ORDINANCE NO. 883

ADOPTION OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COTATI AMENDING TITLE 17, CHAPTER 17.42, BY ADDING SECTIONS 17.42.200 COMMERCIAL CANNABIS USES AND 17.42.210 PERSONAL AND MEDICAL CANNABIS CULTIVATION, AMENDING TABLES 2-2 AND 2-3 OF CHAPTER 17.22 ALLOWABLE USES AND PERMIT REQUIREMENTS, AMENDING CHAPTER 17.90 DEFINITIONS, REPEALING CHAPTER 8.24 MEDICAL MARIJUANA DISPENSARIES AND ADOPTION OF EXEMPTION FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

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

WHEREAS, the City Council has previously adopted ordinances governing medical cannabis dispensaries within the City as well as urgency ordinances to ban commercial cannabis operations and to allow the temporary continuation of operations of a previously approved and permitted cannabis retail facility until such time as these permanent regulations were developed and adopted; and

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

WHEREAS, the proposed municipal code amendments contained herein are consistent with the goals and policies of all elements of the General Plan, as well as any applicable specific plan in that the amendments will direct commercial cannabis businesses to appropriate commercial and industrial districts designated to support such uses. The proposed zoning amendments are internally consistent with other applicable provisions of Title 17 of the Code in that the entirety of the Code will apply to medical and adult use cannabis as a new land use classification, such as identifying where the use is allowed, under what permit authority, development standards and locational and operating requirements. The proposed zoning changes will result in land uses in residentially, commercially and industrially zoned areas that are compatible with existing and future uses and will not be detrimental to the public interest, health, safety, convenience or welfare of the City; and

WHEREAS, Chapter 17-22 of the Municipal Code is a permissive ordinance and, except as otherwise expressly provided, the amendments adopted herein do not confer any additional rights or permits related to medical or adult use cannabis activities; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 16, 2018 to consider an ordinance to amend municipal code Title 17 by amending Chapters 17.22 and 17.90, adding sections 17.42.200 and 17.42.210 and repealing Chapter 8.24; and
WHEREAS, the Planning Commission reviewed all evidence submitted in connection with the amendments, including public testimony and all other documents and evidence which are part of the record of proceedings; and

WHEREAS, the City Council held a duly noticed public hearing on January 23, 2018 to introduce and consider an ordinance to amend municipal code Title 17 by amending Chapters 17.22 and 17.90, adding sections 17.42.200 and 17.42.210 and repealing Chapter 8.24; and

WHEREAS, the City Council reviewed all evidence submitted in connection with the amendments, including public testimony and all other documents and evidence which are part of the record of proceedings.

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

SECTION 1. Recitals Made Findings. The above recitals are hereby declared to be true and correct findings of the City Council of the City of Cotati

SECTION 2. Findings and Purpose.

A. Purpose. The purpose of this amendment is to add cannabis uses to the City’s zoning framework in such a way to direct commercial cannabis businesses to appropriate commercial and industrial zoning districts and to allow for personal cultivation in such a way to preserve neighborhood quality and safety.

B. Finding. The municipal code amendments are desirable to mitigate any potential negative impacts of a new land use category and to provide opportunities within the City to accommodate new industry.

SECTION 3. Chapter 17.42 of Title 17 is hereby amended by adding the following:

17.42.200 Commercial Cannabis Uses and Requirements

A. Standards for All Commercial Cannabis Uses

1. Purpose. This section provides the development, operating, and permit standards for all commercial cannabis activities, including both adult (recreational) and medical cannabis uses, to ensure neighborhood compatibility, minimize potential environmental impacts, mitigate potential nuisances, and provide safe, legal access to cannabis. Additional standards may apply to particular commercial cannabis uses, as established in other sections of this Chapter.

2. Applicability. Commercial cannabis uses shall be permitted only in compliance with the requirements of Chapter 17.42 of the Cotati Municipal Code, state law and all other applicable requirements for the specific type of use and those of the underlying base zone. In addition to the requirements of Chapter 17.42, commercial cannabis uses shall comply with all
other applicable provisions of the City of Cotati's General Plan and the Municipal Code. Except for hospitals and research facilities that obtain written permission for cannabis cultivation under federal law, it is unlawful to cultivate, distribute, manufacture, test or transport cannabis, in amounts that exceed personal use allowances under California law, within the City without a valid permit issued pursuant to the provisions of this Chapter. Possession of other types of State or City permits or licenses does not exempt an applicant from the requirement of obtaining a permit under this Chapter. Unless specific distinctions are made in subsequent sections, requirements shall apply equally to either adult use or medical cannabis activities.

3. Limitations on Use. Commercial cannabis uses shall only be allowed in compliance with Chapter 17.42, and all applicable codes set forth in the Cotati Municipal Code, including but not limited to: building, plumbing, electrical, fire, hazardous materials, and public health and safety. The operator shall comply with all laws and regulations applicable to the type of use and shall comply with all permit, license, approval, inspection, reporting, and operational requirements of other local, state or other agencies having jurisdiction over the type of operation. The operator shall provide copies of other agency and department permits, licenses, or certificates to the review authority to serve as verification of such compliance.

4. Application Requirements. In addition to any other disclosures, data, forms, recitals, assurances, agreements, or other information required by federal, state, or local law, applicants for a cannabis permit shall provide the following information at the time of the application for a cannabis permit.

a. Property Owner Consent. Permits for commercial cannabis uses shall only be issued where written permission from the property owner and/or landlord is provided. The applicant shall provide evidence of such consent.

b. Air Quality. The applicant shall provide a calculation of the businesses' anticipated emissions of air pollutants. The applicant shall also provide assurance that the business will comply with all Best Management Practices established by the Bay Area Air Quality Management District ("BAAQMD"). No cannabis permit shall be issued to any business that would exceed the thresholds of significance established by the BAAQMD for evaluating air quality impacts under the California Environmental Quality Act for either operation or construction. Applicants are encouraged to design their project so as to minimize or avoid air pollutant emissions.

c. Greenhouse Gas Emissions. The applicant shall provide calculations of the anticipated greenhouse gas emissions for the operation of the business and, where applicable, the operation of the business. The applicant shall further demonstrate compliance with any applicable state, regional, or local plan for the reduction of greenhouse gas emissions. No cannabis permit shall be granted for any business that would violate any state, regional, or local plan for the reduction of greenhouse gases, nor shall any cannabis permit be issued where the construction and/or operation of the business would exceed any applicable threshold of significance for greenhouse gas emissions under the California Environmental Quality Act.
d. Hazardous Materials. To the extent that the applicant intends to use any hazardous materials in its operations, the applicant shall provide a hazardous materials management plan that complies with all federal, state, and local requirements for management of such substances. "Hazardous materials" includes any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.

e. Water Supply. If proposed use will occupy an existing building, applicant shall demonstrate to the satisfaction of the City Engineer and Building Official that water usage will not exceed that of the building’s intended occupancy class without additional review and prior approval by the City. If proposed use will occupy a newly constructed building, the proposed use and construction design shall include all necessary devices and processes to ensure water usage will not exceed an operation typical of the zone in which it is proposed.

f. Wastewater. The applicant shall demonstrate to the satisfaction of the City Engineer that sufficient wastewater capacity exists for the proposed use. To the extent the proposed use will result in agricultural or industrial discharges to the City’s wastewater system, the applicant shall provide a plan for meeting all federal, state, and local requirements for such discharges.

5. Compliance with County Health Officials. Cannabis manufacturers, dispensaries, and delivery operations shall be subject to permit requirements and regulations, including inspections, established by the Sonoma County Department of Health Services under the direction of the County Health Officer, or any other individual designated by the Director to act on his or her behalf. All such permit requirements and regulations shall be interpreted to implement the purpose and intent of this Chapter 17.42, and shall not prohibit or unreasonably restrict any commercial cannabis use allowed under this Chapter. The City Manager may eliminate this requirement after the California Department of Public Health, or other applicable state agency establishes regulations related to cannabis product safety.


a. Building Requirements. All structures used in commercial cannabis operations must comply with applicable provisions of building and fire codes as determined by the City’s building official and the fire agency official, respectively. In addition, all buildings and the site must comply with all applicable sections of the Cotati Municipal Code, as determined by the Community Development Director, prior to issuance of a Cannabis Permit. Commercial cannabis uses that provide access to the public including, but not limited to, employees, vendors, contractors, business partners, members, customers or patients shall meet Cotati Municipal Code requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities. All facilities must be inspected by the City and fire agency prior to issuance of a cannabis permit.

b. Emissions Control: All commercial cannabis uses shall utilize appropriate measures in operation and, where applicable, construction, to prevent the emissions of dust,
smoke, noxious gases, or other substances that have the potential to impact local or regional air quality.

c. Hours of Operation: Hours of operation for commercial cannabis uses are established in sections below pertaining to each particular use category.

d. Odor Control and Ventilation. Commercial cannabis uses shall comply with all current and future state laws and regulations related to odor control and ventilation, in addition to any specific requirements for the particular use established in this Chapter. No commercial cannabis use may operate in a manner whereby cannabis odors are detectable from adjacent or nearby properties. All commercial cannabis uses must install a ventilation system that adequately controls for odor, humidity, and mold.

e. Property Setbacks. Property setbacks for commercial cannabis uses are established in sections below pertaining to each particular use category.

7. Permit Requirements. In addition to state permitting requirements and the requirements of this Chapter, certain commercial cannabis uses shall be subject to the use permit requirements as shown in Table 2-3 of Chapter 17.22. In addition, all commercial cannabis uses must obtain a zoning clearance and pay applicable fees and taxes. Any violations of the Cotati Municipal Code, or any other local, state or federal law must be cured prior to issuance of a Cannabis Permit. The City Manager, or his/her designee, may design application forms specific to each permitted category and require inspections of proposed facilities before issuing a permit under this Chapter. Commercial cannabis uses shall also be subject to permit requirements and regulations established by the Cotati Municipal Code and any additional requirements established by other sections of this Chapter, Resolution or Ordinance of the City Council or vote of the citizens of Cotati. Applicants must provide notice to properties and property owners within 300 feet of the boundaries of the property upon which the commercial cannabis business is proposed at least fifteen (15) days prior to consideration of the permit application. A City business license is required for certain cannabis operations.

a. Issuance and Term of Permit. Permits for commercial cannabis uses shall be issued to the operator by the City Council for a period not to exceed two (2) years from the date of permit approval and shall be subject to bi-annual permit renewals. Approval of permit renewals may be issued by the City Manager following demonstration by the operator/permittee of compliance with all requirements in effect and provided operation is in good standing with all State and local agencies. Operator must apply for permit renewal no less than 60 days prior to the expiration of their current permit. No property interest, vested right, or entitlement to receive a future permit to operate a commercial cannabis use shall ever inure to the benefit of such permit holder as such permits are revocable. Permits issued pursuant to this Chapter 17.42 are not transferable without prior City approval. Permits may be issued with conditions. The City has no duty or obligation to issue commercial cannabis permits. The City may elect at any time to cease issuing commercial cannabis permits, including upon receiving credible information that the federal government will commence enforcement measures against such businesses and/or local governments that permit them.
b. Operator/Permit Holder Qualifications. Commercial cannabis operators/permit holders must meet the following qualifications:

1. Commercial cannabis operators must be 21 years of age or older.

2. Commercial cannabis operators shall be subject to background search by the California Department of Justice and local law enforcement. Permits for commercial cannabis uses shall not be permitted for operators with felony convictions, as specified in subdivision (c) of Section 667.5 of the Penal Code, and subdivision (c) of Section 1192.7 of the Penal Code. Permits for commercial cannabis uses shall not be permitted for operators with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement or a criminal conviction for the sale or provision of illegal controlled substances to a minor.

3. Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit.

c. Priority. This section applies generally to all commercial cannabis permits, however, additional requirements are set forth in later sections pertaining to particular commercial cannabis use categories. When processing permit applications for commercial cannabis uses, priority shall be given to applications that score highest on any City Council adopted applicant ranking system.

d. Issues of Significant Public Interest. In considering an application under section 17.42.200 for a cannabis permit, the City Council’s review shall be limited to compliance with section 17.42. The Council may, however, determine that no applications meet the requirements for a particular license and that license may remain unissued due to a significant public interest. “Significant public interest” includes, but is not limited to, potential health or safety impacts, potential conflicts with neighboring uses, unique characteristics of the proposed site, unique characteristics of the proposed operations, and/or other factors that, in the City Council’s discretion, warrant rejection of application(s).

e. Revocation and Suspension. Any permit issued under section 17.42 for commercial cannabis uses may be immediately suspended for any of the reasons listed in sections 1 through 7 below. Any permit issued under section 17.42
may be revoked by the City, following notice and opportunity for a hearing, upon any of the following:

1. An operator ceases to meet any of the minimum qualifications listed in section 17.42.200(A)(7)(b), fails to comply with the requirements of this section or any conditions of approval of the permit.

2. An operator’s state license for commercial cannabis operations is revoked, terminated, suspended or not renewed. In the case of a suspension, the City shall not reinstate the permit until documentation is received showing that the state license is eligible to be reinstated or reissued. It shall be up to the City’s discretion whether the City reinstates any permit.

3. The commercial cannabis operation has not been in regular and continuous operation for three (3) consecutive months.

4. State law permitting the use for which the permit was issued is amended or repealed resulting in the prohibition of such use, or the City receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that permit them.

5. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification.

6. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application.

7. The operator/permit holder/business is not current on City taxes or fees.

8. Exercise and Renewal of Permit. Commercial cannabis permits shall be exercised only by the applicant and are not transferable without prior City approval. Permits shall expire upon termination of the business for which it was issued, or upon sale or transfer of ownership of the cannabis dispensary. Any cannabis permit that is abandoned for a period of six (6) months shall automatically expire and shall become null
and void with no further action required on the part of the City. For purposes of this section, abandonment shall mean the failure to initiate the activities described in the permit application or cessation of regular and continuous business operations. All commercial cannabis permits have a term of two (2) years and must be renewed prior to expiration. Applicants must submit for a renewal no less than 30 days and no more than 90 days prior to expiration of an existing permit. Review shall include, but not be limited to, analyses of the following:

a. The use has been conducted in accordance with this section 17.42.200 and any and all applicable permit conditions, state and local laws and regulations.

b. Any and all violations or complaints have been promptly addressed and cured to the satisfaction of the Police Chief and City Manager.

c. The business for which the permit was approved has not been transferred to another owner or operator.

d. There are no outstanding violations of health, safety, or municipal code.

e. The business for which the permit was approved is current on all City taxes and fees due.

9. Health and Safety. Commercial cannabis uses shall not create a public nuisance or adversely affect the health or safety of the nearby residents or businesses by creating dust, light, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, unsafe conditions or other impacts, or be hazardous due to the use or storage of materials, processes, products, run off or wastes.

10. Taxes. Commercial cannabis uses shall timely remit payment of all applicable taxes that may be enacted by the voters, including section 5.30 of the City’s Municipal Code, or any additional regulations that may be promulgated in addition to all current applicable state and local taxes.

11. Security. The following security measures shall be adhered to by all operators. Additional security measures may apply to particular commercial cannabis uses, as established in this section.

a. A Safety and Security Plan shall be required at the time of permit application and shall be subject to review and approval by the Cotati Police Department
and the City Manager. All Safety and Security Plans shall be held in a confidential file, exempt from disclosure as a public record pursuant to Government Code Section 6255(a). Such plans shall include, at a minimum, information regarding implementation of the requirements of this section. The Police Chief may require additional information be included in the Plan.

b. Security cameras shall be required and shall be installed with capability to record activity on the property, including entry points to the property and within all buildings and structures on the property, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area. Security cameras shall record 24 hours a day, 7 days a week. Additionally:

1. Areas where cannabis is grown, tested, cured, manufactured, or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

2. Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or labeling activities occur.

3. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

4. At each entrance and exit to the facility, camera coverage must enable recording of the customer-facial features with sufficient clarity to determine identity.

c. Surveillance video shall be kept for a minimum of ninety (90) days in a format that can be easily accessed for viewing. Video must use standard industry format to support criminal investigations. Permit holders shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request. Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to ensure the safety of persons and to protect the premises from theft. Alarm and surveillance systems shall be equipped with a failure notification system that provides prompt notification to the operator and any prolonged surveillance interruption and/or failure of the system. All surveillance equipment, records,
and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system and/or alarm system.

d. A Permittee shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of the alarm installation company, and the name of any monitoring company. Off-site monitoring and video recording storage of the premises by the licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for onsite monitoring.

e. All security measures installed on site shall have the capability to remain fully operational during a power outage.

f. Weapons and firearms are prohibited on the property.

g. Security measures shall be designed to ensure emergency access in compliance with fire safety standards.

h. All structures used for commercial cannabis activities shall have locking doors, with commercial-grade non-residential locks, to prevent free access.

i. Security measures shall prevent individuals from remaining on the premises of the commercial cannabis business if they are not engaging in activities expressly related to the operations of the business.

j. Security measures shall include a transportation plan that details the procedures established for the safe and secure transport of cannabis, cannabis products, and currency to and from the business, including the transfer of currency for City tax payments.

k. Except for live growing cannabis plants and products on display for sale at retail dispensaries during hours which the business is open to the public, all cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault that meets approval of the Cotati Police Department. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss, except for limited amounts used for the purposes of display or immediate sales.
1. Duress alarm buttons shall be installed in all commercial cannabis facilities with easy access by employees and all employees shall be properly trained in their use.

m. Any security bars installed on the windows or the doors of the commercial cannabis business shall be installed only on the interior of the building.

n. Security personnel hired by the commercial cannabis business shall be subject to prior review and approval of the Chief of Police or his or her designee. This requirement may include Department of Justice clearance of individuals.

o. Each commercial cannabis business shall identify a liaison and their contact information to the Cotati Police Department who shall be reasonably available to meet with the Chief of Police or his or her designees regarding security measures and operational issues.

12. Employees.

a. All employees of commercial cannabis businesses must be 21 years of age or older.

b. All owners and employees of commercial cannabis businesses shall be subject to background search by the California Department of Justice and local law enforcement. Permits for commercial cannabis uses shall not be permitted for operators with felony convictions, as specified in subdivision (c) of Section 667.5 of the Penal Code, and subdivision (c) of Section 1192.7 of the Penal Code. Permits for commercial cannabis uses shall not be permitted for operators with criminal convictions that substantially relate to the qualifications, functions, or duties of the business or profession, including a felony conviction involving fraud, deceit, or embezzlement or a criminal conviction for the sale or provision of illegal controlled substances to a minor.

c. Each owner or operator of a commercial cannabis business shall maintain onsite a current register of all the employees currently employed by the commercial cannabis business, and shall produce such register to the Chief of Police, designee, or any other City official authorized to enforce the Cotati Municipal Code for purposes of determining compliance with this chapter.

d. The Police Chief is authorized to implement an employee permit system, whereby any employee or volunteer of a commercial cannabis business, must obtain a work permit from the City of Cotati. At a minimum, such program shall require the
issuance of a permit that must be visibly displayed at all times by the employee or volunteer when he or she is working and contains a recent photograph of the individual and the name of the commercial cannabis business where he or she works or volunteers. The Police Chief may establish a fee for the cost of issuing such permit.

13. Weights and Measures. All scales used for commercial transactions shall be registered for commercial use and sealed by the Department of Agriculture/Weights and Measures.

14. Tracking. Commercial cannabis operators shall comply with any track and trace program established by the City, County or State agencies. Commercial cannabis operators must maintain records tracking all cannabis production and products and shall make all records related to commercial cannabis activity available to the City or County upon request. The City Manager may require commercial cannabis operators to comply with a County track and trace system if appropriate.

15. Police Notification. Commercial cannabis operators shall notify the Cotati Police Department within 24 hours of discovering any of the following:

   a. Significant discrepancies identified during inventory. The level of significance shall be 2% of inventory or per state regulations, whichever is stricter.

   b. Diversion, theft, or loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.

   c. Any other breach of security.

16. Inspections. Commercial cannabis uses and operations shall be subject to inspections by appropriate local and state agencies, including but not limited to, the Departments of Health Services, Agriculture/Weights & Measures, and the City of Cotati. Cannabis operations shall be inspected at random times for conformance with the Cotati Municipal Code and permit requirements. Unless otherwise allowed under the law, the inspection shall be conducted during regular business hours, with at least 24-hours’ notice. If interference in the performance of the duty of the agency having jurisdiction occurs, the agency may request the City temporarily suspend the permit and order the cannabis operation to immediately cease operations.
17. Monitoring. Administrative monitoring shall be required for each commercial cannabis use and operation to be granted a permit. An annual monitoring fee may be adopted by Resolution of the City Council and collected by the City.

18. Restriction on Alcohol Sales. No alcoholic beverages may be sold, dispensed, or consumed on or about the premises of any commercial cannabis use business. This section shall not apply to responsible after-hours consumption by employees which does not violate any state or local law or regulation. After-hours consumption, however, is not permitted at any cannabis retail dispensary or microbusiness.

19. Liability and Indemnification. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Chapter shall not become a personal liability of any public officer or employee of the City. To the maximum extent permitted by law, the permittees under this Chapter shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Cotati, the Cotati City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called “City”) from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, or judgment (including legal costs, attorneys’ fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called “action”) against the City to attack, set aside, void or annul, any cannabis-related approvals and actions and strictly comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys’ fees. Permittees shall be required to agree to the above obligations in writing.

B. Standards for Commercial Cannabis Cultivation

1. Purpose. This section establishes development, operating, and permit standards for commercial cannabis cultivation activities as allowed by the base zoning district and provisions of section 17.42.200(A), “Standards for Commercial Cannabis Uses.”

2. Applicability. This section shall apply to all commercial cannabis cultivation uses and activities, including but not limited to, indoor cultivation environments and associated drying, curing, grading, and trimming facilities. Cannabis cultivation does not include operations that manufacture cannabis products such as oils, tinctures, or edibles which are classified separately. Commercial cannabis cultivation operations shall comply with state laws and regulations, and the following standards in addition to the requirements of section 17.42.200, “Standards for Commercial Cannabis Uses.” Permits shall only be issued to commercial cannabis cultivation uses coming under state cannabis license classification Types 2A, 3A, and 4, under applicable Business and Professions Code sections.
3. Permit Requirements. In addition to the requirements of section 17.42.200(A), commercial cannabis cultivation shall be subject to the permit requirements as shown in Table 2-3, “Allowable Land Uses and Permit Requirements” of Chapter 17.22, and under this section. Initial permits for cultivation sites shall be issued by the City Council; renewals may be approved by the City Manager or his/her designee. Structures shall follow all City of Cotati zoning requirements of the underlying base zone.

4. Limitations on Use. All cultivation shall be conducted and maintained in compliance with applicable state laws and regulations, this Chapter, and with any other standards and best management practices adopted by the City Council through resolution or ordinance. All structures used in cultivation shall be subject to all applicable laws, including the California Building Code, California Fire Code, and all regulations of the Cotati Municipal Code.

5. Development Criteria.

a. Number of Permits. No more than five (5) commercial cultivation permits of any type shall be allowed at any time. Multiple permits may be issued for multi-tenant operations on a single parcel provided that the total cultivation area of all tenants does not exceed a maximum of one (1) acre, and provided such permits are allowed under state law. Any commercial cultivator who obtains state licenses for both adult (recreational) and medical cultivation for the same cultivation premises shall only require one (1) commercial cultivation permit from the City.

b. Square Footage Limitations. The total combined square footage of the cultivation area shall not exceed the maximum size thresholds as defined in Table 2-3, “Allowable Land Uses and Permit Requirements” of Chapter 17.22, and in the requirements for state cannabis license classification Types 2A, 3A, and 4. Structures and areas where cannabis is processed, dried, aged, stored, trimmed, packaged or weighed, and areas where equipment is stored and washed, shall be limited to the onsite cultivation use only.

c. Setbacks. All structures used for indoor commercial cultivation and all structures used for drying, curing, grading or trimming shall comply with the setbacks for the base zone districts. Cultivation shall be screened from public view. There shall be no exterior evidence of cultivation.

d. Building Requirements. All structures used in commercial cultivation, including greenhouses, require a building permit and shall comply with all
applicable sections of the Cotati Municipal Code. Cultivation uses that provide access to the public including, but not limited to, employees, vendors, contractors, or business partners shall meet Cotati Municipal Code requirements for accessibility including accessible parking, accessible path of travel, restrooms, and washing facilities.

e. Fire Code Requirements. The operator shall prepare and implement a Fire Prevention Plan for construction and ongoing operations and obtain all required permits from the fire agency. The Fire Prevention Plan shall include, but not be limited to: emergency vehicle access and turn-around at the facility site(s), vegetation management and fire break maintenance around all structures.

f. Lighting. All lighting shall be fully shielded, downward casting and not spill over onto structures, other properties or the night sky. All indoor operations shall be fully contained so that little to no light escapes. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise.

g. Runoff and Stormwater Control. Runoff containing sediment, or other waste or by-products, shall not be allowed to drain to the storm drain system, waterways, or adjacent lands and must comply with all other applicable water quality standards of the City’s Municipal Code.

h. Security and Fencing. In addition to the security requirements in section 17.42.200(A)(11), the following security and fencing standards apply to commercial cannabis cultivation uses.

i. Security cameras shall be installed with the capability to record activity beneath the canopy but shall not be visible from surrounding parcels and shall not be pointed at or recording activity on surrounding parcels.

ii. Security measures shall be designed to ensure emergency access in compliance with fire safety standards. All structures used for cultivation or storage of cannabis shall have locking doors, using commercial-grade locks, to prevent free access.

6. Operating Standards. In addition to standards contained in section 17.42.030, the following standards shall apply to all commercial cannabis cultivation uses.
a. Compliance Inspections. All cultivation sites shall be subject to onsite compliance inspections by the City. The inspection shall be conducted during regular business hours, with at least 24-hours’ notice unless public health or safety requires otherwise.

b. Air Quality and Odor. All indoor cultivation operations and any drying, aging, trimming and packing facilities shall be equipped with odor control filtration and ventilation system(s) to control odors, humidity, and mold. Cultivation sites may not create odors amounting to a nuisance and must comply with Cotati Municipal Code nuisance regulations.

c. Energy Use. Use of renewable resources for indoor cultivation is encouraged and the City’s commercial cannabis permit application procedures may award credit for use of renewable resources. All permittees will be required to submit a detailed energy conservation plan which includes a description of devices which will enable proposed facility and activities to operate at or below energy usage parameters of building’s occupancy classification. Energy usage shall not exceed that of the building’s intended occupancy class without additional review and prior approval by the City.

d. Hazardous Materials. All cultivation operations that utilize hazardous materials shall comply with applicable hazardous waste generator, underground storage tank, above ground storage tanks and AB 185 (hazardous materials handling) requirements and maintain any applicable permits for these programs from the Fire Prevention Division, Certified Unified Program Agency (“CUPA”) of Sonoma County Fire and Emergency Services Department or Agricultural Commissioner.

e. Hours of Operation. Indoor cultivation activities may be conducted seven days a week, 24-hours per day as needed, unless otherwise conditioned in a use permit or otherwise prohibited by the base zone. Associated outdoor activities such as loading and unloading shall be limited to the hours of 6:00 a.m. to 6:00 p.m., unless a use permit is obtained that allows otherwise.

f. Noise Limits. Cultivation operations shall not exceed the Noise Standards for industrial development set forth in section 17.30 of the Cotati Municipal Code, measured in accordance with professional standards and a properly calibrated measuring device.

g. Occupational Safety. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include: federal and state wage and hour laws, CAL/OSHA, OSHA and the California Agricultural Labor Relations Act.
h. Waste Management. A Waste Management Plan addressing the storing, handling and disposing of all waste by-products of the cultivation and processing activities shall be submitted for review and approval by the City. This plan shall characterize the volumes and types of waste generated, and the operational measures that are proposed to manage and dispose or reuse the wastes in compliance with any regulations adopted by the City Council through resolution or ordinance.

All garbage and refuse on the site shall be accumulated or stored in non-absorbent, water-tight, vector resistant, durable, easily cleanable, galvanized metal or heavy plastic containers with tight fitting lids. No refuse container shall be filled beyond the capacity to completely close the lid. All garbage and refuse on this site shall not be accumulated or stored for more than seven (7) calendar days, and shall be properly disposed of before the end of the seventh day in a manner prescribed by the solid waste hauler or local enforcement agency. All waste, including but not limited to refuse, garbage, green waste, and recyclables, must be disposed of in accordance with local and state codes, laws and regulations. All waste generated from cannabis operations must be properly stored and secured to prevent access by the public.

i. Waste Water Discharge. A Waste Water Management Plan shall be submitted identifying the amount of waste water, excess irrigation and domestic waste water anticipated, pre-treatment method (when applicable), as well as disposal method. All cultivation operations shall comply with all state regulations, any regulations adopted by the City Council through resolution or ordinance and the discharger shall submit to the City verification of compliance with the Waste Discharge Requirements of the applicable Regional Water Quality Control Board, or waiver thereof if needed. Excess irrigation water or effluent from cultivation activities shall be directed to a sanitary sewer, septic, irrigation, grey water or bio-retention treatment systems. All waste water discharged to the City sewer system shall comply with the City’s Municipal Code. If discharging to a septic system, a system capacity evaluation by a qualified sanitary engineer shall be included in the management plan. All domestic waste for employees shall be disposed of in a permanent sanitary sewer or onsite septic system demonstrated to have adequate capacity.

j. Water Supply. An onsite water supply source adequate to meet all on site uses on a sustainable basis shall be provided. Trucked water shall not be allowed without prior authorization by the City. The onsite water supply shall be considered adequate with documentation of the following sources:

i. Recycled Water: The use of recycled process waste water from an onsite use or connection to a municipal recycled water supply for the cultivation use, provided that an
adequate onsite water supply is available for employees and other uses.

C. Standards for Commercial Cannabis Retail Sales

1. Purpose. This section provides the locational, operational, and permit standards for any cannabis dispensary within the City in order to promote the health, safety, and general welfare of its residents and businesses. The standards in this section shall be in addition to standards contained in section 17.42.200 (A) for all commercial cannabis uses.

2. Applicability. Cannabis retail facilities shall be permitted only in compliance with the requirements of this section, and all other applicable requirements of section 17.42.200 (A), the underlying zoning district and all other applicable requirements of the City’s Municipal Code, including Chapter 5.30 Cannabis Business Tax, and state and county agencies. Permits under this section shall only be issued to commercial cannabis uses operating under state cannabis license types 10 and 12, or subsequent retail license types established.

3. Permit Requirements and Application Procedure. A commercial cannabis permit for retail sales, issued in compliance with and any applicable permit issued by the Sonoma County Department of Health Services, shall be required to operate within the City of Cotati. Cannabis retail facilities shall also be subject to permit requirements and regulations established by the state and those established by the City Council through resolution or ordinance, or by vote of the citizens of Cotati. Additionally, cannabis retailers must comply with all other applicable building codes and requirements, including accessibility requirements. Permits shall only be issued to cannabis retail dispensaries qualifying under state cannabis license Types 10 and 12. These regulations do not apply to license Type 9 Non-Storefront Retailers which are addressed under section 17.42.200(D). Type 9 licensed operations are not authorized under these regulations and are not allowed in the Commercial Gravenstein (CG) zone. Commercial cannabis permits for retail dispensaries shall be issued according to the following procedure:

a. The City Council shall, following an open application period and review of applications by City staff and recommendations by the City Manager or designee, consider commercial cannabis permit applications for retail facilities meeting all minimum qualifications at a properly noticed public hearing. The City Council may approve up to two (2) commercial retail cannabis permits to operate in the City at the
same time, with necessary conditions. No more than one (1) of these permits may be issued to a microbusiness with a Type 12 license.

b. If a commercial cannabis permit for a retail facility becomes available within twelve (12) months of a previous application period, City Staff may first review all minimally qualified applications from the prior application process, and consider them for submittal to the City Council prior to opening a new application process. If a new application process is opened, prior applicants may inform City Staff in writing that they wish to re-submit their application rather than file a new application. They shall certify that all information in the previous application is still true and accurate, or submit new information.

c. The City may adopt such forms, fees, and procedures as are necessary to implement this section with respect to the initial selection, future selection, investigation process, renewal, revocation, and suspension of cannabis retail permits. Such procedures may include a priority ranking system, and appointment of staff review panel for cannabis retail permits.

d. The application must include, at a minimum, the following:

i. Signed Affidavit. The property owner and applicant, if other than the property owner, shall sign the application for the cannabis dispensary permit, and shall include affidavits agreeing to abide by and conform to the conditions of the permit and all provisions of the Cotati Municipal Code pertaining to the establishment and operation of the cannabis retail use, including, but not limited to, the provisions of this section. The affidavit(s) shall acknowledge that the approval of the cannabis retail permit shall, in no way, permit any activity contrary to the Cotati Municipal Code, or any activity which is in violation of any applicable laws.

ii. All necessary information related to the facility and its operators, including names, birth dates, addresses, social security numbers, relevant criminal history, relevant work history, names of businesses owned or operated by the applicant within the last ten (10) years, investor and/or partner information, address and APN number of the parcel upon which the business will be located. Such private
information will be exempt from disclosure to the public, pursuant to applicable law, to protect an individual’s privacy interests and public health and safety.

iii. Operating Plan as required under section 17.42.200(C)(12).

iv. Security Plan as required under section 17.42.200(C)(12)(b).

v. Site Plans pursuant to section 17.42.200(C)(12)(c).

4. Limit on Number of Dispensaries. No more than two (2) cannabis retail facilities shall be permitted within the City at any one time. All facilities authorized under this section must maintain a storefront which is open to the public. No more than one (1) of these shall be a microbusiness with a Type 12 state license.

5. Specific to Microbusinesses. A Type 12 Microbusiness license shall count as a retail dispensary under the limits of section 17.42.200(C)(4). Any commercial cannabis permit issued to a microbusiness with a Type 12 state license, or a state cannabis license type subsequently established, that contains a retail operation, will be subject to use permit procedures and requirements for cannabis retail facilities under this section and section 17.62.050. Any such permit will count toward the City’s maximum number of retail facilities. Any commercial cannabis permit issued to a microbusiness with a cultivation component will also be subject to the requirements of section 17.42.200(B) for cultivation operations, as modified by the use permit process. All use permits issued for a cannabis microbusiness shall include the following provision: “This use permit shall expire upon change of tenancy or sale or transfer of the business.”

6. Limit on Size of Dispensaries. Cannabis retail dispensaries shall not exceed four thousand square feet (4,000 square feet) of public dispensing area, exclusive of area designated for administrative functions, secure or restricted access spaces, restrooms, or educational functions for Type 10 license holders, or cultivation, cultivation support, packaging or manufacturing areas for Type 12 microbusiness license holders.

7. Compliance with Operating Plan and Conditions Required. In addition to the general requirements of section 17.42.200(A), a retail facility shall submit, as a part of the cannabis permit application, an operating plan that specifies the manner in which operations will be handled and security provided, and which details the number of employees, hours and days of operation proposed. If permittee will hold a medical cannabis license type, the operating plan shall demonstrate methods and means of compliance with state requirements for medical dispensing, including doctor recommendations and photo identification. Any
retail facility approved under this section shall be operated in conformance with the approved operating plan and shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval to ensure that the operation of the facility is consistent with protection of the health, safety and welfare of the community, customers, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.

8. Limited Term. Permits for cannabis retail facilities, as well as use permit for microbusinesses, shall be limited-term and shall be issued for a maximum period of two (2) years.

9. Revocation or Modification. A commercial cannabis permit for a retail facility approved under this section may be revoked, suspended, or modified at any time in accordance with section 17.42.200(A)(7)(e).

10. Location Requirements. Unless otherwise allowed under state law and as modified by this section:

   a. A retail facility which is open to the public may only be located within the Commercial, Gravenstein (CG) zoning district.

   b. A cannabis retail facility shall not be established on any parcel containing a dwelling unit, or within one hundred feet (100') of a residential zoning district. Residentially zoned does not include mixed use zoning for purposes of this chapter.

   c. A cannabis retail facility shall not be established within six hundred feet (600') of another cannabis retail dispensary or other commercial cannabis business. This rule shall not apply to the separate activities permitted as Type 12 Micro-businesses.

   d. A cannabis retail facility shall not be established within six hundred feet (600') from any public or private school or licensed child care facility.

   e. A cannabis retail facility shall not be established within six hundred feet (600') of any park, library, or youth center.

   f. The distances listed above shall be measured between the nearest entrances of the dispensary and the above listed use, along the shortest route intended and available for public passage.
11. Operating Standards. In addition to standards contained in section 17.42.200(A), the following are the minimum development criteria and operational standards applicable to any cannabis retail facility use:

a. The building in which the dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and accessibility requirements.

b. The facility shall provide adequate security on the premises pursuant to section 17.42.200(A)(11), and any additional requirements in this section, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft. The applicant shall submit a security plan for review and approval by the Cotati Police Department. The Security Plan will remain confidential.

c. The Site Plan, circulation, parking, lighting, facility exterior, and any signage shall be subject to all underlying zoning requirements, design review committee review, and approval. The Community Development Director may waive this requirement where the applicant can demonstrate that existing facilities, including parking, lighting and landscaping, already meet the requirements of this section.

d. No exterior signage or symbols shall be displayed which advertises the availability of cannabis using drug-related symbols which are attractive to minors or which is carried out in a manner intended to encourage persons under twenty-one (21) years of age to consume cannabis or cannabis products, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.

e. No person shall be allowed onto the premises unless they are an employee, customer, vendor or contractor of the retail facility, a primary caregiver, and/or a qualified patient or an employee of an agency having jurisdiction monitoring or investigating the terms of regulatory compliance. If the retailer denies entry for monitoring and inspection to any employee of an agency having jurisdiction, the facility may be closed. In strict accordance with California Health and Safety Code Section 11362.5 et seq., no person under the age of eighteen (18) shall be allowed on a medical cannabis retail site unless allowed under state law, and no person under the age of twenty-one (21) shall be allowed on a nonmedical cannabis retail site pursuant to California Business and Professions Code section 26140. All persons entering the site, except as representing a regulatory agency, shall present a photo identification and shall establish proof of doctor’s recommendation if facility holds a medical retailer license. A doctor’s
recommendation shall not be required for customers of a nonmedical cannabis retail facility. The operating plan submitted as a part of the cannabis permit application shall specify how this provision will be complied with and enforced.

f. No retail facility shall also hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages shall be allowed or consumed on the premises.

g. Odor control devices and techniques shall be incorporated in all commercial cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial cannabis retail facilities shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the facility that is distinctive to its operation and is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis facility. As such, commercial cannabis retail facilities must install and maintain the following equipment or any other equipment which the Building Official or designee determines has the same or better effectiveness:

i. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or,

ii. An air system that creates negative air pressure between the commercial cannabis business’ interior and exterior so that the odors generated inside the commercial cannabis business are not detectable on the outside of the commercial cannabis business.

h. No cannabis retail facility shall conduct or engage in the commercial sale of any product, good or service unless otherwise approved by the cannabis permit. A retail facility may sell live starter (immature) plants, clones and seeds from qualified nurseries, but shall not cultivate or clone cannabis (unless the facility holds a microbusiness license from the state and such uses are allowed on the same premises under state and local laws). A retail facility may sell manufactured cannabis, including edible products, and vaporizing devices if allowed by a permit issued by the Department of Health Services. Not more than five percent (5%) of the dispensary area, up to a maximum of two hundred (200) square feet, may be devoted to the sale of
incidental goods for personal cannabis cultivation and use or promotional items such as clothing, hats or posters.

i. No cannabis shall be consumed on the premises. For purposes of complying with this requirement, the term “premises” includes the physical building, leasehold space, as well as any accessory structures, parking areas, sidewalks, driveways or other immediate surroundings.

j. No retail facility may increase in size without amending its cannabis or use permit, as applicable. The size limitation shall be included in the operational plan required by 17.42.200(C)(12).

k. A retail facility carrying a medical cannabis license type shall not have a physician on site to evaluate patients or provide recommendations for medical cannabis.

l. Parking must meet the requirements of Chapter 17.36 of the Cotati Municipal Code.

m. Retail sales operating hours shall be limited to:

   Monday - Sunday: 10:00 am to 7:00 pm

   If the licensee holds a Type 12 Microbusiness license, cultivation and manufacturing hours shall be established and approved through the use permit process.

n. Delivery. Delivery of cannabis is allowed by retail facility license holders. Delivery functions must be included in the cannabis permit materials and approved as a discrete function. Delivery functions shall be in conformance with state law and all of the following:

   i. Deliveries can only be conducted between the hours of 10:00 a.m. to 7:00 p.m.

   ii. A delivery business wishing to make deliveries must obtain a state license Type 10, or a state cannabis license type subsequently established.

   iii. Deliveries shall be made by an employee of the delivery business and said employee shall carry
with him/her at all times a physical copy of the City commercial cannabis permit and business license and state license when such a license is available. Delivery businesses shall comply with all state law and regulations pertaining cannabis delivery businesses.

o. Record Keeping. A cannabis retail facility shall maintain records in accordance with the state and local requirements of its license type.

If retail facility carries a medical cannabis license, it shall maintain records using only the State of California Medical Marijuana Identification Card numbers issued by the County or the County’s designee, pursuant to California Health and Safety Code Section 11362.7 et seq., or a copy of a written doctor’s prescription or recommendation, as a protection for the confidentiality of the cardholders. The facility shall track when members’ medical cannabis recommendations and/or identification cards expire and enforce conditions of membership by excluding s whose identification cards or recommendations are invalid or expired. The facility shall maintain member records in a manner to protect confidential information in the records if the records contain information protected by applicable law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and Public Law 104-191. A medical retail facility shall exclude members who are caught diverting cannabis for nonmedical use. All membership records shall be maintained onsite.

i. A retail facility shall, by using the patient or caregiver’s identification number, keep an accurate account of the number of members that visit the dispensary each month, and also for the entire permit year.

ii. The facility shall keep accurate records, follow accepted cash handling practices and maintain a general ledger of cash transactions.

iii. The retail facility shall allow the City to access the books, records, accounts and all data relevant to its operations for purposes of conducting an audit or examination to determine compliance with the Municipal Code, Administrative Regulations, conditions of approval, and applicable laws. Books, records, accounts and all relevant
data shall be produced no later than twenty-four (24) hours after receipt of the City’s request.

p. Required Signage. The following signs, in measurements of not less than eight by ten inches (8x10”), shall be clearly and legibly posted in a conspicuous location inside the dispensary where they will be visible to customers in the normal course of a transaction, stating:

i. “The dispensing of cannabis without a state license is illegal.”

ii. “Use or consumption of cannabis on this premises or property is prohibited.”

iii. For retail cannabis facilities: “All visitors to this premise must be at least 21 years of age, or, at least 18 years of age and able to show a government issued medical cannabis ID card in accordance with HSC 11362.7(c) through (g).”

D. Standards for Manufacturing, Testing, Storage, Distribution and Non-Storefront Retail of Commercial Cannabis

1. Permits under this section shall only be issued to commercial cannabis uses operating under state cannabis license classification Types 6, 7, 8, 9 and 11.

2. Permits shall be issued by the City Council according to the requirements of section 17.42.200(A)(7) and this section and may include conditions of approval.

3. Additional Operating Standards. In addition to the requirements of section 17.42.200(A), any base zone requirements, and all State laws and regulations, commercial cannabis uses permitted under this section shall also comply with the following operational standards:

a. Facilities shall not be open to the general public.

b. Extraction processes. Manufacturers shall utilize only extraction processes that are (a) solvent free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug and Cosmetic Act, and/or (b) use solvents exclusively within a closed loop system that meets the requirements of the federal Food, Drug and Cosmetic Act including use of authorized solvents only, the prevention of off-gassing, and certification by a California licensed engineer.
c. No closed loop systems shall be utilized without prior inspection and approval of the City’s Building and Fire Code Officials.

d. Standard of equipment. Extraction equipment used by the manufacturer must be listed or otherwise certified by an approved third-party testing agency or licensed professional engineer and approved for the intended use by the City’s Building and Fire Code Officials.

e. Annual re-certification required. Extraction equipment used by the manufacturer must be recertified annually and a report by a licensed professional engineer on the inspection shall be maintained on-site.

f. Food handler certification. All owners, employees, volunteers or other individuals that participate in the production of edible cannabis products must be state certified food handlers. The valid certificate number of each such owner, employee, volunteer or other individual must be on record at the manufacturer’s facility where that individual participates in the production of edible cannabis products.

g. Edible product manufacturing. Cannabis businesses that sell or manufacture edible medical cannabis products shall obtain a Sonoma County Health permit. Permit holders shall comply with the Health and Safety Code section 13700 et seq. and Sonoma County Health permit requirements. These requirements provide a system of prevention and overlapping safeguards designed to minimize foodborne illness, ensure employee health, demonstrate industry manager knowledge, ensure safe food preparation practices and delineate acceptable levels of sanitation for preparation of edible products.

4. Permit Requirements and Restrictions. The following limits on number and location of commercial cannabis facilities apply:

a. The number of permits issued under this section shall not exceed a total of seven (7). These limits do not apply to Type 11 Distribution license types issued in conjunction with another allowable type. Only standalone Type 11 license types shall count toward the total number of allowable permits. No more than one (1) of these permits may be issued to a Type 9 Non-Storefront Retailer license holder. The remaining permits may be issued among the allowable types identified in section (D)(1) above in any combination. Permittees who obtain state licenses for both adult (recreational) and medical uses for the same premises shall require one (1) commercial permit from the City.
b. Specific to Non-Storefront Retailers. Any commercial cannabis permit issued to a non-storefront retailer with a Type 9 license, or a state cannabis license type subsequently established, will be subject to the requirements set forth in this section 17.42.200 (D) and not those set forth in section 17.42.200(C) for storefront retailers. In addition, the following specific requirements shall apply. Non-storefront retailers:

i. Are allowed only in CI, IG and PF zones.

ii. May not be located within 600-feet of a cannabis retailer with a storefront. There is no spacing or distance requirement to any other commercial cannabis business.

c. No facility permitted under this section shall be located on any parcel containing a dwelling unit, nor within six hundred feet (600’) of any school, or within one hundred feet (100’) of a residential zoning district.

d. The distances listed above shall be measured between the nearest entrances of the cannabis facility and the above listed use, along the shortest route intended and available for public passage.

e. All Level II manufacturing facilities require a Use Permit issued in accordance with Cotati Municipal Code section 17.62.050. All use permits issued for a Level II manufacturing facility shall include the following provision: “This use permit shall expire upon change of tenancy or sale or transfer of the business.”

5. Manufacturing and delivery operations shall be subject to additional permitting and inspection requirements of the Sonoma County Health Official, per section 17.42.200(A)(5).

6. Delivery. Delivery of cannabis by Type 6, 7, 8 or 11 license holders is not allowed.

E. **Grounds for Permit Revocation or Modification**

Non-compliance with any requirement of this section shall be treated as a violation of the City’s Municipal Code and permits issued may be revoked or modified in accordance with section 17.89.070(c) of this code and the City shall have the right to recovery of all costs to revoke or modify the permit in accordance with section 17.89.080 and to levy fines in accordance with the City’s adopted bail schedule.

SECTION 4. Chapter 17.42 of Title 17 is hereby further amended by adding the following:
17.42.210  Personal and Medical Cannabis Cultivation

A.  Purpose. This Section provides the standards for personal and medical (including qualifying patient and caregiver cannabis cultivation in order to ensure neighborhood compatibility, minimize potential environmental impacts, mitigate potential nuisances, and provide safe, legal access to cannabis. Each of these use categories are hereinafter referred to as “personal” cultivation.

B.  Applicability. Personal cannabis cultivation shall be permitted only in compliance with the requirements of this section and section 17.42.200 of the Cotati Municipal Code, state law and all other applicable requirements of the underlying base zone. In addition to the requirements of this section, personal cannabis uses shall comply with all other applicable provisions of the City’s General Plan and Municipal Code, including Chapter 5.30 Cannabis Business Tax, as applicable. This section is applicable to the requirements and limitations of personal cultivation only. Commercial cannabis uses are regulated by section 17.42.200. It is unlawful to cultivate, distribute, manufacture, test or transport cannabis in amounts that exceed personal use allowances under California law within the City without a valid permit issued pursuant to the provisions of Section 17.42.200. Possession of other types of State or City permits or licenses does not exempt a personal cultivator from the requirements of this section.

C.  Indoor personal cultivation of cannabis is allowed only in residential zones and in accordance with this section.

D.  Personal Cannabis Cultivation. Personal cannabis cultivation for medical or adult (recreational) use shall be permitted in compliance with the provisions of Section 17.22 and shall be subject to the following standards and limitations.

1.  The personal cultivation of cannabis is limited to no more than six (6) plants per parcel, regardless of the number of qualifying adults who reside on the property and regardless of the presence of a secondary or accessory dwelling unit.

2.  State law provides that an adult twenty-one (21) years or older may cultivate up to six (6) cannabis plants inside his or her dwelling or authorized accessory structure.

3.  Any cultivator claiming qualified patient or primary caregiver status shall maintain an identification card with the State of California for medical cannabis use or a qualifying doctor’s written recommendation.

4.  Permitting.

   a.  A permit is not required for personal, non-commercial, cannabis cultivation; however, cultivation activities must comply with all standards of this section and are subject to inspection by the City and fire agency.

5.  Cultivation:
a. Cultivation shall be for personal or qualifying patient use and no commercial cultivation of cannabis shall be permitted in any residential zones.

b. The individual cultivating the cannabis must reside on the property.

c. Cultivation shall not occur in any required front or side yard setback and shall maintain a minimum ten (10) foot rear setback.

d. Cultivation activities shall not be visible from any public right of way.

e. Cannabis shall not be accessible to minors. All areas, enclosures and structures used for cannabis cultivation shall have security measures sufficient to prevent access by minors or other unauthorized persons.

f. If the individual cultivating the cannabis is a tenant on the parcel where cultivation occurs, he or she shall obtain permission of the owner of the property authorizing the cultivation of cannabis on the property and must be able to provide proof of consent to any authorized agency official.

g. Required parking, whether covered or uncovered, shall not be converted for the purpose of cannabis cultivation.

h. Adequate mechanical locking or electronic security systems must be installed as part of any full enclosed and secure structure or the residence prior to commencement of cultivation.

i. The use of volatile solvents to manufacture cannabis products for personal consumption is prohibited. Any harvesting, processing or manufacturing methods shall be limited to those that are solvent free or that employ only non-flammable, nontoxic solvents that are recognized as safe pursuant to the federal Food, Drug and Cosmetic Act.

j. All practical measures shall be employed to prevent nuisance odors. This means that all structures used shall be equipped with odor control filtration and ventilation systems such that the odors of cannabis cannot be readily detected from outside the structure.

k. The use of air conditioning and/or ventilation equipment shall comply with noise limits of the Municipal Code. The use of generators is prohibited, except as short-term temporary emergency back-up systems.
l. Cultivation shall remain at all times a secondary or accessory use of the residence and the primary purpose of the residence shall at all times be as a dwelling.

m. All personal cannabis cultivation shall comply with the Best Management Practices for Cannabis Cultivation issued by the Sonoma County Agricultural Commission for management of waste, water, erosion control and fertilizer and pesticide management.

n. A portable fire extinguisher, that complies with the regulations and standards adopted by the state fire marshal and applicable law, shall be kept in the fully enclosed and secure structure used for cultivation. If cultivation occurs in a residence, the portable fire extinguisher shall be kept in the same room as where the cultivation occurs.

o. The structure must be completely enclosed and if attached to the primary residential structure, must comply with all applicable California Building, Electrical, Fire and Zoning Codes, as adopted by the City. If detached from the residence, it must comply with all applicable California Building, Electrical and Fire Codes, as adopted by the City, and have a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roof must be constructed of solid materials that cannot be easily broken through. Exterior walls must be constructed with non-transparent material. Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement.

p. Cultivator must be able to demonstrate that indoor cultivation process is equipped with all necessary measures to protect the health, safety and welfare of other residents, cause no permanent damage to a dwelling unit, and that no sound or odor produced by the activity will exceed adopted thresholds for the zone. The City may, from time to time, adopt more stringent operational procedures for personal cultivation. Cultivators are obligated to comply, regardless of the date of initiation of their individual activities.

q. Cultivation activities shall not utilize grow lights that exceed 1200 watts. Illumination must comply with all other applicable Municipal Code requirements for light impacts on neighboring properties.

6. Violations. Non-compliance with any requirements of this section shall be treated as violations of the City’s Municipal Code and shall be noticed, charged and abated in accordance with procedures established in Chapter 17.89 of this Code and the City’s adopted bail schedule.
SECTION 5. Chapter 17.90 of Title 17 is hereby amended by adding the following definitions in alphabetical order:

“Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, or any other strain or varietal of the genus Cannabis that may exist or be discovered, or developed, that has psychoactive or medical properties, whether growing or not, including but not limited to the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” also means marijuana as defined by California Health and Safety Code section 11018 and Business and Professions Code section 26000(f), as both may be amended from time to time. Any reference to cannabis or cannabis products shall include medical and nonmedical cannabis and medical and nonmedical cannabis products unless otherwise specified. Cannabis or cannabis product does not mean industrial hemp as defined by Health and Safety Code section 11018.5, or the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink, or other product. Cannabis does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination.

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

“Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including nurseries.

“Cannabis cultivation area” [or “canopy”] means the total aggregate area(s) of cannabis cultivation on a single premise as measured around the outermost perimeter of each separate and discrete area of cannabis cultivation at the drip-line of the canopy expected at maturity and includes, but is not limited to, the space between plants within the cultivation area, the exterior dimensions of garden beds, garden plots, hoop houses, green houses, and each room or area where cannabis plants are grown, as determined by the review authority.

“Cannabis cultivation - indoor” means the cultivation of cannabis within a permanent, lockable structure, using exclusively artificial lighting.

“Cannabis cultivation - mixed-light” means the cultivation of cannabis using any combination of natural and supplemental artificial lighting. Greenhouses, hoop houses, hot houses and similar structures, or light deprivation systems are included in this category.

“Cannabis cultivation - outdoor” means the cultivation of cannabis using no artificial lighting conducted in the ground or in containers outdoors with no covering.

“Cannabis cultivation site” means the location, premises, leased area(s), property, location or facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or a location where all or any combination of those activities.
“Cannabis license” means a state license issued pursuant to MAUCRSA.

“Cannabis licensee” means a person issued a state license under MAUCRSA to engage in commercial cannabis uses or activity.

“Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

“Child care center” shall have the same meaning as “child day care facility” in Health and Safety Code section 1596.750, and as “day care center” in Health and Safety Code section 1596.76, as both may be amended from time to time: any child care facility, and includes infant centers, preschools, extended day care facilities, and school-age child care centers where nonmedical care is provided to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

“Commercial Cannabis Permit,” “Cannabis Permit,” or “Permit” shall mean a permit issued by the City pursuant to Section 17.42.200 for the operation of a commercial cannabis business within the City.

“Commercial cannabis uses” means any commercial cannabis activity licensed pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”), including but not limited to, cultivation, possession, distribution, laboratory testing, labeling, retail, delivery, sale or manufacturing of cannabis or cannabis products. “Commercial cannabis uses” also means any cannabis activity licensed pursuant to additional state laws regulating such businesses. “Commercial cannabis uses” does not include legal medical cannabis or cannabis activities carried out exclusively for one’s personal use that does not involve commercial activity or sales.

“Director” means the City Manager or his/her designee.

“Distribution facility” means the location or a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed dispensaries or delivery operations, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging and other processes, prior to transport to licensed dispensaries or delivery operations. This facility requires a Type 11 license pursuant to the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”) or a state cannabis license type subsequently established.

“Distributor” means any commercial cannabis operation that distributes cannabis or cannabis products between licensees, under a valid state license Type 11, or a state cannabis license type subsequently established.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.
“ 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.

“Manufacturer” means a person that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container, that holds a valid state Type 6 or 7 license, or a state cannabis license type subsequently established, and that holds a valid local license or permit.

“Manufacturing” means a facility, that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is operated by a licensee for these activities.

“Medical cannabis” or “medicinal cannabis” means cannabis that is intended to be used for medical cannabis purposes in accordance with the Compassionate Use Act (“CUA”, Health and Safety Code section 11362.7 et seq.), the Medical Marijuana Program Act (“MMPA,” Health and Safety Code section 11362.7 et seq.) and the Medical Cannabis Regulation and Safety Act (“MCRSA,” Business and Professions Code section 19300 et seq.) and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”).

“Microbusiness” means a commercial cannabis facility operating under a state Type 12 license, or a state cannabis license type subsequently established, and meeting the definition of microbusiness found in Business and Professions Code section 26070(a)(3)(A), as may be amended from time to time, which cultivates less than 10,000 square feet of cannabis and acts as a licensed distributor, Level 1 manufacturer, and retailer.

“Non-Storefront Retailer” means a commercial cannabis facility where cannabis and/or cannabis products are offered for retail sale exclusively by delivery, where there is no storefront open to the public, operating under a state license type 9 or a cannabis license type subsequently established. This definition does not include mobile dispensaries.

“Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis. A nursery does not include retail sales.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, tribe, or any other group or combination acting as a unit and includes the plural as well as the singular number.

“Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee. “Premises” does not include the leasehold spaces of
other tenants on the same parcel or group of parcels joined by common facilities or shared amenities.

“Primary caregiver” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as the same may be amended from time to time.

“Public place” means any publicly owned property or property on which a public entity has a right of way or easement. Public place also means any private property that is readily accessible to the public without a challenge or barrier, including but not limited to front yards, driveways, and private businesses.

“Qualifying patient” or “qualified patient” shall have the same meaning as set forth in Health and Safety Code section 11362.7, as may be amended from time to time.

“Operator” means the natural person or designated officer responsible for the operation of any commercial cannabis use.

“Retailer” or “cannabis dispensary” or “dispensary” means a facility operated in accordance with state and local laws and regulations, where cannabis and/or cannabis products are offered for retail sale, including an establishment that delivers cannabis and/or cannabis products as part of a retail sale, under a state license type 10 or a cannabis license type subsequently established. This definition does not include mobile dispensaries.

“Sale,” “sell,” and “to sell” shall have the same meaning as set forth in Business and Professions Code section 26001(aa), as the same may be amended from time to time: any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom such cannabis or cannabis product was purchased.

“School” means any public or private school providing instruction to students in kindergarten or any grades 1 through 12.

“Testing service” or “Testing laboratory” means a laboratory, facility, or entity that offers or performs tests of cannabis or cannabis products, including the equipment provided by such laboratory, facility, or entity, which is accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity and is licensed by the state.

“Volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene as determined by the Fire Marshall.

“Youth center” shall have the same meaning as in Section 11353.1 of the Health and Safety Code, as may be amended from time to time: any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth
membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

SECTION 6. Table 2-2 Allowable Land Uses and Permit Requirements for Low Density and Neighborhood Zones and Table 2-3 Allowable Land Uses and Permit Requirements for Mixed Use Corridors and Districts of Chapter 17.22 are hereby amended by adding the land uses and permit requirements set forth in Attachment A.

SECTION 7. Title 8 is hereby amended by repealing Chapter 8.24 in its entirety.

SECTION 8. Environmental Determination. The City Council finds and determines that the adoption and implementation of this ordinance is exempt from further analysis under the California Environmental Quality Act in that:

i. 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 ordinance will have significant effects on the environment; and

ii. Under section 15183 (projects consistent with a community plan, general plan, or zoning) in that the proposed zoning amendments will direct commercial 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 cannabis testing laboratory uses where non-cannabis testing laboratory uses are allowed; and

iii. Under section 15301 (existing facilities) in that proposed zoning amendments will allow commercial cannabis businesses to re-tenant existing commercial and industrial facilities designed to support such occupancies; and

iv. 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; and

v. Provisions of which each can provide a separate and independent basis for CEQA clearance and when viewed collectively, provide an overall basis for CEQA clearance.

SECTION 9. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
IT IS HEREBY CERTIFIED that the foregoing ordinance was introduced at a regular meeting of the Cotati City Council held on the 23rd day of January, 2018, by the following vote, to wit:

01/23/18  Cotati City Council  INTRODUCED
Vice Mayor Dell'Oss.mo moves to introduce the recommended ordinance, seconded by Councilmember Skillman. Mayor Landman moves to make an amendment to the motion on the floor with the option of allowing limited outdoor cultivation, seconded by Councilmember Moore. Councilmember Skillman Nay, Councilmember Harvey Nay, Vice Mayor Dell'Osso Nay, amendment fails.
RESULT:  INTRODUCED [UNANIMOUS]  Next: 2/13/2018 7:00 PM
MOVER:  John A. Dell'Oso, Vice Mayor
SECONDER: Wendy Skillman, Councilmember
AYES:  Landman, Dell'Oso, Skillman, Moore, Harvey

IT IS HEREBY CERTIFIED that the foregoing ordinance was duly adopted at a regular meeting of the City Council of the City of Cotati held on the 13th day of February, 2018, by the following vote, to wit:

RESULT:  ADOPTED [UNANIMOUS]
MOVER:  John C. Moore, Councilmember
SECONDER: John A. Dell'Oso, Vice Mayor
AYES:  Landman, Dell'Oso, Skillman, Moore, Harvey

Approved:  
Mayor

Attest:  
Lauren Berges, Deputy City Clerk

Approved as to form:

Robin Donoghue, City Attorney

This document is a true and correct copy of Ordinance Number 883and has been published or posted pursuant to law. California Government Code § 40806

Lauren Berges, Deputy City Clerk
<table>
<thead>
<tr>
<th>LAND USE</th>
<th>MAXIMUM CULTIVATION AREA PER PARCEL (in square feet or number of plants)</th>
<th>MINIMUM PARCEL SIZE</th>
<th>STATE LICENSE TYPE</th>
<th>RESIDENTIAL</th>
<th>COMMERCIAL / INDUSTRIAL</th>
<th>DOWNTOWN SPECIFIC PLAN</th>
<th>SANTIAGO CANYON SPECIFIC PLAN</th>
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<td>OCS</td>
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<td>Nursery (Street only)</td>
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**NOTES:**
- "-" Sign Not Allowed
- "P" Permitted Use
- "P" Permitted only on residential use parcels of mixed use developments.
- "AGP" Any General Plan Policy
- "COP" Conditional Use Permit Required
- "UP" Use Permit Required
- "W" Water Right Required
- "OU" Outdoor use or recreational use
- "Commercial Area" includes a measurement of plant canopy.