment, to control odor as required by the Development Services Director or designee.

(i) Display of Permit and City Business License. The original copy of the cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the cannabis business in a location readily-visible to the City officials inspecting the premises.

(j) Permits and other Approvals. Prior to commencing operations of any cannabis business, the person seeking to establish a cannabis business must first obtain all applicable land use, zoning, building, and other applicable permits from the City which are applicable to property in which such cannabis business intends to establish and to operate.

Section 6.36. 250. Other Operational Requirements.

The City Manager or designee may develop other cannabis business operational requirements or regulations as are determined to be necessary to protect the public health, safety and welfare. Such operational requirements or regulations shall take effect as determined by the City Manager or designee, and existing cannabis business permit holders shall comply as amended.

Prior to commencing operations, a Cannabis Non-Storefront Retailer shall provide the City with all information requested by the Police Chief or designee(s) regarding the vehicles used to deliver cannabis to customers. Such information shall include, but not be limited to the following:

(a) Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver medicinal cannabis or cannabis products.

(b) Proof of insurance as required in section 6.36.190 (b) for any and all vehicles being used to deliver medicinal cannabis goods.

(c) The make, model, and license number of all vehicles owned or leased by the commercial cannabis retailer and used to deliver medicinal cannabis or cannabis products.

Section 6.36.270. Permissible Delivery Locations and Customers.

Non-storefront cannabis retailers are subject to the following requirements:

(a) Cannabis and cannabis products shall only be delivered to customers located at a residential address including a nursing or assisted living facility and/or to customers located in other jurisdictions in which it is not prohibited to conduct deliveries of cannabis goods;

(b) The delivery of cannabis and cannabis products to any location or facility owned, leased or occupied by a public agency, including but not limited to, a public school, library, and community center, is expressly prohibited. No deliveries shall be conducted on private property open to the public, including but not limited to, business and professional offices, retail stores and their adjoining parking lots, places of assembly, eating and drinking establishments; and

(c) Deliveries shall only be completed to patients and primary caregivers that have a physician’s recommendation on file with the retailer.

Section 6.36.280. Packaging and Labeling.

(a) All cannabis, cannabis products, and cannabis accessories sold by a cannabis business shall be packaged, labeled and placed in tamper-evident packaging which at least meets the requirements of the MAUCRSA and all state implementing rules and regulations.
Section 6.36.290. Promulgation of Regulations, Standards and Other Legal Duties.

(a) In addition to any regulations adopted by the City Council, the City Manager or designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of cannabis business permits, the ongoing operation of cannabis businesses and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.

(b) Regulations shall be published on the City's website.

(c) Regulations promulgated by the City Manager or designee shall become effective as determined therein. Cannabis businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or designee.

Section 6.36.300. Fees Deemed Debt to City of Tracy.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Tracy that is recoverable via an authorized administrative process as set forth in the Tracy Municipal Code, or in any court of competent jurisdiction.

Section 6.36.310. Permit Holder Responsible for Violations.

The person to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Tracy, whether committed by the permittee or any employee, volunteer, or agent of the permittee, which violations occur in or about the premises of the cannabis business, and violations which occur during deliveries to off-site locations, whether or not said violations occur within the permit holder's presence.

Section 6.36.320. Inspection and Enforcement.

(a) The City Manager or designee(s), Chief of Police or designee(s), and Fire Chief or designee(s) charged with enforcing the provisions of the Tracy Municipal Code, or any provision thereof, may enter the location of a cannabis business at any time, without notice, and inspect the location of any cannabis business, obtain samples of the cannabis to test for public safety purposes, and review any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
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(b) It is unlawful for any person having responsibility over the operation of a cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis business under this Chapter or under state or local law.

Section 6.36.330. Compliance with State Regulations.

It is the stated intent of this Chapter to regulate commercial cannabis activity in the City of Tracy in compliance with all provisions MAUCRSA and any subsequent state legislation.

Section 6.36.340. Violations declared a public nuisance.

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

Section 6.36.350. Each violation a separate offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Tracy Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, and any permit issued pursuant to this Chapter shall be deemed null and void, entitling the City to disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Tracy may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis business or persons related to, or associated with, the commercial cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the Police Chief or designee(s), may take immediate action to temporarily suspend a cannabis business permit issued by the City, pending a hearing before the City Manager.

Section 6.36.360. Criminal Penalties.

Each and every violation of the provisions of this Chapter may in the discretion of the City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for a period of
not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.

Section 6.36.370. Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.