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## City of Sebastopol Memorandum

### **MEDICAL CANNABIS SUPPORT USES: MANUFACTURING (TYPE 6- INCLUDING INFUSED PRODUCTS), TESTING (TYPE 8), RETAILER-OFFICE ONLY (TYPE 10), DISTRIBUTOR (TYPE 11), PROCESSING (TYPE P), AND PACKAGING AND LABELING (TYPE P/L)**

#### **Official Zoning Code Interpretation (October 2017)** (Zoning Code Sections 17.08 and 17.25)

#### **ZONING CODE PROVISION INTERPRETED:**

Section 17.08- Definitions, Section 17.25 & Table 17.25-1; Commercial, Office and Industrial Districts.

#### **BACKGROUND:**

In October of 2016, Governor Brown approved the Medical Marijuana Regulation and Safety Act (MMRSA), which went into effect on January 1, 2016. MMRSA established a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, testing, storage, distribution, and sale of medical marijuana through Assembly Bill 243 and 266 and Senate Bill 643 and 64, and AB 133. In June 2017 the state Legislature passed a budget bill (SB 94) which unified California's medical and adult-use cannabis regulatory systems under the Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), which is now prevailing state law. This act was a reconciliation of the MMRSA and the Adult Use of Marijuana Act (AUMA).

The City of Sebastopol City Code provides for use classifications and permit regulations for medical cannabis cultivation and dispensaries and collectives as well as personal cultivation by qualified patients and caregivers (City Code Sections 17.140).

The intent of this interpretation is to address the issue of whether existing land use classifications and permit regulations can apply to other license types that are permissible under MAUCRSA.

#### **RELATIONSHIP TO CITY OF SEBASTOPOL LAND USE CLASSIFICATIONS:**

Land use classification identified in the City of Sebastopol Code Section 17.20 (Definitions) were evaluated for consideration as the most relatable and/or relevant to the MAUCRSA use/license types in terms of their associated impacts and use characteristics. This interpretation finds that specified MAUCRSA license types are analogous to specified existing Zoning Ordinance use definitions and allowances.

Definitions of City land use classifications are listed below, followed by a chart depicting the associated relationship between these classifications and the MAUCRSA use and license types:

*"Industrial, General"* includes the following uses, and similar uses as may be determined by the Planning Commission:

1. Food Processing
2. Meat products processing and packaging, not including the slaughtering of animals or the rendering of fats or oils

*"Industrial, Heavy"* includes the following uses, and similar uses as may be determined by the Planning Commission. Manufacturing, compounding, processing, assembly, packaging, treatment, or fabrication of articles of merchandise from bones, garbage, offal, or dead animals:

1. Fat rendering
2. Stocking or slaughtering of animals
3. Storage and/or distribution of natural or liquid gas and other petroleum derivative in bulk.
4. Manufacturing or storage of acid, cement, fertilizer, gas, flammable fluids, glue, gypsum, lime or plaster of Paris.
5. Asphalt or concrete batch plants, gravel processing plants, and related storage facilities.

*"Industrial, Light"* includes the following uses, and similar uses as may be determined by the Planning Commission.

1. Manufacture, assembly or packaging of products from previously prepared materials such as cloth, fiberglass, plastic, paper, leather, precious or semiprecious metals or stones.
2. Commercial, large-scale photographic developing and processing.
3. Research, development, and testing laboratories and facilities.
4. Manufacturing, assembly or packaging of products such as cameras and photographic equipment, but excluding film, professional or scientific instruments, medical or dental instruments and appliances, handicraft, art objects and jewelry.

*"Laboratory-Medical, Analytical"* means a facility for testing, analysis, and/or research. Examples of this use include medical labs, soils and materials testing labs, and forensic labs.

*"Manufacturing, Commercial."* Commercial manufacturing uses include the following uses, and similar uses as may be determined by the Planning Commission:

1. Creameries
2. Small-scale wineries
3. Commercial laundries/cleaning and dyeing
4. Light machine shops
5. Sheet metal shops
6. Light manufacturing
7. Blacksmith
8. Planing mills
9. Glass manufacturing and sales
10. Small-scale food processing

*"Office."* Office uses include the following uses, and similar uses as may be determined by the Planning Commission:

1. Bank/savings and loan offices
2. Business offices
3. Medical/dental offices
4. Studios

5. Mortuary
6. Professional offices
7. Printing and/or shipping services
8. Hearing aid services
9. Optician
10. Massage service/school

*“Warehouse, Storage and Transport.”* Storage and transport warehouse uses include the provision of warehousing and storage, freight handling, shipping, and trucking services, and similar uses, including storage, processing, packaging, and shipping facilities for mail order and e-commerce retail establishments, as may be determined by the Planning Commission.

*“Warehouse, Wholesaling and Distribution.”* Wholesaling and distribution warehouse facilities include:

1. Warehouses. Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include: warehouse, storage or mini-storage facilities offered for rent or lease to the general public; or terminal facilities for handling freight (see “Warehouse, Storage and Transport”).
2. Wholesaling and Distribution. Establishment engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Examples of these establishments include:
  - Agents, merchandise or commodity brokers, and commission merchants
  - Assemblers, buyers and associations engaged in the cooperative marketing of farm products.
  - Merchant wholesalers
  - Stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

*“Wholesale Sales, General.”* General wholesale sales uses include sales of a nonretail nature, generally to the trades or other specific sector, and similar uses as may be determined by the Planning Commission.

**MAUCRSA USE AND LICENSE CLASSIFICATIONS:**

The following medical cannabis and license types being considered in this interpretation are described as follows:

**Manufacturing/Processing (Non-volatile) – Type 6**

Per MAUCRSA, a “Manufacturing site” means a location that produces, prepares, propagates, or compounds medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities. A Type 6 license is for manufacturing sites that produce medical cannabis products using nonvolatile solvents.

Manufactured cannabis means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. ‘Edible cannabis product’ means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined under Health and Safety Code.

This include Infused Product Manufacturing. This is defined as: Manufacturers that produce edible products or topical products using infusion processes, or other types of medical cannabis products other than extracts or concentrates, and that do not conduct extractions.

*This licensing type is comparable to Zoning Ordinance use definitions for: Industrial, General; Industrial, Light; Industrial Heavy; Manufacturer, Commercial*

### **Manufacturing/Processing (Volatile) – Type 7**

A Type 7 license is for manufacturing sites that produce medical cannabis products using volatile solvents. This use and license type is not allowed in the City of Sebastopol. This Interpretation does not negate that fact. Consideration of this use and license type will be included in the City's comprehensive policy effort to address medical cannabis.

*This licensing type is not permitted in the City of Sebastopol.*

### **Testing/Labs – Type 8**

Testing licenses permit the holder to test all medical cannabis or medical cannabis products prior to their delivery to a dispensary, testing for levels and presence of compounds such as THC, THCA, CBG, CBDA, chemicals, and contaminants as required by the Department of Health. Per MAUCRSA, a 'Licensed testing laboratory' means a facility, entity, or site that offers or performs tests of medical cannabis or medical cannabis products, and that is accredited as operating to ISO standards 17025 by an accrediting body, and registered with the State Department of Public Health.

*This licensing type is comparable to Zoning Ordinance use definitions for: Laboratory- Medical, Analytical.*

### **Retailer (office only)/Dispensary- Type 10**

#### **Type 10: Dispensary, General**

Dispensaries are facilities where medical cannabis, medical cannabis products, or devices for the use of medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, medical cannabis and medical cannabis products as part of a retail sale.

*Dispensary. Dispensaries are already a conditionally permitted use in Sebastopol under Zoning Code Section 17.140, State law allows for existing dispensaries to conduct deliveries of medical cannabis to qualified patients. Under this interpretation medical cannabis deliveries, to qualified patients, would be a permitted use at existing dispensaries.*

Retailers (office only) are for the sale and delivery of medical cannabis or medical cannabis products to customers. Such use shall have a licensed premises which is a physical location from which commercial cannabis activities are conducted. Such use's premises are closed to the public. Such use may conduct sales exclusively by delivery.

**Definition:** "Retail- Office Only" is intended to serve as office space for medical cannabis delivery businesses. Sales of medical cannabis to qualified patients are made online, via the phone, or by mail. No sales of medical cannabis are made on site. Except as permitted by State Law, all cannabis products shall be stored in a secured fashion. The intent of this use-type is to serve as an office to coordinate transport of medical cannabis obtained from other licensees, to qualified patients.

*Retailer (office only-with no public access). Retailer licensing type is comparable to Zoning Ordinance use definitions for: Office.*

### **Distributor/Warehouse – Type 11**

Distributors coordinate quality assurance in a tracked and orderly fashion to ensure the delivery of safe cannabis for patients. Per MAUCRSA, 'Distribution' means the procurement, sale, and transport of medical cannabis and medical cannabis products purchased and sold between licensed entities. A 'Distributor' means a person engaged in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer for sale to a licensed dispensary.

*This licensing type is comparable to Zoning Ordinance use definitions for: Warehouse, Wholesaling and Distribution.*

### **Microbusiness – Type 12**

Microbusinesses are intended for the cultivation of cannabis on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 Manufacturer (Type 6), and retailer under this definition, provided such licensee can demonstrate compliance with all the requirements imposed on licensed cultivators, distributors and Level 1 manufacturers, and retailers to the extent the licensee engages in such activities.

*This licensing type is not currently permitted in the City of Sebastopol.*

### **Processing – Type P**

A licensee that conducts only trimming, drying, curing, grading or packaging of medical cannabis and non-manufactured medical cannabis products. Processing does not involve any cultivation or manufacturing.

*This licensing type is comparable to Zoning Ordinance use definition for: Industrial, General; Industrial, Light; Industrial, Heavy; Manufacturer, Commercial.*

### **Packaging and Labeling – Type P/L**

Entities that only package or repackage medical cannabis products or label or relabel the cannabis product container. Can package and label for other licensees.

*This licensing type is comparable to Zoning Ordinance use definition for: Industrial, General; Industrial, Light; Industrial, Heavy; Manufacturer, Commercial.*

### **Cultivation – Type 1-5**

These cultivation license types are broken down into four categories based upon the size of the grow, and the type of light used-i.e., natural (outdoor), exclusively artificial (indoor), or mixed (a combination of natural and supplemental artificial).

#### Specialty

- Type 1: Specialty Outdoor- up to 5,000 sq. ft., or up to 50 mature plants on non-contiguous plots;
- Type 1A: Specialty Indoor- up to 5,000 sq. ft.;
- Type 1B: Specialty Mixed-light- up to 5,000 sq. ft.;
- Type 1C: Specialty Cottage – up to 25 mature plants for outdoor; up to 500 sq. ft. for indoor; or up to 2,500 sq. ft. for mixed-light.

Small

- Type 2: Small Outdoor – 5,001 to 10,000 sq. ft.;
- Type 2A: Small Indoor – 5,001 to 10,000 sq. ft.;
- Type 2B: Small Mixed-light – 5,001 to 10,000 sq. ft.

Medium

- Type 3: Medium Outdoor – 10,001 sq. ft. to one acre;
- Type 3A: Medium Indoor – 10,001 to 22,000 sq. ft.;
- Type 3B: Medium Mixed-Light – 10,001 to 22,000 sq. ft.;

Nursery

- Type 4: Nursery Outdoor/Indoor/Mixed-Light – up to one acre; license holders may also transport live plants

Large

- Type 5: Large Outdoor (> 1 acre)
- Type 5A: Large Indoor (> 22,000 sq. ft.)
- Type 5B: Large Mixed Light (> 22,000 sq. ft.)

*Due to the Zoning Ordinance’s existing definition of ‘Plant Nursery’ this licensing type is not permitted unless associated with an existing dispensary or for personal patient cultivation, see section 17.140 of City Zoning Ordinance for applicable standards.*

**Allowed Land Uses and Permit Requirements by Zoning District:**

MAUCRSA		CITY OF SEBASTOPOL- Zoning Code								
Use Type	License Type	Related Land Use Classification	Permit Required by Zone							
			O	CN	CO	CG	CD	CH	M	O/LM
Testing/Lab	Type 8	Laboratory-Medical, Analytical	C	--	--	--	--	C	P	P
Manufacturer (non-volatile and infused products)	Type 6	Industrial, General; Industrial, Light; Industrial Heavy; Manufacturer, Commercial	--	--	--	--	--	--	C P C P	-- C -- --
Manufacturer (volatile)	Type 7	n/a	--	--	--	--	--	--	--	--
Retailer (Office Only)	Type 10*	Office	P	P	P	P	P	P	P	P
Distributor	Type 11	Warehouse, Wholesaling and Distribution	--	--	--	--	--	--	C	P
Processing, Packaging and Labeling	Type P Type P/L	Industrial, General; Industrial, Light; Industrial Heavy; Manufacturer, Commercial	--	--	--	--	--	--	C P C P	-- C -- --

**Key:**

O	–	Office
CN	–	Neighborhood Commercial
CO	–	Commercial Office
CG	–	General Commercial
CD	–	Central Core
CH	–	Heavy Commercial
M	–	Industrial
O/LM	–	Office/Light Industrial
C	–	Conditional Use Permit Required
P	–	Permitted Use; Zoning Clearance required
--	–	Use not allowed
*	–	Pertains to Retailer (Office Only) subcategory, see existing Zoning Ordinance section 17.140 for Dispensary allowed land uses and permit requirements

**SUMMARY INTERPRETATION:**

It is determined that the medical cannabis support uses identified above by their corresponding state license types, and that involve medical cannabis in compliance with the Sebastopol City Code and in compliance with state law, and do not involve dispensing, client, patient or member services, may be evaluated and regulated under City Code Title 17 (Zoning) as set forth herein.

These corresponding land uses shall therefore be allowed pursuant to the land use tables in Chapter 17.25-1, Section 17.25, Allowed Land Uses and Permit Requirements for Commercial, Office and Industrial Zoning Districts provided that the uses also comply with applicable health and safety regulations established in state law and the Sebastopol City Code, as set forth below.

Permitted uses shall secure a ministerial Administrative Permit from the Planning Department, followed by all necessary permits and procedures including but not limited to building, fire, and environmental compliance permits, and the filing of business license applications.

Uses subject to a Use Permit shall file the discretionary application prior to any application for a building permit or building occupancy permit. Discretionary applications are subject to public review and compliance with the California Environmental Quality Act (CEQA).

Uses that are not allowed are prohibited.

*Note: MAUCRSA establishes a dual licensing framework for medical cannabis operators, meaning if a local license is available then the operator must secure both a state license as well as a local license to operate. State license will be required, at such as time as state licenses become available.*

**STANDARDS FOR MEDICAL CANNABIS SUPPORT USES:**

It is further determined that, consistent with the specific regulatory framework established for medical cannabis through MAUCRSA and the City of Sebastopol, and due to specific operational elements unique to medical cannabis, the following standard conditions shall apply, regardless of whether the use is permitted by right or subject to a use permit:

**1. Compliance with State and local licensing requirements**

- a. Medical Cannabis operators shall be required to obtain a state license once they become available, and shall comply with any applicable state licensing requirements, such as operational standards and locational criteria.

- b. Multiple medical cannabis uses and licenses proposed on any one site shall occur only if authorized by MAUCRSA and the City of Sebastopol and only if all uses proposed are allowed pursuant to the City's Zoning Code.
- 2. Obtaining of all necessary building and fire permits prior to occupancy**
- a. A building permit is required to confirm appropriate occupancy, even if no tenant improvements are planned.
  - b. An annual operating fire permit with inspection shall be required.
  - c. Fire sprinklers may be required based on local ordinance and scope of work.
  - d. Hazardous materials disclosure/inventory state shall be provided and kept current with the Fire Department
  - e. A fire alarm system shall be provided (as possible based on operation/activities in the building).
  - f. Access with a Fire Department lock box for keys to gates and doors shall be provided.
- 3. Compliance with operational security and safety measures**
- a. Management Information. The name, or names, and addresses of the person, or persons, having the management, or supervisions of the applicant's business shall be provided to the Police Department.
  - b. Minors.
    - i. It is unlawful for any permittee, operator, or other person in charge of a medical cannabis operation to employ any person who is not at least 18 years of age.
    - ii. Persons under the age of 18 shall not be allowed on the premises of a medical cannabis operation unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.
    - iii. The entrance to a medical cannabis operation shall be clearly and legibly posted with a notice indicating that persons under the age of 18 are precluded from entering the premises unless they are a qualified patient, or a primary caregiver, and they are in the presence of their parent or guardian.
  - c. Odor Control. A medical cannabis operation shall have an air treatment system that ensures off-site odors of cannabis shall not result to the maximum extent practicable.
  - d. Security Plans. A medical cannabis operation shall provide adequate security on the premises, as reviewed by the Police Department and approved by the Planning Department, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. These plans shall remain updated and secured on file in the protective custody of the Building Department.
  - e. Security Cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities. Cameras shall remain in active, operable condition.
  - f. Security Video Retention. Security video shall be maintained for 90 days.
  - g. Alarm System. A professionally monitored robbery alarm system shall be installed and maintained in good working condition.
- 4. Transfer of ownership or operator**
- a. A permittee shall not transfer ownership or control of a medical cannabis operation or transfer a medical cannabis operation permit to another person unless and until the transferee obtains an amendment to the permit from the Planning Department stating that the transferee is now the permittee. Such an amendment is obtained through the issuance of an Administrative Permit that documents the transfer and commits the transferee to compliance with each of the conditions of the original permit.

This interpretation is exempt from CEQA in that:



- Under section 15061(b)(3) (general rule) in that as a general policy making activity and/or administrative activity there is no possibility that the implementation of this interpretation will have significant effects on the environment in that the interpretation is that the specified uses are allowed under the existing Zoning Ordinance; and
- Under section 15183 (projects consistent with a community plan, general plan, or zoning) in that the proposed zoning interpretation will direct commercial medical cannabis businesses to appropriate commercial and industrial districts designated to support such uses consistent with land use tables, development standards and other applicable provisions of Title 17 of the Code such as allowing medical cannabis testing laboratory uses where non-cannabis testing laboratory uses are allowed; and
- Under section 15301 (existing facilities) in that proposed zoning interpretation will allow commercial medical cannabis businesses to re-tenant existing commercial and industrial facilities designed to support such occupancies; and
- Under SB 94 which provides that until July 1, 2019, the adoption of a specified ordinance, rule, or regulation by a local jurisdiction shall be exempt from CEQA if the ordinance requires discretionary review and approval of permits, license, or other authorizations to engage in commercial cannabis activity, and in that the subject ordinance does require zoning clearances and conditional use permits prior to engaging in commercial cannabis activity.

The following General Plan goals and policies are applicable to the proposed Interpretation:


- LU 1-1: Through appropriate land use practices, maintain a supply of developable mixed-use, commercial, industrial, and residential lands sufficient to meet desired growth and economic needs over the planning period.
- LU 1e: Establish appropriate standards and regulations for medical and, if made legal, non-medical cannabis dispensaries and related operations and activities.
- LU 5-3: Commercial, industrial, and other non-residential development that interfaces with residential land use designations and existing residential neighborhoods shall be designed to ensure compatibility between the uses and to reduce any potential negative impacts associated with aesthetics, noise, safety, odor, and lighting.
- LU 7-1: Maintain an inventory of developable and appropriately zoned office, commercial, industrial, and mixed-use land sufficient to attract and provide regional services.
- LU 7-2: Maintain the Downtown as a focal point for West County- serving commercial, civic, and cultural uses.
- LU 7-9: Encourage local-serving neighborhood retail uses readily accessible to residential areas.
- LU 8-1: Encourage a vibrant mixture of office, retail, and service uses in Downtown and along major arterials at the north and south ends of town.

This interpretation was reviewed and approved by the Sebastopol Planning Commission on October 24, 2017 and approved by the following vote:

Ayes:	Paul Fritz (Chair), Zachary Douch (Vice Chair), and Commissioners: Colin Doyle, Evert Fernandez, Linda Kelly, and Gerald Glaser.
Nays:	None.
Abstain:	None.
Absent:	Michael Jacob.

This determination shall remain in effect until such a time as it is superseded by Ordinance.

Certified: October 25, 2017  
Date

  
Planning Director