

# *City of Brisbane*

## *Planning Commission Agenda Report*

**TO:** Planning Commission For the Meeting of 1/26/17

**FROM:** Julia Capasso, Associate Planner, via John Swiecki, Community Development Director

**SUBJECT:** **Zoning Text Amendment RZ-6-16** for amendments to Chapters 17.02, 17.06, 17.08, 17.10, 17.12, 17.16, 17.18, and 17.19, and adding new Chapter 17.33 to Title 17, Zoning, of the Brisbane Municipal Code to regulate personal cultivation of medical cannabis by qualified patients and caregivers, and medical cannabis businesses; City of Brisbane, applicant; Location: Citywide.

**REQUEST:** City Council-initiated zoning text amendments to add new definitions and modify existing definitions of medical cannabis-related terms; conditionally allow medical cannabis distribution, manufacturing, and warehousing in the TC-1 district; allow research and development (laboratory testing) of medical cannabis in the TC-1, SCRO-1, and SP-CRO districts; and establish performance standards and permit application requirements for medical cannabis businesses.

**RECOMMENDATION:** Recommend approval of Zoning Text Amendment RZ-6-16 via adoption of Resolution RZ-6-16.

**ENVIRONMENTAL DETERMINATION:** The project is consistent with the General Plan per State CEQA Guidelines Section 15183(a)--this proposal falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review. The exception to this section requiring environmental review as might be necessary to examine project specific significant effects does not apply.

**APPLICABLE REGULATIONS:** The Medical Marijuana Regulation and Safety Act is codified in Sections 19300-19360 of the California Business and Professions Code. State regulations governing the personal cultivation and use of medical cannabis by qualified patients and caregivers ("Compassionate Use Act") is located in the California Health and Safety Code Sections 11362.7 - 11362.85. Zoning Code definitions are located in BMC Chapter 17.02. Permitted uses in the R-1, R-2, R-3, and R-BA residential districts are located in BMC Chapters 17.06, 17.08, 17.10, and 17.12, respectively. SCRO-1 zoning district regulations are located in BMC Chapter 17.16. SP-CRO zoning district regulations are located in BMC Chapter 17.18. TC-1 zoning district regulations are located in BMC Chapter 17.19. BMC Chapter 17.32 contains general regulations applicable to a variety of building and land uses throughout the City.

### **DISCUSSION:**

In October 2015, passage of the Medical Marijuana Regulation and Safety Act (MMRSA) enacted State regulations for licensing and regulation of medical cannabis (marijuana) businesses. The MMRSA establishes a dual licensing structure, whereby a business must obtain

a local license or permit from the local jurisdiction prior to obtaining a State license. If local jurisdictions do not allow the proposed medical cannabis business, the business cannot obtain a State license. This vests ultimate authority with the City to determine what medical cannabis businesses, if any, should be allowed to operate. Medical cannabis businesses included in MMRSA include commercial cultivation, retail sales (“dispensaries”) and direct-to-consumer delivery, distribution/transporting, laboratory testing, and manufacturing.

Enacted by a voter initiative in 1996, the Compassionate Use Act enacted a licensing process for qualified patients or caregivers to cultivate medical cannabis for the patient’s personal consumption (not sale). Qualified patients must be suffering from terminal or life-altering illnesses (defined in the statute), obtain a prescription for medical cannabis from a doctor, and obtain an identification card from the county health department. Caregivers must also obtain an identified card from the county. Identification cards must be renewed annually. Under the Compassionate Use Act, a qualified patient or caregiver may grow up to six mature or 12 immature plants per qualified patient. Local jurisdictions have the authority to control where cultivation can occur on a property, and may adopt other performance standards for cultivation.

The City Council reviewed the provisions of the MMRSA and the State’s regulations for personal cultivation of medical cannabis in the spring of 2016. Following extensive discussion, the City Council directed that zoning code amendments be initiated to:

- Expressly ban medical cannabis dispensaries;
- Permit research, development, and testing of medical cannabis by-right in certain zoning districts;
- Allow manufacturing/processing, transporting/distribution, and warehousing of medical cannabis as conditional uses in certain zoning districts; and
- Allow personal cultivation of medical cannabis as an accessory use in residential zoning districts, subject to limitations.
- Allow delivery of medical cannabis or medical cannabis products directly to qualified patients Citywide.

### **Text Amendments**

#### *Chapter 17.02, Definitions*

New definitions address personal medical cannabis cultivation and related terms, and medical cannabis business terms, including distribution, manufacturing, and warehousing. Modifications to definitions of home occupation and retail sales clarify that these terms do not include medical cannabis businesses. The definition of research and development is also modified to specifically include testing of medical cannabis. Amendments to the definition of “Retail sales and rental” to specifically exclude cannabis dispensaries accomplishes the express ban on dispensaries.

Because delivery of medical cannabis is not in and of itself a “land use,” no amendments to the zoning ordinance are necessary to allow the activity to occur.

*Chapters 17.06, 17.08, 17.10, & 17.12 – Personal Cultivation in Residential Districts*

The proposed amendments modify the “permitted uses” sections of all residential district regulations to classify personal cultivation of medical cannabis as a permitted accessory use (subordinate to the primary residential use on the property). Designating personal cultivation as an accessory use effectively prohibits “grow houses,” where vacant homes or properties are used to exclusively to cultivate medical cannabis. A reference is also added to the performance standards for personal cultivation in residential districts established in Title 8 (see discussion of Title 8 amendments below).

*Chapters 17.16, 17.18 and 17.19 – Medical Cannabis Businesses in Commercial Districts*

The amendments to Chapter 17.16, SCRO-1 District, 17.18, SP-CRO District, and Chapter 17.19, TC-1 District, clarify that research and development (permitted by-right in the SP-CRO and TC-1 Districts, and conditionally permitted in the SCRO-1 District) of medical cannabis must comply with the performance standards and application requirements for medical cannabis businesses established in a new Chapter 17.33, Medical Cannabis Businesses (see discussion below). Additionally, medical cannabis distribution, manufacturing, and warehousing are proposed as conditional uses in the TC-1 district, subject to compliance with the performance standards in new Chapter 17.33.

*17.33 – Performance Standards and Application Requirements for Medical Cannabis Businesses*

New Chapter 17.33 establishes strict performance standards and application requirements for medical cannabis businesses and research and development involving medical cannabis. Performance standards include requirements for State licensing and accreditation, hours of operation, odor control, security measures and plans, and inspections by the Police Chief upon reasonable notice. Additionally, the Chapter requires applicants to submit business owner information, background checks, documentation of the business type, documentation of applicable State licensing, building and tenant improvement plans, and a 24/7 security plan before a use permit or business license may be issued. A separate application checklist (see Attachment D) must be completed and submitted with any use permit, or business license application and would be reviewed by the Police Department, Community Development Department, Public Works Department, and Fire Department. Businesses that do not operate in compliance with the performance standards established in the Chapter may be subject to use permit or business license revocation, as determined by the Police Chief.

The Police Department has reviewed and recommends the performance standards and application requirements set forth in the draft text amendments.

Title 8: Performance Standards for Personal Cultivation of Medical Marijuana

*Chapter 8.12 - Personal Cultivation of Medical Marijuana*

The resolution also proposes adding a new Chapter 8.12 to Title 8, Health and Safety, containing performance standards for the personal cultivation of medical cannabis. While the Commission

does not administer or have authority over Title 8, the regulations pertain to the proposed zoning text amendments, and are provided for information in Attachment B.

The City Council expressed great concern with the potential for “grow houses,” where private residences are used exclusively for cultivation of medical cannabis by multiple qualified patients or a caregiver representing multiple patients. The Police Department has recommended allowing one cultivation area per eligible private residence at a maximum size of 100 square feet. Additionally, the Police Department recommends an overall cap of 50 plants per private residence, regardless of how many qualified patients may reside there or how many qualified patients a qualified caregiver may represent.

Other recommended performance standards include requirements to secure cultivation areas in one room of a residence, in a secured accessory structure, or in a locked, fenced outdoor enclosure. All cultivation areas would additionally be required to comply with all applicable health and safety codes.

#### **STAFF RECOMMENDATION**

Adoption of the attached draft Resolution RZ-6-16 recommending approval of the proposed zoning text amendments to the City Council.

#### **ATTACHMENTS:**

- A. Table of Redlined Text
- B. Draft Title 8 Regulations for Personal Cultivation
- C. Medical Marijuana Regulation and Safety Act excerpts regarding dual licensing structure
- D. Draft Medical Cannabis Business Compliance Checklist
- E. Draft Resolution RZ-6-16 (including the Draft Ordinance)

## RZ-6-16 Proposed Amendments: Redline Text

### Chapter 17.02- Definitions

Chapter/Section	Proposed Text
<p><u>Section 17.02.107 - Cannabis</u></p>	<p><u>“Cannabis” means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Marijuana” shall have the same meaning as cannabis for the purposes of this Title.</u></p> <p><u>“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.</u></p> <p style="padding-left: 40px;"><u>A. “Medical cannabis” means cannabis intended for use by medical cannabis patients pursuant to Section 11362.5 of the California Health and Safety Code.</u></p> <p style="padding-left: 40px;"><u>B. “Medical cannabis product” means a product containing cannabis, including, but not limited to, concentrates, extractions, topical treatments, or edible products intended to be sold for use by medical cannabis patients pursuant to Section 11362.5 of the California Health and Safety Code.</u></p>
<p><u>17.02.208 – Dispensary</u></p>	<p><u>“Dispensary” means premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.</u></p>
<p>17.02.410 - Home occupation.</p>	<p>"Home occupation" means the conduct of a trade or profession, the offering of a service, the conduct of a business, or the handcraft manufacture or products, in a dwelling unit by the occupants thereof as an accessory use incidental to residential occupancy, and in accord with the regulations prescribed in this title. <u>Home occupation does not include personal cultivation of medical cannabis.</u></p>
<p><u>17.02.526 – Medical Cannabis Business</u></p>	<p><u>“Medical cannabis business” means a business engaged in the distribution, manufacture, or warehousing of medical cannabis products. Medical cannabis businesses do not include retail sale of medical cannabis or medical cannabis products, or commercial cultivation of medical cannabis.</u></p> <p style="padding-left: 40px;"><u>A. “Medical cannabis distribution” means the procurement, sale, and transport of medical cannabis and medical cannabis products between commercial entities licensed by the State of California. Distribution includes “transport” as defined by California Health and Safety Code Section 19300.5(am), as may be amended. Distribution does not include delivery of medical cannabis or medical cannabis products to a primary caregiver or qualified patient.</u></p> <p style="padding-left: 40px;"><u>B. “Medical cannabis manufacturing” means the production, preparation, propagation, or compounding of manufactured medical cannabis or medical 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 medical</u></p>

Attachment A

	<p><u>cannabis or medical cannabis products or labels or relabels its container.</u></p> <p><u>C. "Medical cannabis warehousing" means the storage, wholesale, and distribution of medical cannabis products. Medical cannabis warehousing does not include storage, wholesale, or distribution of medical cannabis.</u></p>
17.02.602 – <u>Personal cultivation of medical cannabis</u>	<u>"Personal cultivation of medical cannabis" means the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis by a qualified patient or the patient's primary caregiver for personal use by the qualified patient, as those terms are defined by the California Health and Safety Code, as may be amended.</u>
17.02.628 – <u>Primary Caregiver</u>	<u>"Primary caregiver" shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., as may be amended.</u>
17.02.657 – <u>Qualified Patient</u>	<u>"Qualified patient" shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., as may be amended.</u>
17.02.675 - Research and development.	"Research and development" means a use engaged in studying, testing, designing, analyzing and experimenting with potential or existing products, processes or services, <u>including medical cannabis and medical cannabis products.</u>
17.02.685 - Retail sales and rental	"Retail sales and rental" means an establishment engaged in the sale or rental of goods directly to the consumer and may include the rendering of services incidental to such sale or rental of goods, <u>but does not include sale of medical or non-medical cannabis or cannabis products. See Section 17.02.208, dispensary.</u>
17.02.790 - Warehousing.	"Warehousing" means an establishment engaged in the storage, wholesale and distribution of manufactured products, supplies or equipment. <u>Warehousing does not include warehousing of medical cannabis products. See Section 17.02.526.C, medical cannabis warehousing.</u>

### Chapter 17.06 – R-1 Residential District

Chapter/Section	Proposed Text
17.06.020 – Permitted Uses	<p>A. Single-family dwellings.</p> <p>B. Accessory structures and uses incidental to a permitted use, <u>including personal cultivation of medical cannabis in compliance with Title 8, Chapter 8.12.</u></p> <p>C. Home occupations, conducted in accordance with the regulations prescribed in <a href="#">Chapter 17.44</a> of this title.</p> <p>D. Small family day care homes.</p> <p>E. Secondary dwelling units, when authorized by a permit granted pursuant to <a href="#">Chapter 17.43</a> of this title.</p>

### Chapter 17.08 – R-2 Residential District

Chapter/Section	Proposed Text
17.08.020- Permitted Uses	<p>A. Single-family dwellings.</p> <p>B. Duplexes.</p> <p>C. Multiple family dwellings containing not more than six (6) dwelling units.</p> <p>D. Dwelling groups.</p> <p>E. Accessory structures and uses incidental to a permitted use, <u>including personal cultivation of medical cannabis in compliance with Title 8, Chapter 8.12.</u></p> <p>F. Home occupations, conducted in accordance with the regulations prescribed in</p>

	<a href="#">Chapter 17.44</a> of this title. G. Small family day care homes.
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### Chapter 17.10 - R-3 Residential District

Chapter/Section	Proposed Text
17.10.020 – Permitted Uses	A. Multiple-family dwellings; B. Single-family dwellings; C. Duplexes; D. Dwelling groups; E. Accessory structures and uses incidental to a permitted use, <a href="#">including personal cultivation of medical cannabis in compliance with Title 8, Chapter 8.12</a> ; F. Home occupations, conducted in accordance with the regulations prescribed in <a href="#">Chapter 17.44</a> of this title; G. Small family day care homes.

### Chapter 17.12 – R-BA Residential District

Chapter/Section	Proposed Text
17.12.020 - Permitted uses.	The following permitted uses shall be allowed in the R-BA district: A. Single-family dwellings; B. Accessory structures and uses incidental to a permitted use, <a href="#">including personal cultivation of medical cannabis in compliance with Title 8, Chapter 8.12</a> ; C. Home occupations, conducted in accordance with the regulations prescribed in <a href="#">Chapter 17.44</a> of this title; D. Small family day care homes; E. Secondary dwelling units, when authorized by a permit granted pursuant to <a href="#">Chapter 17.43</a> of this title.

### Chapter 17.16 – SCRO-1 Southwest Bayshore Commercial District

Chapter/Section	Proposed Text
17.16.030 - Conditional uses.	A. Allowable Conditional Uses. The following conditional uses, not otherwise permitted per <a href="#">Section 17.16.020(A)</a> , may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to <a href="#">Chapter 17.40</a> of this title and if conducted in accordance with the performance standards set forth in <a href="#">Section 17.16.050</a> of this chapter: <ol style="list-style-type: none"> <li>1. Commercial recreation/commercial gym and health facilities;</li> <li>2. Contractor's yards;</li> <li>3. Convalescent homes;</li> <li>4. Cultural facilities;</li> <li>5. Duplex dwelling units;</li> <li>6. Educational facilities;</li> <li>7. Emergency shelters with more than twelve (12) beds;</li> <li>8. Financial institutions;</li> <li>9. Food production;</li> <li>10. Group care homes;</li> <li>11. Hotels;</li> <li>12. Large family day care homes;</li> <li>13. Light fabrication;</li> <li>14. Live/work developments;</li> <li>15. Media studios;</li> <li>16. Medical facilities;</li> <li>17. Meeting halls;</li> </ol>

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	<p>18. Mobilehome parks in compliance with <a href="#">Section 17.32.110</a>;</p> <p>19. Motels;</p> <p>20. Multiple-family dwellings and dwelling groups;</p> <p>21. Offices;</p> <p>22. Outdoor sales and rental;</p> <p>23. Personal services;</p> <p>24. Places of worship;</p> <p>25. Printing;</p> <p>26. Product showrooms;</p> <p>27. Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site. <a href="#">Research and development involving medical cannabis is additionally subject to the requirements in Chapter 17.33</a>;</p> <p>28. Restaurants;</p> <p>29. Retail sales and rental;</p> <p>30. Single-family dwellings;</p> <p>31. Storage;</p> <p>32. Veterinary clinics;</p> <p>33. Warehousing;</p> <p>B. Mixed Uses. A combination of any residential and nonresidential uses listed in subsection A of this section, or in <a href="#">Section 17.16.020</a>, may be allowed as a mixed use within the same structure or upon the same site when specifically authorized by the use permit granted for each individual conditional use and upon such additional conditions as the approving authority may deem necessary or appropriate to insure the compatibility of such mixed uses.</p> <p>C. Night Operations. Night operations associated with the conduct of any uses listed in subsection A of this section (except residential uses) shall require a use permit when subject to the provisions of <a href="#">Section 17.16.070</a> of this chapter.</p>
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### Chapter 17.18- SP-CRO Sierra Point Commercial District

Chapter/Section	Proposed Text
17.18.020 - Permitted uses.	<p>The following uses shall be allowed in the SP-CRO district:</p> <p>A. Offices;</p> <p>B. Hotels;</p> <p>C. Retail sales and rental;</p> <p>D. Restaurants;</p> <p>E. Bars;</p> <p>F. Financial institutions;</p> <p>G. Personal services;</p> <p>H. Commercial gyms and health facilities;</p> <p>I. Meeting halls;</p> <p>J. Marinas;</p> <p>K. Research and development, including the use of live insects, rodents, rabbits, fish, and amphibians subject to the performance standards set forth in <a href="#">Section 17.18.045</a>. Research and development involving the use of live dogs (Canis genus) cats (Felis genus), or nonhuman primates is prohibited. Research and development involving the use of other live animals not otherwise permitted or prohibited herein may be permitted upon the granting of a conditional use pursuant to <a href="#">Section 17.18.030</a>. <a href="#">Research and development involving medical cannabis is additionally subject to the requirements in Chapter 17.33</a>.</p>

## Chapter 17.19 - TC-1 Crocker Park Trade Commercial District

Chapter/Section	Proposed Text
17.19.030 - Conditional uses.	<p>17.19.030 - Conditional uses.</p> <p>Conditional uses allowed in the Crocker Park district, subject to obtaining a use permit and if conducted in accordance with the performance standards set forth in <a href="#">Section 17.19.050</a> of this chapter, are as follows:</p> <ul style="list-style-type: none"> <li>A. Active records management services;</li> <li>B. Commercial recreation;</li> <li>C. Cultural facilities;</li> <li>D. Day care centers when ancillary to other operation of another use;</li> <li>E. Educational facilities;</li> <li>F. Freight forwarders, subject to compliance with the provisions of <a href="#">Section 17.19.065</a> of this chapter;</li> <li>G. Gasoline service stations;</li> <li>H. <u>Medical cannabis businesses subject to compliance with Chapter 17.33;</u></li> <li>I. Medical facilities;</li> <li>J. Meeting halls;</li> <li>K. Night operations, when subject to the provisions of <a href="#">Section 17.19.060</a> of this chapter;</li> <li>L. Places of worship;</li> <li>M. Research and development where the planning director determines, as a result of the risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will constitute a major component of the research and development activities to be conducted on the site. <u>Research and development involving medical cannabis is additionally subject to the requirements in Chapter 17.33;</u></li> <li>N. Temporary uses;</li> <li>O. Veterinary clinics.</li> </ul>

## Chapter 17.33 – Medical Cannabis Businesses (New)

<b><u>Chapter 17.33 – MEDICAL CANNABIS BUSINESSES</u></b>	
<u>17.33.010 – Purposes of chapter</u>	<u>The purpose of this chapter is to regulate the operation of medical cannabis businesses and the research and development of medical cannabis and medical cannabis products to safeguard the public health and general welfare of business owners and employees and of the City of Brisbane at large.</u>
<u>17.33.020 – Performance standards for medical cannabis businesses</u>	<p><u>All medical cannabis businesses and research and development businesses involving medical cannabis must comply with all of the operating standards contained in this section, subject to review and determination by the Police Chief.</u></p> <p><u>A. State license and accreditation. Beginning at such a time that the State has begun to issue licenses and at all times thereafter, medical cannabis businesses shall hold a valid State license for the equivalent State license type. Research and development testing laboratories for medical cannabis must hold a valid certificate of accreditation from the State of California per the requirements of Section 19300.5 of the California Business and Professions Code, as may be amended from time to time.</u></p>

	<p><u>B. Hours of Operation. All medical cannabis businesses shall be closed to the general public. Deliveries and pick-ups shall be prohibited between the hours of 7:00 p.m. and 8:00 a.m.</u></p> <p><u>C. Odor Control. Odors shall be contained on the property on which the business is located. If the City receives any odor complaints, permittees shall work with the Building Official to correct odor concerns. Unresolved or repeated odor complaints may be the basis for suspension or revocation of the business license or use permit, as applicable.</u></p> <p><u>D. Location of Business Activities. All aspects of the business, with the exception of incidental loading and off-loading of medical cannabis products, shall occur within the building where the business is being conducted. No production, distribution, warehousing, display, or wholesale of medical cannabis products shall be visible from the exterior of the building.</u></p> <p><u>E. Security Measures. All operators shall maintain a commercial burglar alarm monitoring system, and install a video surveillance system. Additional security measures may be required by the Police Chief consistent with the requirements of Section 17.33.030.B.8 of this Chapter.</u></p> <p><u>F. Security Breach. All operators shall notify the Brisbane Police Department immediately after discovering any of the following:</u></p> <ol style="list-style-type: none"> <li><u>1. Diversion, theft, loss, or any criminal activity involving the medical cannabis or any agent or employee of the business.</u></li> <li><u>2. The loss or unauthorized alteration of business records related to employees or agents of the business.</u></li> <li><u>3. Significant discrepancies identified during inventory.</u></li> <li><u>4. Any other breach of security.</u></li> </ol> <p><u>G. Labeling. Labels and packages of medical cannabis products shall meet all State and Federal labeling requirements.</u></p> <p><u>H. Inspections and Records. Inspections shall be scheduled by the Police Chief whenever deemed necessary by the Police Chief. Inspections shall take place at a reasonable time with prior notice to the business operator. Upon request, the business operator shall timely provide the Police Chief with records related to the business, including, but not limited to, utility bills from the commercial energy provider for the premises. This section shall not limit any inspection authorized under any other provision of law or regulation.</u></p> <p><u>I. Notification of Change in Ownership or Managerial Employee. All operators shall notify the Brisbane Police Department immediately upon a change in ownership or the hiring of new managerial employees. New business owners or managerial employees must provide all applicable information required by Section 17.33.030.B.</u></p>
<p><u>17.33.030 – Permit application for medical cannabis</u></p>	<p><u>A. Prior to the City’s granting of a use permit or business license for a medical cannabis business or research and development business involving medical cannabis, the applicant must demonstrate compliance with all operating standards contained in Section 17.33.020.</u></p>

<p><u>business</u></p>	<p><u>B. In addition to the applicable submittal requirements associated with the use permit or business license application, the business operator must provide all of the following information on such forms provided by the City prior to use permit or business license issuance:</u></p> <ol style="list-style-type: none"><li><u>1. The name and address for each business owner and an explanation of the legal form of business ownership.</u></li><li><u>2. Until such time when State licenses are being processed and issued pursuant to California Business and Professions Code Chapter 3.5, as may be amended, each owner and managerial employee shall submit electronic fingerprint images and related information required by the Brisbane Police Department. The fingerprint images shall be used to determine the existence and content of a record of state or federal convictions or arrests, including those for which the person is free on bail or on his or her own recognizance pending trial or appeal.</u></li><li><u>3. The address and Assessor's Parcel Number(s) of the location of the proposed business, and the name and contact information for the property owner(s).</u></li><li><u>4. A description of the specific State license type(s) that the applicant either has obtained or plans to obtain. The applicant shall specifically document how it will meet the State licensing requirements.</u></li><li><u>5. A description of the nature of the business, product types, average production amounts for each product type, and source of medical cannabis material, as applicable.</u></li><li><u>6. Plans showing all proposed building and site improvements, including site plans, floor plans, mechanical, plumbing (including details showing all sewers, floor drains) and electrical plans. The plans shall clearly label and distinguish between the existing and proposed improvements and show all exterior building, interior building, and site modifications.</u> <u>At a minimum, plans shall:</u><ol style="list-style-type: none"><li><u>a. Show all fixtures, equipment, and building improvements to be utilized for the production and processing of medical cannabis products.</u></li><li><u>b. Comply with all applicable California Building Codes, as amended in Title 15.</u></li><li><u>c. Be reviewed and stamped by an appropriately licensed engineer.</u></li></ol></li><li><u>7. A description of measures to reduce solid waste and green waste associated with the business.</u></li><li><u>8. A description and documentation of how the owner(s) will secure the premises 24 hours per day, seven (7) days per week, and how waste derived from medical cannabis will be disposed of in a manner to ensure it may not be utilized for unlawful purposes. These security measures shall include, but may not be limited to, the following:</u><ol style="list-style-type: none"><li><u>a. Preventing individuals from remaining on the premises if they are not engaged in activity expressly related to the operations of the permit.</u></li><li><u>b. Establishing limited access areas accessible only to authorized personnel including security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or</u></li></ol></li></ol>
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Attachment A

	<p><u>medical cannabis products and theft of medical cannabis or medical cannabis products.</u></p> <p><u>c. Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner that prevents diversion, theft, and loss.</u></p> <p><u>d. Providing tamper proof and tamper evident packaging for finished medical cannabis products.</u></p> <p><u>e. Preventing off-site impacts to adjoining or near properties.</u></p> <p><u>9. A written description of the weight in pounds of both raw and processed materials that will be received, stored on-site, and distributed from the site on a daily basis.</u></p> <p><u>10. Application processing and permit fees, as applicable.</u></p> <p><u>11. Signature of the business owner(s). The signature(s) shall be evidence of the owner's express consent to allow the Police Chief or his/her designee to enter and inspect the premises upon reasonable notice. The signature(s) shall additionally certify under penalty of perjury that the information submitted in the application, including all supporting documents and materials, is to the best of the owner(s) knowledge and belief, true, accurate, and complete.</u></p> <p><u>12. The application shall be signed by the property owner(s). The signature(s) shall certify that he/she/it has reviewed the application, approves the use of the property for the purposes stated in the application, and agrees to allow the Police Chief or designee to enter and inspect the premises upon reasonable notice.</u></p>
<p><u>17.33.040. Revocation of use permit or business license.</u></p>	<p><u>A. Should the Police Chief determine at any time that the medical cannabis business does not comply with the performance standards set forth in Section 17.33.020, the use permit shall be subject to the revocation procedures outlined in Chapter 17.48.</u></p> <p><u>B. Should the Police Chief determine at any time that the medical cannabis business subject only to a building license does not comply with the performance standards set forth in Section 17.33.020, the business license shall be subject to the revocation procedures outlined in Chapter 5.16.</u></p>

## **DRAFT**

### **Chapter 8.12 – Personal Cultivation of Medical Cannabis**

#### **8.12.010 - Purpose**

The purpose of this Chapter is to implement California Health and Safety Code Section 11362.5, known as the Compassionate Use Act of 1996 relating to the regulation of cultivation or possession of medical cannabis by an individual patient or caregiver at the patient or caregiver's home, lawfully incident to the residential use of that home.

#### **8.12.020 – Authority**

The primary responsibility for enforcement of the provisions of Chapter 8.12 shall be vested in the chief of police or his/her designee.

#### **8.12.030 – Definitions**

For the purpose of this chapter, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section have the meanings given to them in this section:

“Accessory structure” shall have the same meaning as set forth in Chapter 17.02.

“City” means the City of Brisbane.

“Medical cannabis cultivation area,” means the maximum dimensions allowed for the growing of medical cannabis. The cannabis cultivation area shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises.

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., as may be amended.

“Qualified patient” shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., as may be amended.

#### **8.12.040 – Personal Cultivation of Medical Cannabis**

A. To the extent that the city is required to allow the cultivation of medical cannabis for personal use and consumption under State law, the rules set forth in this section shall apply. Nothing in this section shall be interpreted to permit cultivation of medical cannabis for commercial purposes.

B. An individual qualified patient or primary caregiver shall be allowed to cultivate and process medical cannabis within his/her private residence in compliance with the standards established by this Chapter. A primary caregiver shall cultivate or process medical cannabis only at the private residence of a qualified patient for whom he/she is the primary caregiver, or at the primary caregiver's private residence. Medical cannabis cultivation and processing for personal use shall be in conformance with the following standards:

## Attachment B

1. Allowed Number of Medical Cannabis Plants at a Single Residence. No more than six mature or 12 immature cannabis plants per qualified patient may be cultivated at any residence. Notwithstanding the foregoing, no more than a total of 50 plants may be grown at any residence.

2. Allowed Cultivation Areas. Medical cannabis may be cultivated in the interior or exterior of the qualified patient or primary caregiver's primary residential dwelling, subject to the following limitations:

a. Cultivation must occur in one medical cannabis cultivation area. The cultivation area shall not exceed 100 square feet.

b. The medical cannabis cultivation and processing area shall be in compliance with the current, adopted edition of the California Building Code, including requirements for mechanical ventilation.

c. Interior cultivation areas are restricted to one room of a residence, or within a self-contained outside accessory structure that is secured, locked, and fully enclosed. Said accessory structure shall not violate any other ordinance regarding height, location, floor area, lot coverage, or any other zoning restrictions in Title 17, and shall not be constructed or covered with plastic or cloth. If located in a garage, the cultivation or processing use shall not result in a reduction of required off-street parking for the residence. The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use and not be used primarily for personal medical cannabis cultivation or processing;

d. Exterior cultivation areas must be enclosed by a secure, opaque, solid fence or wall at least six feet in height, consistent with the fence and wall height regulations contained in Title 17. The fence or wall shall include a lockable gate or gates that are locked at all times when the qualified patient or caregiver is not in the immediate area. Said fence or wall shall not violate any other ordinance regarding height and location restrictions, and shall not be constructed or covered with plastic or cloth.

3. Lighting and Electricity Restrictions.

a. Any medical cannabis cultivation lighting shall not exceed 1,200 watts unless specifically approved by the Building Official.

b. All electrical equipment used in the cultivation or processing of medical cannabis (e.g., lighting and ventilation) shall be plugged directly into a wall outlet or otherwise hardwired; the use of extension cords to supply power to electrical equipment used in the cultivation or processing of medical cannabis is prohibited;

4. Documentation required. A copy of documentation of qualified patient status and/or primary caregiver status consistent with the provisions of California Health and Safety Code Section 11362.5 et seq. shall be maintained at the cultivation premises.

5. Only medical cannabis cultivated at the residence in conformance with this chapter shall be allowed to be processed at the residence.

## Attachment B

6. The use of gas products (CO<sub>2</sub>, butane, etc.) for medical cannabis cultivation or processing is prohibited.
7. From a public right-of-way, there shall be no exterior evidence, including but not limited to odor, view, or other indication of medical cannabis cultivation or processing on the property.
8. The qualified patient or caregiver shall not participate in medical cannabis cultivation in any other residential location within the City of Brisbane.
9. For the convenience of the qualified patient or primary caregiver, to promote building safety, to assist in the enforcement of this chapter, and to avoid unnecessary confiscation and destruction of medical cannabis plants and unnecessary law enforcement investigations, the qualified patient or primary caretaker growing medical cannabis pursuant to this chapter may notify the City of Brisbane regarding the cultivation site. The names and addresses of persons providing such notice, or of cultivation sites permitted under these regulations shall not be considered a public record under the California Public Records Act.
10. The medical cannabis cultivation and processing area shall not adversely affect the health or safety of the nearby residents in any manner, including but not limited to by creating dust, glare, heat, noise, noxious gases, odor, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or wastes; and
11. The medical cannabis cultivation or processing shall not adversely affect the health or safety of the occupants of the residence or users of the accessory building in which it is cultivated or processed, or occupants or users of nearby properties in any manner, including but not limited to creation of mold or mildew.

### **8.12.050 – Public Nuisance**

It is declared to be unlawful and a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises within any incorporated area of the City to cause or allow such premises to be used for the outdoor or indoor cultivation of cannabis plants for medicinal purposes, or processing thereof as described herein, or to process, cultivate or allow the cultivation of cannabis plants for medicinal purposes in any manner that conflicts with the limitations imposed in this Chapter.

### **8.12.060 – Penalties**

- A. Any person who violates any provisions of this chapter shall be guilty of a misdemeanor, subject to a penalty of imprisonment in the county jail for a period of time not to exceed six months, or by a fine not to exceed \$500.00, or both, for each violation. Notwithstanding the classification of a violation of this chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this chapter, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction.
- B. Any person convicted of an infraction under this chapter shall be punished by:
  1. A fine not exceeding \$150.00 for a first violation;
  2. A fine not exceeding \$250.00 for each additional violation of this chapter within one year.

**California Business and Professions Code Excerpts**  
**ARTICLE 4, Licensing [Beginning §19320]**

19320.

(a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this chapter.

(b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.

(d) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.

(e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.

(f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

*(Amended (as added by Stats. 2015, Ch. 689, Sec. 4) by Stats. 2016, Ch. 32, Sec. 23. Effective June 27, 2016.)*

19321.

(a) A license issued pursuant to this chapter shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.

(b) Notwithstanding subdivision (b) of Section 19320, the premises or person that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter only if (1) a completed application and all required

## Attachment C

documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority and (2) the applicant continues to operate in compliance with all local and state requirements, except possession of a state license pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any premises or person that can demonstrate to the authority's satisfaction that the premises or person was in operation and in good standing with the local jurisdiction by January 1, 2016.

(c) Issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D or local zoning law, in court or in any other context or forum.

## Medical Cannabis Business Compliance Checklist

This checklist shall be completed by the applicant and attached to a use permit or business license application for medical cannabis businesses or research and development businesses involving medical cannabis. Incomplete checklists will delay permit processing.

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### BUSINESS AND OWNER INFORMATION

Name of Business \_\_\_\_\_

Name of Business Owner(s) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

### BUSINESS TYPE

Sole Proprietorship       Corporation       LLC       Partnership

### MANAGEMENT EMPLOYEE INFORMATION

Name \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

### PROPERTY INFORMATION

Street Address \_\_\_\_\_

APN(s) \_\_\_\_\_

Property Owner \_\_\_\_\_

Owner Address \_\_\_\_\_

Owner Email \_\_\_\_\_

Owner Phone \_\_\_\_\_

Zoning District:      Select Zoning District

SP-CRO       SCRO-1       TC-1

### ACTIVITY TYPE (Check all that apply)

Research and development       Manufacturing       Warehousing       Distribution

**Attachment D**

**ON-SITE MEDICAL CANNABIS INFORMATION**

	Weight (lbs) to be received on property on a daily basis	Weight (lbs) to be stored on property on a daily basis	Weight (lbs) to be transported from property on a daily basis
<b>Raw (unprocessed) medical cannabis</b>	_____ lbs	_____ lbs	_____ lbs
<b>Processed medical cannabis/medical cannabis products</b>	_____ lbs	_____ lbs	_____ lbs

**ATTACHMENTS**

Attach the following documents to this checklist:

- Documentation of Business Organization**
  - Sole Proprietor –Fictitious Business Name Statement (if different than owner’s name)
  - Corporation –Articles of Incorporation and Corporate Bylaws
  - LLC –Articles of Organization and Operating Agreement
  - Partnership –Partnership Agreement
- Live Scans** (for business employees listed on application) obtained from Brisbane Police
- Copy of State License, if Available (or Statement of Which License will be Obtained)**
- State Certificate of Good Standing** for business owner (*the State in which the entity is organized can provide information about how to obtain one*)
- List of All Individuals or Entities that Own the Business**, including their percentage of ownership. If other entities are part of the ownership, provide the same list of ownership for the entity. The goal is to see the underlying ownership by individuals. *The City may require additional documentation at its discretion.*
- City of Brisbane Business License Application** with verification of fee payment
- Written Description of Operations.** A written statement describing the following:
  - Business activity, product, production, and sources.
  - Hours of operation
  - Odor control
  - Visibility of operation
  - Labeling
- Building , Site and Floor Plans**
  - Five (5) sets of plans.Consult with Community Development Department staff for plan submittal requirements.
- Stormwater Control**
  - All applications proposing between 2,500 and 10,000 square feet of new or replacement impervious surfaces on a site must complete the Small Projects Checklist.
  - All applications proposing more than 10,000 square feet of new or replacement impervious surfaces on a site must complete the C.3/C.6 Project Checklist.
- Wastewater Pre-Treatment Control (For Industrial Users)**
  - Provide a completed wastewater discharge permit application from the San Francisco Public Utilities Commission.
  - SFPUC approval of the wastewater discharge permit is required prior to building permit issuance.

**Attachment D**

**Description of Water Infrastructure**

- Expected source of water
- Level of water use (gallons per day).

This information must include the business as well as the entire parcel.

**Security Plan, Security Measures and Security Breach Response**

- Describe and document a 24/7 Security Plan.
- Address security measures and responses to security breaches.

**Fees**

- Use permit, building permit, or business license application fee; refer to the master fee schedule.

**BUSINESS OWNER**

By signing below, I(we) expressly

- consent to entry and inspection of the premises by the City of Brisbane Police Chief, or designee, upon reasonable notice;
- acknowledge that a use permit or building permit does not authorize nor provide immunity or defense to any activity prohibited under federal law, statute, rule or regulation; and
- hereby release, indemnify and hold harmless the City of Brisbane, and its agents, officers, elected officials, employees and contractors from losses of any kind resulting from the use permit or business license application.

I(we) certify under penalty of perjury that the information submitted in this application, including all supporting documents and materials is, to the best of my(our) knowledge and belief, true, accurate, and complete. I(we) further certify that I(we) am(are) authorized to sign this application and thereby bind the applicant and all of applicant's owners to compliance with all permit conditions.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

**PROPERTY OWNER**

By signing below, I certify that I have reviewed this application, and approve of the use of the property for the purposes stated in the application. I expressly consent to entry and inspection of the premises by the City of Brisbane Police Chief, or designee, upon reasonable notice. I further certify that I am authorized to sign this application.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title

draft  
RESOLUTION NO. RZ-6-16

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRISBANE  
RECOMMENDING APPROVAL OF ZONING TEXT AMENDMENT RZ-6-16  
TO THE CITY COUNCIL  
AMENDING VARIOUS CHAPTERS AND ADDING CHAPTER 17.33  
TO TITLE 17, ZONING, OF THE BRISBANE MUNICIPAL CODE  
TO REGULATE PERSONAL CULTIVATION OF MEDICAL CANNABIS  
AND MEDICAL CANNABIS BUSINESSES

WHEREAS, in October of 2015, Governor Jerry Brown approved AB 266, AB 243, and SB 643, enacting the Medical Marijuana Regulation and Safety Act (MMRSA) within the California Business and Professions Code; and

WHEREAS, the MMRSA establishes licensing and operating requirements for medical cannabis-related businesses throughout the State, and requires medical cannabis-related businesses to obtain a local license in addition to a State license in order to operate; and

WHEREAS, on February 18 and March 3, 2016, the Brisbane City Council reviewed the provisions of the MMRSA and directed the Planning Commission to consider zoning regulations to allow personal cultivation of medical cannabis by qualified patients and caregivers in residential zoning districts, and to consider zoning regulations to allow medical cannabis research and development as a permitted use, and medical cannabis distribution/transporting, manufacturing, and warehousing as conditional uses in certain commercial districts; and

WHEREAS, the draft Resolution proposes amendments to Chapters 17.02, 17.06, 17.08, 17.10, 17.12, 17.16, 17.18, and 17.19, and addition of new Chapter 17.33 to Title 17, Zoning, of the Brisbane Municipal Code to regulate personal cultivation of medical cannabis by qualified patients and caregivers, and medical cannabis distribution/transporting, manufacturing, and warehousing businesses, consistent with the direction of the City Council;

WHEREAS, on January 26<sup>th</sup>, 2017, the Planning Commission held a public hearing on the draft Ordinance containing all above-referenced zoning text amendments; and

WHEREAS, the minutes of the Planning Commission meeting of January 26<sup>th</sup>, 2017 are attached and incorporated by reference as part of this resolution; and

WHEREAS, the project is consistent with the City's General Plan and per State CEQA Guidelines Section 15183(a)--this proposal falls within a class of projects which are consistent with existing zoning or general plan policies for which an EIR was certified and shall therefore not require further review; and

**Attachment E**

WHEREAS, the exception to CEQA Guidelines Section 15183(a) requiring environmental review as might be necessary to examine project specific significant effects does not apply.

NOW, THEREFORE, based upon the evidence presented, both written and oral, the Planning Commission of the City of Brisbane hereby RECOMMENDS that the City Council adopt the attached ordinance.

AYES:

NOES:

ABSENT:

\_\_\_\_\_  
TuongVan Do  
Chairperson

ATTEST:

\_\_\_\_\_  
JOHN SWIECKI, Community Development Director

**draft**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BRISBANE  
AMENDING CHAPTERS 17.02, 17.06, 17.08, 17.10, 17.12, 17.16, 17.18, AND 17.19,  
AND ADDING NEW CHAPTER 17.33 TO TITLE 17, ZONING, OF THE BRISBANE  
MUNICIPAL CODE  
TO REGULATE PERSONAL CULTIVATION OF MEDICAL CANNABIS AND MEDICAL  
CANNABIS BUSINESSES**

**The City Council of the City of Brisbane hereby ordains as follows:**

**SECTION 1: A new Section 17.02.107 is added to Chapter 17.02 – Definitions of the Municipal Code to read as follows:**

Section 17.02.107 – Cannabis

“Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Marijuana” shall have the same meaning as cannabis for the purposes of this Title.

“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.

A. “Medical cannabis” means cannabis intended for use by medical cannabis patients pursuant to Section 11362.5 of the California Health and Safety Code.

B. “Medical cannabis product” means a product containing cannabis, including, but not limited to, concentrates, extractions, topical treatments, or edible products intended to be sold for use by medical cannabis patients pursuant to Section 11362.5 of the California Health and Safety Code.

**SECTION 2: A new Section 17.02.208 is added to Chapter 17.02 – Definitions of the Municipal Code to read as follows:**

17.02.208 – Dispensary

“Dispensary” means premises where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

**SECTION 3: Section 17.02.410 in Chapter 17.02 – Definitions of the Municipal Code is amended to read as follows:**

17.02.410 - Home occupation.

"Home occupation" means the conduct of a trade or profession, the offering of a service, the conduct of a business, or the handcraft manufacture or products, in a dwelling unit by the occupants thereof as an

**Attachment E**

accessory use incidental to residential occupancy, and in accord with the regulations prescribed in this title. Home occupation does not include personal cultivation of medical cannabis.

**SECTION 4: A new Section 17.02.526 is added to Chapter 17.02 – Definitions of the Municipal Code to read as follows:**

17.02.526 – Medical Cannabis Business

“Medical cannabis business” means a business engaged in the distribution, manufacture, or warehousing of medical cannabis products. Medical cannabis businesses do not include retail sale of medical cannabis or medical cannabis products, or commercial cultivation of medical cannabis.

A. “Medical cannabis distribution” means the procurement, sale, and transport of medical cannabis and medical cannabis products between commercial entities licensed by the State of California. Distribution includes “transport” as defined by California Health and Safety Code Section 19300.5(am), as may be amended. Distribution does not include delivery of medical cannabis or medical cannabis products to a primary caregiver or qualified patient.

B. “Medical cannabis manufacturing” means the production, preparation, propagation, or compounding of manufactured medical cannabis or medical 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 medical cannabis or medical cannabis products or labels or relabels its container.

C. “Medical cannabis warehousing” means the storage, wholesale, and distribution of medical cannabis products. Medical cannabis warehousing does not include storage, wholesale, or distribution of medical cannabis.

**SECTION 5: A new Section 17.02.602 is added to Chapter 17.02 – Definitions of the Municipal Code to read as follows:**

17.02.602 – Personal cultivation of medical cannabis

“Personal cultivation of medical cannabis” means the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis by a qualified patient or the patient’s primary caregiver for personal use by the qualified patient, as those terms are defined by the California Health and Safety Code, as may be amended.

**SECTION 6: A new Section 17.02.628 is added to Chapter 17.02 – Definitions of the Municipal Code to read as follows:**

17.02.628 – Primary Caregiver

“Primary caregiver” shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., as may be amended.

**SECTION 7: A new Section 17.02.657 is added to Chapter 17.02 – Definitions of the Municipal Code to read as follows:**

17.02.657 – Qualified Patient

**Attachment E**

“Qualified patient” shall have the same definition as set forth in California Health and Safety Code Section 11362.5 et seq., as may be amended.

**SECTION 8: Section 17.02.675 in Chapter 17.02 – Definitions of the Municipal Code is amended to read as follows:**

17.02.675 - Research and development.

"Research and development" means a use engaged in studying, testing, designing, analyzing and experimenting with potential or existing products, processes or services, including medical cannabis and medical cannabis products.

**SECTION 9: Section 17.02.685 in Chapter 17.02 – Definitions of the Municipal Code is amended to read as follows:**

17.02.685 - Retail sales and rental

"Retail sales and rental" means an establishment engaged in the sale or rental of goods directly to the consumer and may include the rendering of services incidental to such sale or rental of goods, but does not include sale of medical or non-medical cannabis or cannabis products. See Section 17.02.208, dispensary.

**SECTION 10: Section 17.02.790 in Chapter 17.02 – Definitions of the Municipal Code is amended to read as follows:**

17.02.790 - Warehousing.

"Warehousing" means an establishment engaged in the storage, wholesale and distribution of manufactured products, supplies or equipment. Warehousing does not include warehousing of medical cannabis products. See Section 17.02.526.C, medical cannabis warehousing.

**SECTION 11: Section 17.06.020 in Chapter 17.06 – R-1 Residential District of the Municipal Code is amended to read as follows:**

17.06.020 – Permitted Uses

- A. Single-family dwellings.
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of medical cannabis in compliance with Title 8, Chapter 8.12.
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- D. Small family day care homes.
- E. Secondary dwelling units, when authorized by a permit granted pursuant to Chapter 17.43 of this title.

**SECTION 12: Section 17.08.020 in Chapter 17.08 – R-2 Residential District of the Municipal Code is amended to read as follows:**

17.08.020- Permitted Uses

- A. Single-family dwellings.
- B. Duplexes.

**Attachment E**

- C. Multiple family dwellings containing not more than six (6) dwelling units.
- D. Dwelling groups.
- E. Accessory structures and uses incidental to a permitted use, including personal cultivation of medical cannabis in compliance with Title 8, Chapter 8.12.
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title.
- G. Small family day care homes.

**SECTION 13: Section 17.10.020 in Chapter 17.10 – R-3 Residential District of the Municipal Code is amended to read as follows:**

17.10.020 – Permitted Uses

- A. Multiple-family dwellings;
- B. Single-family dwellings;
- C. Duplexes;
- D. Dwelling groups;
- E. Accessory structures and uses incidental to a permitted use, including personal cultivation of medical cannabis in compliance with Title 8, Chapter 8.12;
- F. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title;
- G. Small family day care homes.

**SECTION 14: Section 17.12.020 in Chapter 17.10 – R-BA Brisbane Acres Residential District of the Municipal Code is amended to read as follows:**

17.12.020 - Permitted uses.

The following permitted uses shall be allowed in the R-BA district:

- A. Single-family dwellings;
- B. Accessory structures and uses incidental to a permitted use, including personal cultivation of medical cannabis in compliance with Title 8, Chapter 8.12;
- C. Home occupations, conducted in accordance with the regulations prescribed in Chapter 17.44 of this title;
- D. Small family day care homes;
- E. Secondary dwelling units, when authorized by a permit granted pursuant to Chapter 17.43 of this title.

**SECTION 15: Section 17.16.030 in Chapter 17.16 - SCRO-1 Southwest Bayshore Commercial District of the Municipal Code is amended to read as follows:**

17.16.030 - Conditional uses.

A. Allowable Conditional Uses. The following conditional uses, not otherwise permitted per Section 17.16.020(A), may be allowed in the Southwest Bayshore district, upon the granting of a use permit pursuant to Chapter 17.40 of this title and if conducted in accordance with the performance standards set forth in Section 17.16.050 of this chapter:

1. Commercial recreation/commercial gym and health facilities;
2. Contractor's yards;
3. Convalescent homes;
4. Cultural facilities;

**Attachment E**

5. Duplex dwelling units;
6. Educational facilities;
7. Emergency shelters with more than twelve (12) beds;
8. Financial institutions;
9. Food production;
10. Group care homes;
11. Hotels;
12. Large family day care homes;
13. Light fabrication;
14. Live/work developments;
15. Media studios;
16. Medical facilities;
17. Meeting halls;
18. Mobilehome parks in compliance with Section 17.32.110;
19. Motels;
20. Multiple-family dwellings and dwelling groups;
21. Offices;
22. Outdoor sales and rental;
23. Personal services;
24. Places of worship;
25. Printing;
26. Product showrooms;
27. Research and development, where the planning director determines, as a result of a risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will not constitute a major component of the research and development activities to be conducted on the site. Research and development involving medical cannabis is additionally subject to the requirements in Chapter 17.33;
28. Restaurants;
29. Retail sales and rental;
30. Single-family dwellings;
31. Storage;
32. Veterinary clinics;
33. Warehousing;

B. Mixed Uses. A combination of any residential and nonresidential uses listed in subsection A of this section, or in Section 17.16.020, may be allowed as a mixed use within the same structure or upon the same site when specifically authorized by the use permit granted for each individual conditional use and upon such additional conditions as the approving authority may deem necessary or appropriate to insure the compatibility of such mixed uses.

C. Night Operations. Night operations associated with the conduct of any uses listed in subsection A of this section (except residential uses) shall require a use permit when subject to the provisions of Section 17.16.070 of this chapter.

**SECTION 16: Section 17.18.020 in Chapter 17.18 - SP-CRO Sierra Point Commercial District of the Municipal Code is amended to read as follows:**

17.18.020 - Permitted uses.

The following uses shall be allowed in the SP-CRO district:

- A. Offices;
- B. Hotels;

**Attachment E**

- C. Retail sales and rental;
- D. Restaurants;
- E. Bars;
- F. Financial institutions;
- G. Personal services;
- H. Commercial gyms and health facilities;
- I. Meeting halls;
- J. Marinas;
- K. Research and development, including the use of live insects, rodents, rabbits, fish, and amphibians subject to the performance standards set forth in Section 17.18.045. Research and development involving the use of live dogs (*Canis* genus) cats (*Felis* genus), or nonhuman primates is prohibited. Research and development involving the use of other live animals not otherwise permitted or prohibited herein may be permitted upon the granting of a conditional use pursuant to Section 17.18.030. Research and development involving medical cannabis is additionally subject to the requirements in Chapter 17.33.

**SECTION 17: Section 17.19.030 in Chapter 17.19 - TC-1 Crocker Park Trade Commercial District of the Municipal Code is amended to read as follows:**

17.19.030 - Conditional uses.

Conditional uses allowed in the Crocker Park district, subject to obtaining a use permit and if conducted in accordance with the performance standards set forth in Section 17.19.050 of this chapter, are as follows:

- A. Active records management services;
- B. Commercial recreation;
- C. Cultural facilities;
- D. Day care centers when ancillary to other operation of another use;
- E. Educational facilities;
- F. Freight forwarders, subject to compliance with the provisions of Section 17.19.065 of this chapter;
- G. Gasoline service stations;
- H. Medical cannabis businesses subject to compliance with Chapter 17.33;
- I. Medical facilities;
- J. Meeting halls;
- K. Night operations, when subject to the provisions of Section 17.19.060 of this chapter;
- L. Places of worship;
- M. Research and development where the planning director determines, as a result of the risk analysis performed in accordance with Policy No. 166.1 of the general plan, that the use of hazardous materials will constitute a major component of the research and development activities to be conducted on the site. Research and development involving medical cannabis is additionally subject to the requirements in Chapter 17.33;
- N. Temporary uses;
- O. Veterinary clinics.

**SECTION 18: A new Chapter 17.33 is added to Title 17, Zoning, of the Municipal Code to read as follows:**

Chapter 17.33 – Medical Cannabis Businesses

17.33.010 – Purposes of chapter

## Attachment E

The purpose of this chapter is to regulate the operation of medical cannabis businesses, and the research and development of medical cannabis and medical cannabis products, to safeguard the public health and general welfare of business owners and employees and of the City of Brisbane at large.

### 17.33.020 – Performance standards for medical cannabis businesses

All medical cannabis businesses and research and development businesses involving medical cannabis must comply with all of the operating standards contained in this section, subject to review and determination by the Police Chief.

A. State license and accreditation. Beginning at such a time that the State has begun to issue licenses and at all times thereafter, medical cannabis businesses shall hold a valid State license for the equivalent State license type. Research and development testing laboratories for medical cannabis must hold a valid certificate of accreditation from the State of California per the requirements of Section 19300.5 of the California Business and Professions Code, as may be amended from time to time.

B. Hours of Operation. All medical cannabis businesses shall be closed to the general public. Deliveries and pick-ups shall be prohibited between the hours of 7:00 p.m. and 8:00 a.m.

C. Odor Control. Odors shall be contained on the property on which the business is located. If the City receives any odor complaints, permittees shall work with the Building Official to correct odor concerns. Unresolved or repeated odor complaints may be the basis for suspension or revocation of the business license or use permit, as applicable.

D. Location of Business Activities. All aspects of the business, with the exception of incidental loading and off-loading of medical cannabis products, shall occur within the building where the business is being conducted. No production, distribution, warehousing, display, or wholesale of medical cannabis products shall be visible from the exterior of the building.

E. Security Measures. All operators shall maintain a commercial burglar alarm monitoring system, and install a video surveillance system. Additional security measures may be required by the Police Chief consistent with the requirements of Section 17.33.030.B.8 of this Chapter.

F. Security Breach. All operators shall notify the Brisbane Police Department immediately after discovering any of the following:

1. Diversion, theft, loss, or any criminal activity involving the medical cannabis or any agent or employee of the business.
2. The loss or unauthorized alteration of business records related to employees or agents of the business.
3. Significant discrepancies identified during inventory.
4. Any other breach of security.

G. Labeling. Labels and packages of medical cannabis products shall meet all State and Federal labeling requirements.

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H. Inspections and Records. Inspections shall be scheduled by the Police Chief whenever deemed necessary by the Police Chief. Inspections shall take place at a reasonable time with prior notice to the business operator. Upon request, the business operator shall timely provide the Police Chief with records related to the business, including, but not limited to, utility bills from the commercial energy provider for the premises. This section shall not limit any inspection authorized under any other provision of law or regulation.

I. Notification of Change in Ownership or Managerial Employee. All operators shall notify the Brisbane Police Department immediately upon a change in ownership or the hiring of new managerial employees. New business owners or managerial employees must provide all applicable information required by Section 17.33.030.B.

### 17.33.030 – Permit application for medical cannabis business

A. Prior to the City's granting of a use permit or business license for a medical cannabis business or research and development business involving medical cannabis, the applicant must demonstrate compliance with all operating standards contained in Section 17.33.020.

B. In addition to the applicable submittal requirements associated with the use permit or business license application, the business operator must provide all of the following information on such forms provided by the City prior to use permit or business license issuance:

1. The name and address for each business owner and an explanation of the legal form of business ownership.
2. Until such time when State licenses are being processed and issued pursuant to California Business and Professions Code Chapter 3.5, as may be amended, each owner and managerial employee shall submit electronic fingerprint images and related information required by the Brisbane Police Department. The fingerprint images shall be used to determine the existence and content of a record of state or federal convictions or arrests, including those for which the person is free on bail or on his or her own recognizance pending trial or appeal.
3. The address and Assessor's Parcel Number(s) of the location of the proposed business, and the name and contact information for the property owner(s).
4. A description of the specific State license type(s) that the applicant either has obtained or plans to obtain. The applicant shall specifically document how it will meet the State licensing requirements.
5. A description of the nature of the business, product types, average production amounts for each product type, and source of medical cannabis material, as applicable.
6. Plans showing all proposed building and site improvements, including site plans, floor plans, mechanical, plumbing (including details showing all sewers, floor drains) and electrical plans. The plans shall clearly label and distinguish between the existing and proposed improvements and show all exterior building, interior building, and site modifications.

At a minimum, plans shall:

- a. Show all fixtures, equipment, and building improvements to be utilized for the production and processing of medical cannabis products.
  - b. Comply with all applicable California Building Codes, as amended in Title 15.
  - c. Be reviewed and stamped by an appropriately licensed engineer.
7. A description of measures to reduce solid waste and green waste associated with the business.

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8. A description and documentation of how the owner(s) will secure the premises 24 hours per day, seven (7) days per week, and how waste derived from medical cannabis will be disposed of in a manner to ensure it may not be utilized for unlawful purposes. These security measures shall include, but may not be limited to, the following:

- a. Preventing individuals from remaining on the premises if they are not engaged in activity expressly related to the operations of the permit.
- b. Establishing limited access areas accessible only to authorized personnel including security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products.
- c. Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner that prevents diversion, theft, and loss.
- d. Providing tamper proof and tamper evident packaging for finished medical cannabis products.
- e. Preventing off-site impacts to adjoining or near properties.

9. A written description of the weight in pounds of both raw and processed materials that will be received, stored on-site, and distributed from the site on a daily basis.

10. Application processing and permit fees, as applicable.

11. Signature of the business owner(s). The signature(s) shall be evidence of the owner's express consent to allow the Police Chief or his/her designee to enter and inspect the premises upon reasonable notice. The signature(s) shall additionally certify under penalty of perjury that the information submitted in the application, including all supporting documents and materials, is to the best of the owner(s) knowledge and belief, true, accurate, and complete.

12. The application shall be signed by the property owner(s). The signature(s) shall certify that he/she/it has reviewed the application, approves the use of the property for the purposes stated in the application, and agrees to allow the Police Chief or designee to enter and inspect the premises upon reasonable notice.

17.33.040. Revocation of use permit or business license.

A. Should the Police Chief determine at any time that the medical cannabis business does not comply with the performance standards set forth in Section 17.33.020, the use permit shall be subject to the revocation procedures outlined in Chapter 17.48.

B. Should the Police Chief determine at any time that the medical cannabis business subject only to a building license does not comply with the performance standards set forth in Section 17.33.020, the business license shall be subject to the revocation procedures outlined in Chapter 5.16.

**SECTION 19:** Where a use permit, design permit or variance approval has been issued through final action by the City prior to the effective date of this Ordinance, or where such planning permit approval is not required and a complete building permit application has been submitted prior to the effective date of this Ordinance, the holder of such use permit, design permit or variance approval or complete building permit application may proceed to construct the improvements or establish the use authorized by such permit or approval and the same shall be exempted from any conflicting regulations that may be contained in this Ordinance.

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**SECTION 20:** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

**SECTION 21:** This Ordinance shall be in full force and effect thirty days after its passage and adoption.

\* \* \*

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor Lori Liu

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney