

JUL 10 2018

Resolution No. C-2018-61

MA
By: [REDACTED]

DEPUTY CLERK

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY ORDERING THE SUBMISSION OF A PROPOSED ORDINANCE ADDING CHAPTER 3.200 "COMMERCIAL CANNABIS ACTIVITIES" TO THE HALF MOON BAY MUNICIPAL CODE TO ALLOW AND REGULATE LIMITED CANNABIS NURSERIES TO THE QUALIFIED ELECTORS OF THE CITY AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018; PROVIDING FOR WRITTEN ARGUMENTS REGARDING THE MEASURE; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS FOR THE MEASURE

WHEREAS, in 2015, the California Legislature approved the Medical Marijuana Regulation and Safety Act ("MRSA," Business & Professions Code § 19300 *et seq.* and related code provisions) to permit and regulate commercial medical marijuana activities starting January 1, 2018.

WHEREAS, in 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("Prop. 64," Health & Safety Code § 113621.1 *et seq.*; Business & Professions Code § 26000 *et seq.*, and related code provisions), which legalized under state law nonmedical marijuana possession, cultivation, and use for persons 21 years of age or older, as specified, and set up a state licensing scheme for nonmedical marijuana businesses to begin January 1, 2018.

WHEREAS, on June 27, 2017, the State enacted the Medical and Adult-Use of Cannabis Regulatory and Safety Act ("State Cannabis Act," Business & Professions Code § 26000 *et seq.* and related code provisions), which uses the term "cannabis" as synonymous with "marijuana," and which combines MRSA and Prop. 64 into a single state licensing scheme for both medical and adult-use cannabis. Under the State Cannabis Act, the State may license commercial cannabis activities within the City of Half Moon Bay unless the City expressly prohibits those activities.

WHEREAS, since the passage of Prop. 64, the City has held a number of public meetings to explore the possibility of regulating limited commercial cannabis activities in the City of Half Moon Bay. Public speakers expressed a diversity of opinions, ranging from support for fully integrated cannabis businesses on greenhouse sites to encourage economic development and access to local medical cannabis, to opposition to any commercial cannabis activities due to concerns about impacts to youth, neighboring residents, and community character.

WHEREAS, City staff drafted a proposed ordinance to license and regulate commercial, greenhouse nursery cultivation of immature cannabis plants on existing greenhouse sites in the City's A-1 (Agricultural/Exclusive Floriculture) Zone and to update the City's ban on the establishment of other commercial cannabis activities as directed by the City Council ("proposed cannabis nursery ordinance").

WHEREAS, the City is authorized under California Elections Code Section 9222 to submit measures for the repeal, amendment, or enactment of any proposed ordinance to the voters of

Half Moon Bay, with such ordinances to be repealed, amended, or enacted accordingly if the measure submitted receives a majority of the votes cast on it at the election.

✓ **WHEREAS**, a General election on Tuesday, November 6, 2018 has been called by Resolution No. 2018-48, adopted on June 5, 2018.

WHEREAS, the City Council wishes to submit to the voters at the general election the proposed cannabis nursery ordinance.

WHEREAS, the City Council finds that adoption of this Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 26055(h) (CEQA exemption for commercial cannabis regulations) of the Business and Professions Code because the proposed ordinance requires discretionary review and approval of licenses to engage in commercial cannabis activity and the discretionary review of license applications shall include any applicable environmental review pursuant to CEQA. The City Council further finds that the adoption of this Resolution is not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378), and 15061(b)(3) (the activity has no potential for resulting in physical change to the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the proposed ordinance's prohibition of certain commercial cannabis activities has no potential for resulting in physical change to the environment, directly or indirectly.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby resolves, declares, determines, and orders as follows:

1. That the City Council, pursuant to Elections Code Section 9222, does order submitted to the voters at the November 6, 2018 General Election the following proposed ordinance and ballot label:

10 9 9 12 8	Shall the measure, an ordinance to allow and regulate commercial, greenhouse nursery cultivation of immature cannabis plants on existing greenhouse sites in the City's A-1 (Agricultural/Exclusive Floriculture) Zoning District for cannabis nurseries that receive a license from the City Council and comply with specified standards, be adopted?	YES
		NO

✓ 2. That the measure submitted to the voters is attached to this Resolution as Exhibit A, which Exhibit A is hereby incorporated into this Resolution by this reference as if set forth in full in this place. The text of the measure shall be printed in the ballot materials.

3. That the vote requirement for the measure to pass is a majority (50 percent + 1) of the votes cast. ✓

4. That in all particulars not recited in this resolution, the election shall be held and conducted as provided in Resolution No. 2018-48 calling the November 6, 2018 General Election.

5. That the City Council has given notice of the time and place of holding the election and authorizes, instructs, and directs the City Clerk to give further or additional notice of the election in time, form, and manner as required by law.

6. That the primary arguments for and against the measure shall be submitted to the City Clerk by 5:00 p.m. on August 13, 2018, and shall not exceed 300 words.

7. That pursuant to a separate resolution, the City Council has provided for the filing of rebuttal arguments concerning City ballot measures. Rebuttal arguments concerning the measure shall be submitted to the City Clerk by 5:00 p.m. on August 23, 2018, and shall not exceed 250 words.

8. That all arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. No more than five signatures shall appear with any submitted argument. An organization or association submitting an argument shall submit with its argument a copy of one of the organizational documents listed in California Elections Code Section 9287(e). The arguments shall be accompanied by the Form of Statement To Be Filed By Author(s) of Argument to be provided by the City Clerk.

9. That the City Council hereby directs the City Clerk to transmit a copy of the measures to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure. The analysis shall include a statement indicating that the measure was placed on the ballot by the City Council. In the event that the entire text of the measure is not printed on the ballot, nor in the voter information portion of the voter information guide, the City Attorney shall include a statement informing voters how to locate a complete copy of the measure. The City Attorney shall transmit such impartial analysis to the City Clerk. The impartial analysis shall be filed by August 13, 2018.

10. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 19th day of June, 2018 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers: EISEN, RUDDOCK, RARBACK, AND PENROSE
NOES, Councilmembers:
ABSENT, Councilmembers:
ABSTAIN, Councilmembers:

ATTEST
[Redacted Signature]
Jessica Blair, City Clerk

APPROVED:
[Redacted Signature]
Deborah Penrose, Mayor

CERTIFICATION

I hereby certify that the foregoing resolution is a true and correct copy of what is on file in the official book of resolutions in the City of Half Moon Bay.

[Redacted Signature]

Jessica Blair, City Clerk
June 27, 2018

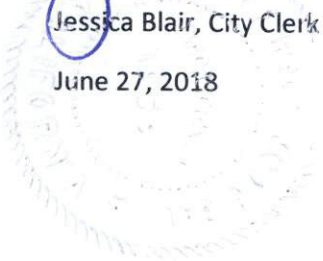


EXHIBIT A

Full text starts
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ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF HALF MOON BAY
ADDING CHAPTER 3.200 "COMMERCIAL CANNABIS ACTIVITIES" TO THE HALF MOON BAY
MUNICIPAL CODE, REPEALING CHAPTER 9.09 "MARIJUANA FACILITIES" AS REDUNDANT
FROM THE HALF MOON BAY MUNICIPAL CODE, AND FINDING THAT THE ORDINANCE IS
EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

THE PEOPLE OF THE CITY OF HALF MOON BAY DO ORDAIN AS FOLLOWS:

Section 1. Findings.

(a) In 1996, the California voters approved Proposition 215, the Compassionate Use Act (Health & Safety Code § 11362.5 *et seq.*, "CUA"), which creates limited exceptions from criminal liability for seriously ill persons who are in need of medical marijuana as well as for their primary caregivers.

(b) On June 2, 2010 the City Council of Half Moon Bay adopted Resolution Number C-10-10 (Half Moon Bay Municipal Code § 9.09), prohibiting the establishment of any marijuana dispensary, collective, cooperative, distribution facility, or production facility within the City.

(c) In 2015, the California Legislature approved the Medical Marijuana Regulation and Safety Act ("MRSA," Business & Professions Code § 19300 *et seq.* and related code provisions) to permit and regulate commercial medical marijuana activities starting January 1, 2018.

(d) In 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act ("Prop. 64," Health & Safety Code § 113621.1 *et seq.*; Business & Professions Code § 26000 *et seq.*, and related code provisions), which legalized under state law nonmedical marijuana possession, cultivation, and use for persons 21 years of age or older, as specified, and set up a state licensing scheme for nonmedical marijuana businesses to begin January 1, 2018.

(e) On June 27, 2017, the State enacted the Medical and Adult-Use of Cannabis Regulatory and Safety Act ("State Cannabis Act," Business & Professions Code § 26000 *et seq.* and related code provisions), which uses the term "cannabis" as synonymous with "marijuana," and which combines MRSA and Prop. 64 into a single state licensing scheme for both medical and adult-use cannabis. Under the State Cannabis Act, the State may license commercial cannabis activities within the City of Half Moon Bay unless the City expressly prohibits those activities.

(f) On December 12, 2017, the Board of Supervisors for the County of San Mateo adopted an ordinance to license the commercial, greenhouse cultivation of cannabis in

the unincorporated areas of the County and to prohibit all other commercial cannabis activities (with a sunset provision that contemplates future reconsideration of that prohibition).

(g) After the passage of Prop. 64, the City held a number of public meetings to explore the possibility of regulating limited commercial cannabis activities in the City of Half Moon Bay. Public speakers expressed a diversity of opinions, ranging from support for fully integrated cannabis businesses on greenhouse sites to encourage economic development and access to local medical cannabis, to opposition to any commercial cannabis activities due to concerns about impacts to youth, neighboring residents, and community character.

(h) At its November 21, 2017 meeting, after considering numerous public comments, the City Council directed staff to conduct further studies and surveys regarding various types of commercial cannabis activities. At the same meeting, the City Council directed staff to draft an ordinance for discussion that would license limited greenhouse cultivation of cannabis nursery starts only.

(i) Staff posted a draft cannabis nursery ordinance on the City's web page on February 23, 2018, invited and reviewed public comments on the ordinance, and held several focus group meetings to discuss the draft ordinance. The public also provided comments about the draft ordinance to the City Council at subsequent Council meetings. At its May 1, 2018 meeting, the City Council directed staff to bring the draft ordinance forward for its consideration. At its June 5, 2018 meeting, the City Council directed staff to draft a resolution to place the ordinance on the November 6, 2018 ballot.

(j) The City of Half Moon Bay wishes to update the City's existing prohibition of commercial marijuana activities to clarify that prohibition and reflect the terms currently used under the State Cannabis Act. The City also wishes to create an exception to that broad prohibition for limited and regulated greenhouse cultivation of immature cannabis nursery plants on sites with existing greenhouses in the City's A-1 Agricultural Land Use/Exclusive Floriculture zone.

(k) Half Moon Bay hosts a number of commercial greenhouse operations that are an important part of the City's agricultural heritage and economy. Increasingly, however, these operations must diversify to maintain their economic strength. Cultivation of cannabis represents a new business opportunity that could help support the City's existing greenhouses and maintain agricultural land uses and job opportunities.

(l) Unregulated commercial cannabis activities pose threats to public health, safety, and welfare including an increased risk of criminal activity, increased exposure to marijuana by children, offensive odors, safety and fire risks, and environmental degradation. Cannabis nurseries that engage in the greenhouse cultivation of immature cannabis

plants, however, present fewer, or reduced potential impacts because without the potent flowers used in cannabis products, the plants are less valuable, less attractive to minors and criminal activity, and do not emit the strong odors associated with mature cannabis plants. The City is conducting further studies regarding the potential secondary impacts from other commercial cannabis activities and measures to potentially address those impacts. While it may consider licensing and regulating business activities involving mature cannabis plants at some point in the future, the City will continue its existing prohibition in the meantime.

(m) The licensing and regulatory scheme for cannabis nurseries adopted by this Ordinance is intended to protect the public health, safety, and welfare, of Half Moon Bay residents and businesses, including protection of the natural environment.

(n) Recent groundwater tests in Half Moon Bay have shown salinity levels that suggest possible saltwater intrusion into the local aquifer, a problem that can become more acute with sea-level rise, increased groundwater pumping, or decreased groundwater recharge by local surface waters. The cultivation of cannabis has the potential to use more water than traditional floriculture due to cultivation practices or the intensity of grow operations. The City wishes to preserve limited groundwater supplies for existing agricultural uses by prohibiting the increased use of groundwater or water that contributes to groundwater recharge for cultivation of cannabis. There is sufficient, high-quality water to serve cannabis nurseries through the public water systems.

(o) Cannabis nurseries licensed under this ordinance are expected to have greater power demands than existing greenhouses. The City wishes to promote energy efficiency, and facilitate the fair development of a local cannabis industry by adopting energy efficiency regulations for cannabis nurseries that are consistent with County requirements for the greenhouse cultivation of cannabis.

(p) Limiting the total plant canopy under the control of any one owner to 66,000 square feet will also enhance consistency between City and County cannabis regulations and facilitate the resiliency of the local cannabis nursery industry by diversifying it among multiple owners.

(q) Buffers and setbacks between cannabis nurseries, residential properties, and properties with other sensitive uses, restrictions on the operations of cannabis nursery businesses, and a discretionary license application review process will ensure that cannabis nurseries are compatible with surrounding communities and do not become attractive nuisances to minors.

(r) Greenhouse businesses are larger than most other commercial businesses in the City, and there could be multiple tenants on one site. As a result, the City's general sign regulations, which are based on business and street frontage, could permit business

signs that would be excessive. Sign regulations specific to cannabis nurseries in this Ordinance serve to protect aesthetic values at existing greenhouse sites.

(s) The federal Controlled Substances Act (21 U.S.C. § 801 *et seq.*) prohibits the possession, distribution, cultivation, and manufacture of cannabis, and there is no medical necessity exception to prosecution and conviction under the Controlled Substances Act. This Ordinance does not provide any defense or immunity from prosecution under federal law. It is intended to regulate cannabis activities authorized under state law, address public safety and law enforcement concerns, prevent the illegal diversion of cannabis to minors, and establish strong enforcement systems consistent with state and local law.

(t) By adopting a licensing scheme for greenhouse cannabis nurseries that limits their location and imposes other operating restrictions, this Ordinance furthers the objectives of the Local Coastal Program to preserve the City's greenhouse operations while doing so in a manner that is compatible with the other objectives, policies, general land uses, and programs in the Local Coastal Program and General Plan.

Section 2. Municipal Code Amendments to Update the City's Current Commercial Cannabis Ban. A new Chapter 3.200 "Commercial Cannabis Activities" and Section 3.200.020 "Prohibited Commercial Cannabis Activities" of the Half Moon Bay Municipal Code are adopted as set forth in Attachment A, and Chapter 9.09 "Marijuana Facilities" of the Half Moon Bay Municipal Code is repealed as shown in ~~striketrough~~ text in Attachment A. Attachment A of this Ordinance is incorporated herein in its entirety.

Section 3. Municipal Code Amendments to License and Regulate Cannabis Nurseries. New Sections 3.200.010 through 3.200.190 of the Half Moon Bay Municipal Code are adopted as set forth in Attachment B. Attachment B of this Ordinance is incorporated herein in its entirety.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The voters hereby declares that they would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: CEQA. The adoption of this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Section 26055(h) (CEQA exemption for commercial cannabis regulations) of the Business and Professions Code because the Ordinance requires discretionary review and approval of licenses to engage in commercial cannabis activity and the discretionary review of license applications shall include any applicable environmental review pursuant to CEQA. The adoption of this Ordinance is also not subject to CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical

change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378), and 15061(b)(3) (the activity has no potential for resulting in physical change to the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because its prohibition of certain commercial cannabis activities has no potential for resulting in physical change to the environment, directly or indirectly.

Section 7. Amendment and/or Repeal By the City Council. This ordinance and the new sections of the Half Moon Bay Municipal Code that it adopts may be amended or repealed by a majority vote of the City Council without a vote of the people.

ATTACHMENT A

Chapter 3.200 COMMERCIAL CANNABIS ACTIVITIES

Section 3.200.020. Prohibited Commercial Cannabis Activities.

- A. The establishment and subsequent operation of any Commercial Cannabis Activity within the City of Half Moon Bay is prohibited, except for greenhouse nurseries cultivating immature (nonflowering) cannabis plants that are regulated and licensed under effective amendments to this Chapter.

This provision is not intended to extend to Commercial Cannabis Businesses lawfully established and licensed in other jurisdictions that (1) distribute immature cannabis plants and seeds to or from cannabis nurseries licensed by the City, or (2) deliver cannabis or cannabis products to adults or individuals lawfully receiving medicinal or adult-use cannabis within the City of Half Moon Bay.

- B. "Commercial Cannabis Activity" means the sale or exchange for valuable consideration of cannabis or cannabis products, or the provision of cannabis or cannabis products by a nonprofit, or the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, or delivery of cannabis or cannabis products intended for sale or exchange for valuable consideration or provision by a nonprofit.

~~Chapter 9.09 MARIJUANA FACILITIES~~

~~Sections:~~

~~9.09.010 Marijuana dispensaries, collectives, cooperatives, distributors and production facilities prohibited.~~

~~It is unlawful for any person to establish or operate any marijuana dispensary, collective, cooperative, distribution facility or production facility within the city.~~

ATTACHMENT B

Section 3.200.010 Purpose and Intent.

It is the purpose and intent of this Chapter to protect the health, safety, and welfare of the City's residents, neighborhoods, and businesses by (1) imposing licensing and regulatory requirements for limited commercial greenhouse cultivation of immature, nonflowering cannabis nursery plants (authorized under the State Medicinal and Adult Use Cannabis Regulation and Safety Act), on existing greenhouse sites in the City's A-1 Agricultural Land Use/Exclusive Floriculture Zoning District and (2) prohibiting the establishment of all other commercial cannabis activities within the City, including testing laboratories, retail sales, distribution, manufacturing, and the cultivation of mature cannabis plants.

Section 3.200.030 Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them below. The singular shall include the plural and the plural shall include the singular. 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 unless stated otherwise. Any words not defined below shall have that meaning ascribed to them by the Medicinal and Adult Use Cannabis Regulation and Safety Act, or, if not defined by that Act, their ordinary meaning. Definitions below shall control over any definitions of the same or similar terms contained elsewhere in the Half Moon Bay Municipal Code.

"Ancillary storage" means the storage of immature cannabis plants that were cultivated on the same Premises for distribution elsewhere.

"Applicant" means the Owner of an Applicant entity or the individual applying for a City Cannabis Nursery License.

"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" does not include (1) 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; or (2). "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code. As defined, "Cannabis" includes marijuana and both medical/medicinal cannabis and nonmedical/adult-use cannabis.

"Cannabis Nursery" means the cultivation within a Greenhouse of immature (nonflowering) cannabis plants that do not exceed eighteen (18) inches in height or width. It does not include the retail sale of any cannabis plants or products.

"Cannabis Nursery Business" means any business or Person that engages in or proposes to engage in medicinal or adult-use Cannabis Nursery activity.

"Cannabis product" has the same meaning as in Section 11018.1 of the Health and Safety Code.

"Canopy" means all areas at the Premises that will contain immature cannabis plants or seeds at any point in time, whether contiguous or noncontiguous. Canopy shall be calculated based on floor area, but if plants will be cultivated using a shelving system, the surface area of each level shall be included in the total Canopy calculation.

"City" or "City of Half Moon Bay" means the City of Half Moon Bay, a California General Law City and its officers, officials, employees, contractors, and agents.

"City Manager" means the City Manager of the City of Half Moon Bay or his/her designee(s) to administer the provisions of this Chapter.

"Commercial Cannabis Business" means any business or Person that engages in or proposes to engage in medicinal or adult-use Commercial Cannabis Activity.

"City Cannabis Nursery License" or "City License" means a regulatory license issued by the City of Half Moon Bay pursuant to this Chapter to a Cannabis Nursery Business.

"Cultivation" has the same meaning as in Section 26001 of the Business and Professions Code.

"Day Care Center" has the same meaning as in Section 1596.76 of the Health and Safety Code.

"Delivery" has the same meaning as in Section 26001 of the Business and Professions Code.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between Commercial Cannabis Businesses licensed under the State Cannabis Act.

"Flowering" means that a cannabis plant has formed a mass of pistils measuring greater than one quarter (1/4) inch wide at its widest point.

"Greenhouse" means a fully enclosed permanent structure that is clad in glass or rigid translucent material that is fixed in place, and which allows solar radiation to penetrate the surface and affect the growing environment of plants inside. A Hoop House is not a Greenhouse.

"Hoop House" means a structure with structural members and construction materials that are flexible, typically PVC pipe or similar materials. The ends may be covered or left open and the material covering the structural members is readily removable and is typically removed and re-affixed throughout the year.

"Licensee" means any Person issued a City Cannabis Nursery License.

"Manager" means any individual who will oversee employees and/or contracting for a Cannabis Nursery Business.

"Manufacture" has the same meaning as in Section 26001 of the Business and Professions Code.

"Owner" has the same meaning as in Section 26001 of the Business and Professions Code and Title 3 Section 8103(a) of the California Code of Regulations.

"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.

"Premises" means the designated structure or structures and contiguous parcel(s) of land specified in the application that is owned, leased, or otherwise held under the control of the Applicant or Licensee where the Cannabis Nursery will be or is located.

"Sell," "sale," and "to sell" has the same meaning as in Section 26001 of the Business and Professions Code.

"State Cannabis Act" means the State Medicinal and Adult Use Cannabis Regulation and Safety Act codified at Business and Professions Code Section 2600 *et seq.* and related provisions of the California Codes.

"State License" or "State Commercial Cannabis License" means a license issued by the State of California under the State Cannabis Act to engage in Commercial Cannabis Activity.

"Testing laboratory" has the same meaning as in Section 26001 of the Business and Professions Code.

"Youth Center" has the same meaning as in Section 11353.1 of the Health and Safety Code on the date this Section is effective.

Section 3.200.040. Cannabis Nursery License.

- A. The provisions of this Chapter shall govern the application for a discretionary City Cannabis Nursery License to regulate limited greenhouse commercial cultivation of immature (nonflowering) cannabis plants, the City's consideration of that application, and the operation of Cannabis Nursery issued a City License.
- B. A separate City Cannabis Nursery License is required for each Cannabis Nursery Business and/or each Premises.
- C. Multiple City Licenses may be issued for the same parcel, such that a parcel may have multiple Cannabis Nurseries being operated by separate businesses.

- D. No Cannabis Nursery may be established or continue operation within the City of Half Moon Bay without the Owner possessing both a valid City Cannabis Nursery License and a valid State Commercial Cannabis License.
- E. A City Cannabis Nursery License shall be valid for a term of twelve (12) months and shall expire at the end of that term unless it is renewed by the City, as provided in Section 3.200.120 of this Chapter, or earlier revoked by the City, as provided in Section 3.200.190(C) of this Chapter.

Section 3.200.050. Restrictions on the Location and Size of Cannabis Nurseries.

Applications for City Cannabis Nursery Licenses that do not conform to all of the following location and size requirements will not be accepted.

A. Mandatory Buffers.

- 1. Cannabis Nursery Premises shall not be located within the mandatory buffers provided in Business and Professions Code Section 26054(b) as those buffers are established and measured under state law, provided that buffers shall not be measured from parcel flags, long narrow strips of property used for roads, extending from the sensitive use parcel.
- 2. In addition, Cannabis Nursery structures shall be no closer than one thousand (1,000) feet of a parcel containing any of the following sensitive uses at the time the City License is issued:
 - a. A school providing instruction in kindergarten or any grades 1 through 12, (whether public, private, or charter);
 - b. A Day Care Center; or
 - c. A Youth Center.
 - d. The sensitive use buffer in subsection A(2) is the horizontal distance measured in a straight line from the property line of the parcel with the sensitive use, to the closest structure on the Premises that will contain immature cannabis plants at any time without regard to intervening structures. The buffer shall not be measured from parcel flags, long narrow strips of property used for roads, extending from the sensitive use parcel.

B. Mandatory Setbacks.

1. Cannabis Nurseries on a Premises shall be setback so as to be no closer than two hundred (200) feet from any parcel with a land use or primary zoning designation allowing for residential use, regardless of the current use of the parcel. This shall apply to R-1, R-2, R-3, and Mobile Home Park Zoning Districts and to PUD districts, where the primary land use is residential. The setback is the horizontal distance measured in a straight line between the outer boundaries of the residential parcel to the first structure on the Premises that will contain immature cannabis plants at any time without regard to intervening structures.
 2. Cannabis Nurseries shall be setback so as to be no closer than two hundred (200) feet from a Premises parcel boundary that fronts directly onto Highway 1. The setback is the horizontal distance measured in a straight line between the parcel boundary line that abuts the Highway 1 right of way, to the first structure on the Premises that will contain immature cannabis plants at any time without regard to intervening structures.
- C. Existing greenhouse sites. Cannabis Nurseries shall not be located on any parcel except those meeting both of the following qualifications:
1. A lawfully existing Greenhouse was located on the parcel, or the landowner had obtained a vested right to complete construction of such a Greenhouse, as of the effective date of this Chapter ("existing Greenhouse").
 2. The existing Greenhouse is located on a parcel within the A-1 Agricultural Land Use/Exclusive Floriculture Zoning District.
- D. No expansion of Greenhouses. Existing Greenhouses may be renovated, relocated within the same parcel, or replaced with a new Greenhouse on the same parcel, provided that there is no expansion or addition beyond the square-footage of the existing Greenhouse. Reconstructed Greenhouses may not exceed one story. Prior to the City accepting an application as complete, the Applicant must provide sufficient evidence of the existence and size of an existing Greenhouse, which shall be verified by City staff during a site visit with the Applicant.
- E. Cap on square footage. An Owner's total authorized Canopy, as indicated in any City Cannabis Nursery License(s), shall not exceed a maximum of 66,000 square feet on a single Premises or across multiple Premises within the City of Half Moon Bay.

Section 3.200.060 Application Submittal Requirements.

- A. An application shall conform to all application submittal requirements, and the Applicants shall agree to and/or demonstrate that the proposed Cannabis Nursery will conform to all operating requirements, before the application will be accepted as complete.

B. The Owner of a proposed Cannabis Nursery Business shall submit an application on forms provided by the City. The application shall include, at minimum, all of the following information and plans:

1. A business organizational structure, the names and government-issued photo identification of all Owners, Managers, and the track-and-trace account manager designated or to be designated for a State License.
2. A vicinity map and description, site plan, floor plan, signage plan. The plans shall show designated areas for cultivating immature plants, pesticide and other chemical storage, composting areas or secured area for cannabis waste, and any storage and/or shipping area for immature plants.
3. Evidence of a Greenhouse existing on the parcel or vested as of the effective date of this Chapter, which shall be verified during a site visit with City staff.
4. A Business Plan including financing, cultivation practices and schedules, on site equipment, lighting plan, power source and estimated demand, water source and estimated demand, number of employees, hours of operation during each stage of cultivation, and employee transportation plan.
5. A Neighborhood Compatibility Plan showing how the business will be managed in a compatible manner with the surrounding community. Conditions to be considered include noise, lighting, odor, aesthetics, and traffic circulation.
6. A Safety and Security Plan prepared by a security consultant and fire suppression consultant licensed by the Department of Consumer Affairs showing how the business will minimize the risk of fire and theft.
7. A Sustainability Plan that includes best management practices for water conservation; energy efficiency; pest prevention; waste management and disposal (including organic material); drainage, runoff, and erosion control; and secure storage of fertilizers, pesticides, and any other regulated products.
8. A Wastewater Management Plan identifying the amount of wastewater, excess irrigation, and domestic wastewater anticipated; treatment and disposal facilities; and verifying of compliance with the applicable waste discharge requirements of the State Water Board, or waiver or exemption from those requirements.
9. A Local Hire Plan showing how the business will conduct local community outreach and workforce training to facilitate local hires and provide training opportunities for its employees.

10. Evidence of the legal right to occupy and use the proposed location. If the Applicant is the Owner of the property, the Applicant shall provide a copy of the title or deed to the property. If the Applicant is not the Owner of the property, the Applicant shall provide a signed and notarized statement from the Owner of the property stating that the Applicant has the right to occupy the property and acknowledging that the Applicant may use the property for commercial cannabis cultivation pursuant to the requirements of this Chapter.
 11. Criminal conviction information. Pursuant to Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes, and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every Owner, chief operating officer or the equivalent, chief financial officer or controller, and, once known, the Manager, and track-and-trace account manager of the Cannabis Nursery Business must submit fingerprints, and, if applicable, a detailed description of criminal convictions for an offense set forth under Section 3.200.100(v)(2)(a)-(e) of this Chapter, for a background check by the City.
 12. A list of cannabis licenses. All permits and licenses for Commercial Cannabis activities that have been issued by a state or a local government to each Owner, chief operating officer or the equivalent, the chief financial officer or controller, and, once known, the Manager, and track-and-trace account manager of the Cannabis Nursery Business and any enforcement actions taken in relation to commercial cannabis activities.
 13. A list of cannabis enforcement actions. Certifications by every Owner, chief operating officer or the equivalent, chief financial officer or controller, and, once known, the Manager, and track-and-trace account manager of the Cannabis Nursery Business that they have not been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
 14. At the time of filing, each Applicant shall pay an application fee and a fee for each required background check, established by resolutions of the City Council, to cover the City's reasonable regulatory costs.
- C. The City will determine if the application is complete within thirty (30) days of submittal. If the City determines that the application is incomplete, it will provide notice to the Applicant. If the Applicant fails to remedy the deficiencies within thirty (30) days the Application shall be deemed abandoned and the application fee will not be refunded. The Applicant may reapply at any time following an abandoned application.

Section 3.200.070 City License Review Process.

- A. The City Manager may publish guidelines, rules, or regulations for implementing this Chapter and for complying with the standards imposed by this Chapter, including specifying current best management practices for cannabis nurseries.
- B. The City Manager will review applications for a City Cannabis Nursery License, conduct any necessary investigations, and make recommendations to the City Council.
- C. Any applicable environmental review required under the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*) shall be included in the City Council's discretionary review of the application for a City Cannabis Nursery License.
- D. If establishment of the Cannabis Nursery requires development as defined by Municipal Code Section 18.20.020 and a Coastal Development Permit is required, then the application for the City Cannabis Nursery License shall be processed concurrently with the application for the Coastal Development Permit, and any associated environmental review required under the California Environmental Quality Act. The Planning Commission shall recommend approval or denial of the Coastal Development Permit to the City Council, with or without conditions, pursuant to Chapter 18.20 of the Municipal Code, and the City Council shall have final approval authority over both the City Cannabis Nursery License and the associated Coastal Development Permit.
- E. Public Hearing.
 1. Applications for a City Cannabis Nursery License shall be considered by the City Council at a duly noticed public hearing.
 2. At least ten (10) days prior to the hearing, the City shall mail notice of the hearing to the following individuals:
 - a. The Applicant;
 - b. The Owner of the property or his or her authorized agent;
 - c. The Owners of all real property, as shown on the latest equalized assessment roll, within three hundred (300) feet of the Premises; and
 - d. All residents within one hundred (100) feet of the Premises.
 3. At least ten (10) days prior to the hearing, the City shall publish notice of the hearing in a newspaper with general circulation in the City.
 4. At the hearing, the Applicant may present testimony and other evidence in support of the application, and other interested Persons may be heard and/or present evidence on the matter.

F. Findings. The City Council will not approve a City Cannabis Nursery License unless and until it makes the following findings:

1. That the proposed Cannabis Nursery Business conforms to all applicable requirements of this Chapter.
2. That the proposed Cannabis Nursery Business includes adequate safety and security measures to reasonably prevent the theft of cannabis and the illegal diversion of cannabis to minors.
3. That the proposed Cannabis Nursery is designed and will be operated in a manner that will not threaten public health, safety, quiet enjoyment of residential property, or general welfare.

G. Conditions. The City Council may impose conditions on a City Cannabis Nursery License to ensure compliance with the above findings.

H. If an application is denied, a new application may not be filed by the same Owner for the same Premises for one (1) year from the date of the denial.

Section 3.200.080. City Cannabis Nursery License Limits.

- A. Issuance of a City Cannabis Nursery License does not provide any protection or immunity for any Person from state or federal laws, or from prosecution pursuant to any applicable state or federal laws.
- B. Issuance of a City Cannabis Nursery License does not create a land use entitlement.
- C. Issuance of a City Cannabis Nursery License is not a development approval for purposes of Government Code Section 66499.35(c).

Section 3.200.090. Compliance with Laws.

- A. Other Licenses and Permits. Prior to commencing operation of a Cannabis Nursery, the Licensee must possess, as confirmed by the City Manager, the following:
 1. A City Cannabis Nursery License;
 2. A valid seller's permit issued by the California Department of Taxes and Fees Administration;
 3. A valid State Commercial Cannabis License for the Cannabis Nursery;
 4. A business license issued by the City;
 5. Any required City land use approvals;

6. Any required building permits and Fire Protection District approvals; and
 7. Any other license, permit, or approval required by state or local law.
- B. Land Use Permits. City approval of a Coastal Development Permit or any other land use permit or entitlement for development or construction associated with a Cannabis Nursery does not authorize the establishment or operation of a Cannabis Nursery Business and Owners obtaining such entitlements shall have no right, expectation, or promise to the issuance of a City Cannabis Nursery License. Similarly, City approval of a City Commercial Cannabis License is not a land use approval and does not authorize site development activities, including new construction or modifications of existing structures used for a Cannabis Nursery. Owners obtaining a City Cannabis Nursery License shall have no right, expectation, or promise to the issuance of associated land use approvals.
- C. Initial Inspection. Prior to commencing operations, a Cannabis Nursery shall be subject to a mandatory building inspection to ensure compliance with the requirements of this Chapter and any City License conditions.
- D. Compliance with State and Local Laws. Owners and operators of the Cannabis Nursery shall ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, any regulations or rules promulgated thereunder, and all conditions of the State and City Licenses.
- E. State License Suspension, Revocation, or Termination. Suspension of a State Commercial Cannabis License for the Cannabis Nursery shall immediately suspend the City Cannabis Nursery License, until the State License is reinstated. Revocation, expiration, or termination of a State License for the Cannabis Nursery, shall also immediately terminate the City Cannabis Nursery License. Licensee shall immediately notify the City Manager of any notice of proposed action or action by the State to suspend, revoke, or terminate the State License.

Section 3.200.100. Operating Conditions.

- A. Cultivation Restrictions.
1. Cultivation of mature (flowering) cannabis plants is prohibited.
 2. Cultivation of immature cannabis plants exceeding eighteen inches in height or width is prohibited.
 3. Immature cannabis plants shall be removed from the Premises or destroyed by the Licensee before flowering occurs or the plants exceed eighteen inches.
 - a. Destruction of cannabis plants shall occur pursuant to the Licensee's approved Waste Management Plan and state requirements.

- C. Youth. A Licensee shall not employ any Person under 21 years of age. A Licensee shall not allow any Person under 21 years of age in any facility where cannabis is located. The entrance to the Cannabis Nursery 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.
- D. Screening. The Premises shall be screened from public view by vegetation along the perimeters, access roads excepted. Any new screening vegetation shall be non-invasive, drought tolerant, and fire-resistant plants.
- E. Hours of Operation. The Cannabis Nursery may operate only during the hours specified in the City License.
- F. Community Relations.
 - 1. Each Licensee shall provide the City with the name, telephone number (both land line and mobile, if available) of one on-site employee or Owner, plus an alternate contact Person, for community outreach, emergency notice, notice of problems, or any other communication who can be contacted at any hour of the day. Each Licensee shall also provide the above information to all businesses and residences located within one hundred (100) feet of the Premises.
 - 2. A Licensee's Owner, Manager, and/or contact person shall promptly meet with the City Manager when requested by the City Manager to discuss any community relations or security issues.
- G. Local Hiring: Licensees shall conduct local community outreach and workforce training to facilitate local hires and provide training opportunities for its employees. Licensee must demonstrate to the City in its annual renewal applications that it has taken all reasonable actions to hire City residents.
- H. Signs. Signs for a Cannabis Nursery shall conform to the requirements of Title 15 (Signs and Advertising Structures) of the Half Moon Bay Municipal Code, including, but not limited to, obtaining a City sign permit when required. In addition, such signs shall comply with the following requirements. Where there is a conflict between the following requirements and the requirements contained in Title 15, the more restrictive requirement applies. Wherever a commercial message is permitted to be displayed by these regulations, a non-commercial message may be displayed instead.
 - 1. Each Cannabis Nursery may display one, on-Premises business identification sign with a maximum size of twenty-five (25) square feet. All business identification signage shall consist of flush mounted wall signs and be subject to review and approval pursuant to Title 15. No freestanding or monument business identification signs are allowed.

2. Banners, flags, pennants, and hand-held signs are prohibited on the Premises of all Cannabis Nurseries.
 3. Signs on the Premises of Cannabis Nurseries shall be non-illuminated or indirectly lit.
- I. Odor Control. While immature cannabis plants do not ordinarily raise odor concerns, Owners of Cannabis Nurseries shall take any and all steps necessary to prevent cannabis odors from being detectable beyond the boundaries of the Premises.
 - J. Noise Control. Mechanical equipment, including but not limited to fans, condensers, and compressors shall be operated so as to conform to the City's noise standards. Cumulative maximum sound levels from all operational noise sources shall be at or below 60 CNEL measured at the nearest property line with a residential land use designation or residential zoning, or otherwise conform to the City's General Plan Noise Element pursuant to the most restrictive standard. Generators shall be used only in the event of power failure; shall be test cycled only between the hours of 10:00 AM and 2:00 PM on weekdays; and shall not utilize diesel fuel. Generator specifications shall be submitted as part of an application for a City License and shall be reviewed in consideration of location, sound level, and fuel source to minimize noise, as well as air quality impacts.
 - K. Light Control. Cannabis Nurseries shall minimize light pollution and enhance dark night skies. Lighting shall be fully contained on site, including exterior security light standards, building lighting, and greenhouse lighting as follows:
 1. Light pole standards shall be a maximum of 15 feet in height and have sharp cut-off box fixtures;
 2. Building lighting shall be mounted no higher than 15 feet above grade and shall have sharp cut-off box fixtures;
 3. Greenhouse lighting, both interior and exterior, shall be fully shielded or screened from all directions.
 - L. Preserving groundwater supplies. If the water demand of a Cannabis Nursery greenhouse exceeds the water demand of the Existing Greenhouse averaged over the previous five years, then the increased demand shall not be met with local groundwater from private wells or surface water that contributes to local groundwater recharge (including but not limited to springs, creeks, and drainage ditches).
 - M. Runoff and Storm Water Control. Runoff containing sediment or other waste or by-products, including, without limitation, fertilizers and pesticides, shall not be allowed to drain to the storm drain system, waterways, or adjacent lands, and shall comply with all applicable State and federal regulations.

- N. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage, or inadvertent damage from pests, rodents or other wildlife.
- O. Wastewater Management. Excess irrigation water or effluent from cultivation activities leaving the Premises shall be directed to a sanitary sewer (with permission from sewer authority), wastewater treatment and distribution system, irrigation, greywater or bio-retention treatment system. If discharging to a wastewater treatment and distribution system, a system capacity evaluation by a licensed civil engineer shall be included. All domestic wastewater shall be disposed of in a permanent sanitary sewer or on-site wastewater treatment system with demonstrated adequate capacity.
- P. Sustainable Energy Source. All electrical power, including without limitation, for illumination, heating, cooling, and ventilation, shall be provided by on-grid power with 100% renewable energy source or on-site zero net energy renewable source such that annual consumed energy is less than or equal to the on-site renewable generated energy.
- Q. Fire Safety. A Cannabis Nursery shall comply with all applicable fire and electrical standards. Use of a Carbon Dioxide (CO₂) gas enrichment system requires a safety plan approved by the Coastside Fire Protection District. Licensee's shall visibly post the approved safety plan within each Greenhouse and annually train all employees on the safety plan.
- R. Security Measures. A Cannabis Nursery shall implement the following security measures to deter and prevent the theft of cannabis plants.
1. All cannabis, including immature plants that are being cultivated, shall be kept in a secured facility that is locked during non-business hours.
 2. Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the Premises. Video recordings shall be maintained for a minimum of forty-five (45) days, and shall be made available to the City Manager upon request.
 3. Having a professionally installed, maintained, and monitored alarm system.
 4. The Cannabis Nursery shall have the capability to remain secure during a power outage and maintain at least four (4) hours of power to operate surveillance cameras and lighting.
 5. Implement security practices, described in the Safety and Security Plan, for safely and securely storing and transporting all cannabis and any currency.
 6. A City Commercial Cannabis Business shall notify the City Manager within twenty-four (24) hours after discovering any of the following:

- a. Significant discrepancies identified during inventory.
 - b. Diversion, theft, loss, or any criminal activity involving the Cannabis Nursery.
 - c. The loss or unauthorized alteration of records related to cannabis.
 - d. Any other breach of security.
- S. Compliance with Plans. Operation of the Cannabis Nursery shall comply with all plans and best management practices submitted and approved with the City License application, and/or any renewal application.
- T. Display of Licenses. A copy of the City Cannabis Nursery License, City business license, and State Commercial Cannabis License shall be posted inside the Cannabis Nursery in a readily-visible location.
- U. Records and Recordkeeping. Each Licensee shall maintain accurate books and records detailing compliance with the requirements of this Chapter and all financial, personnel, and other records required under state law including Title 3, Section 8400 of the California Code of Regulations (records and reporting for commercial cannabis cultivation). Records shall be made available to inspection as provided in Section 3.200.170.
- V. Background Checks.
1. A City Cannabis Nursery License shall not be issued or renewed, and a Cannabis Nursery shall not be operated, if an Owner, chief operating officer or the equivalent, chief financial officer or controller, Manager, or track-and-trace manager has been convicted of an offense substantially related to the qualifications, function, or duties of the Cannabis Nursery Business.
 2. The following convictions shall be considered to be substantially related to the qualifications, functions, or duties of the Cannabis Nursery Business:
 - a. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
 - b. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
 - c. A felony conviction involving fraud, deceit, or embezzlement.

- d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
 - e. A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.
 - f. Except as provided in subparagraphs (d) and (e) above and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5 of the Business and Professions Code, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance, including cannabis, is not considered substantially related, and shall not be the sole ground for denial of a City License. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a City License or denial of the renewal of a City License. Further, an Applicant shall not be denied a City License if the denial is based solely on any of the following (i) a conviction for any crime listed in subsection (d) above for which the Person 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.
3. A City Cannabis Nursery License shall not be issued or renewed, and a Cannabis Nursery shall not be operated, if an Owner, chief operating officer or the equivalent, chief financial officer or controller, Manager, or track-and-trace manager (1) has been sanctioned by a state or local government for unauthorized commercial cannabis activities, or has had a license or permit for commercial cannabis activities suspended or revoked in the three years immediately preceding the date the application for a City License is filed, or (2) has been subject to fines, penalties, or otherwise been sanctioned for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
- W. General Operating Requirements: The Cannabis Nursery shall at all times be operated to protect the health, safety, and welfare of the public, the employees working at the Cannabis Nursery, visitors to the Premises, and neighboring properties; 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.

Section 3.200.110. Updated Information.

Within fifteen (15) days of any change in the information provided in the original City License application, including or any change in Cannabis Nursery Ownership or management, the status of the State License, compliance with the provisions of this Chapter, or approved operating plans, the Licensee shall notify the City Manager in writing of the updated information and pay the fee for conducting any additional required background checks.

Section 3.200.120. Renewal Applications.

- A. An application for renewal of a City Cannabis Nursery License shall be filed at least sixty (60) days prior to the expiration date of the current City License.
- B. The renewal application shall identify any changes from the information and plans submitted and approved with the original application for the City License, or the last renewal of the City License.
- C. A Cannabis Nursery is subject to any City laws, regulations, rules, or guidelines applicable to Cannabis Nurseries that may be adopted after the issuance of a City License. A renewal application shall confirm compliance with any such newly adopted laws, regulations, rules, or guidelines.
- D. The Licensee must also file with the renewal application, or at any time requested by the City, a sworn statement detailing the number and square footage of immature cannabis plants cultivated, and whether they were transported, sold, or destroyed, provided on a per-month basis for the past twelve (12) months. The statement shall also include all applicable taxes and fees paid or due to be paid.
- E. The Applicant shall pay a renewal fee in an amount to be set by the City Council to cover the City's reasonable regulatory costs.
- F. An application for renewal of a City License will be rejected if any of the following exists:
 - 1. The City License renewal application is filed less than sixty (60) days before the License expires.
 - 2. The Cannabis Nursery has not been in regular and continuous operation in the six (6) months prior to the renewal application.
 - 3. The Cannabis Nursery has failed to conform to the City License requirements or conditions imposed pursuant to this Chapter.
 - 4. The Licensee's State License is denied, revoked, or suspended, or the Licensee fails or is unable to renew its State License.
 - 5. The City Manager or State has determined that the Licensee

- a. provided false material information with or omitted material information from the renewal application;
 - b. is in violation of the requirements of this Chapter, the City's Municipal Code, or any other local or state laws, rules and regulations applicable to the Cannabis Nursery and the violation (i) precludes or significantly interferes with enforcement, (ii) constitutes significant false, misleading or deceptive business practices, or (iii) causes potential for significant public or environmental harm; or
 - c. has been sanctioned by the City or the State for repeated violations of a state or local law, rule, regulation or License condition applicable to the Cannabis Nursery within a two-year period.
6. The Licensee has outstanding taxes, fees, or fines owed to the City.
- G. The City Manager is authorized to make all decisions concerning the issuance of a renewal License and may impose additional conditions to a renewal License 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. The decisions of the City Manager may be appealed pursuant to Section 3.200.130.
- H. If a renewal application is denied, a new application may not be filed by the same Owner for the same Premises for one (1) year from the date of the denial.

Section 3.200.130. Appeals.

- A. A decision of the City Manager to revoke or deny renewal of a City License, or to add conditions to a City License, may be appealed as prescribed in this Section.
- B. Written request for Appeal.
 - 1. Within ten (10) days after the date of a decision of the City Manager to renew or revoke a City License, or to add conditions to a City License, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
 - 2. At the time of filing, the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.
- C. Appeal Hearing.
 - 1. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo.

2. The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
3. At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
4. At the conclusion of the hearing the City Council may affirm, reverse, or modify the decision appealed. The decision of the City Council shall be final.

Section 3.200.140. Transfer of City Cannabis Nursery Licenses.

- A. A City Cannabis Nursery License does not run with the land and is not transferable except as provided herein.
- B. The Owner of a City Cannabis Nursery License shall not transfer Ownership or control of the License to another Person or entity unless and until the transferee obtains an amendment to the City License from the City Council stating that the transferee is now the Licensee. Such an amendment may be obtained only if the transferee files an application with the City Manager in accordance with the License Renewal provisions of this Chapter (indicating changes in the operation and Ownership of the Cannabis Nursery Business) accompanied by a fee in the amount set for the renewal fee, or the application fee if the changes are extensive, and the City Council determines, after a hearing, that the transferee passed required background checks and meets all other requirements of this Chapter.
- C. A City Cannabis Nursery Licenses issued through the grant of a transfer by the City Council shall be valid for the period remaining on the original City License. Before the transferee's permit expires, the transferee shall apply for a renewal License in the manner required by this Chapter.
- D. If a Licensee plans to change more than 51% of the original Ownership of a Cannabis Nursery Business, an amendment to the City License must be approved by the City Council through the transfer process contained in subsection (B) of this Section.
- E. A Licensee may change the form of the Cannabis Nursery Business entity without applying for a new or transferred City License, provided that the membership, ownership, or Board of Directors of the new business entity is substantially similar to the original City License holder business entity (at least 51% of the membership, ownership, or Board of Directors is identical). Although a transfer is not required in this circumstances, the Licensee is required to notify the City Manager in writing of the change within fifteen (15) days of the change.

- F. No City License may be transferred when the City Manager has notified the Licensee that the City License has been or may be revoked.
- G. No Person or entity may operate a Cannabis Nursery until the City Council has approved a new or transferred City License under this Chapter.

Section 3.200.150. Limitations on City's Liability.

- A. To the fullest extent permitted by law, the City of Half Moon Bay shall not assume any liability whatsoever with respect to having issued, renewed, or transferred a City Cannabis Nursery License. As a condition to the approval of any City Cannabis Nursery License, the Applicant shall be required to meet all of the following conditions before it can receive the City License:
 - 1. 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 with counsel approved by the City), and hold harmless the City of Half Moon Bay, and its officers, officials, employees, representatives, and agents, 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 City Cannabis Nursery License or other related permits or licenses, or the alleged violation of any federal, state or local laws by the Licensee or any of its officers, employees, or agents.
 - 2. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the city attorney.
 - 3. Reimburse the City of Half Moon Bay for all costs and expenses, including but not limited to attorney fees and costs, damages, or other liabilities, which the City of Half Moon Bay may be required to pay as a result of any legal challenge related to the City's issuance of the Applicant's City Cannabis Nursery License, or related permits or licenses. The City of Half Moon Bay may, at its sole discretion, defend any such action, but such defense shall not relieve any of the Licensee obligations imposed hereunder.

Section 3.200.160. Fees and Charges.

- A. No Person may establish or continue to operate a Cannabis Nursery in the City without timely paying in full all City fees, charges, and taxes, applicable to the Cannabis Nursery Business including those fees, charges, or taxes established, adopted, or imposed after the City License is issued.
- B. The City will not issue a City Cannabis Nursery License to any Person with outstanding taxes, fees, or fines owed to the City.

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

Section 3.200.170. Inspections, Investigations, and Audits.

- A. The City may conduct inspections, investigations, or audits of the Licensee's Premises, books, records, accounts, inventory, or onsite operations.
- B. Prior notice of an inspection, investigation or audit is not required, provided that the City accesses the Premises during standard business hours.
- C. No Licensee or any of its employees or agents may impede, obstruct, interfere with, or otherwise not allow the City to conduct an inspection of a Cannabis Nursery including copying records required to be maintained under this Chapter or state or local law. No Person may conceal, destroy, deface, or falsify any records, recordings or other documents required to be maintained under this Chapter or under state or local law.
- D. The City may request copies of any required records, and the Owner must produce copies no later than seventy-two (72) hours after receipt of the City's request, unless otherwise stipulated 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.

Section 3.200.180. Violations declared a public nuisance.

Any violation of this Chapter, including a continuing violation as described in Municipal Code Section 4.12.060, is unlawful and is hereby declared to be a nuisance.

Section 3.200.190. Enforcement.

- A. Unannounced Inspections. At least once during the twelve-month City License period, the City shall conduct an inspection of the Cannabis Nursery without providing advance notice to assess compliance with this Chapter and any City License conditions. The inspection will occur during normal business hours.
- B. Code Enforcement. 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 Half Moon Bay Municipal Code Title 4 (Code Enforcement).
 - 1. A Licensee shall be responsible for training its officers, employees, and agents to comply with all applicable laws, rules, regulations, and City and State License conditions.
 - 2. A Licensee shall be considered a "Responsible Party" under Municipal Code Section 4.12.020,

- C. Revocation of License. In addition to remedies and enforcement measures authorized by the Half Moon Bay Municipal Code Title 4, a City Cannabis Nursery License is subject to revocation as provided herein.
1. Any of the violations listed in Section 3.200.120(F) of this Chapter constituting grounds to reject a renewal application for a City License shall also be grounds to revoke a City License.
 2. The City Manager shall notify the Licensee in writing via U.S. Mail of the violation and consequence. Within 10 days of the notification being sent, the Licensee may provide a written objection stating the reasons why it believes the violation did not occur. After reviewing this objection, the City Manager will revoke the City License if the City Manager determines that the violation occurred. The Licensee may appeal the revocation by the City Manager as provided in Section 3.200.130.
- D. Notwithstanding any other provision of the Half Moon Bay Municipal Code, including Chapter 4.14 (Criminal Enforcement of Code Violations), a qualified patient, person with a valid identification card, or primary caregiver, as those terms are defined in the Compassionate Use Act and the Medical Marijuana Program Act, California Health and Safety Code Sections 1111362.5 and 11362.7 *et seq.*, shall not be subject to criminal liability under California Health and Safety Code Section 11570 or any criminal abatement actions or complaints for activities decriminalized pursuant to the Compassionate Use Act and the Medical Marijuana Program Act. Any qualified patient, person with a valid identification card, or primary caregiver engaged in commercial cannabis activities or cannabis cultivation in violation of this Chapter shall be subject to all other compliance actions set forth in this Section. Nothing in this Section shall prevent the criminal enforcement of other violations of this Chapter, the Half Moon Bay Municipal Code, or state law.
- E. The remedies provided by this Section are cumulative and in addition to any other remedies available at law or in equity.

Full Text Ends