

**ORDINANCE NO. 2019-XX**

**AN ORDINANCE OF THE CITY OF NEVADA CITY AMENDING CHAPTER 9.22 OF TITLE 9 AND CHAPTER 17 AND CHAPTER 17.142 OF TITLE 17 OF THE NEVADA CITY MUNICIPAL CODE RELATING TO CANNABIS BUSINESSES THAT USE OR PRODUCE HAZARDOUS MATERIALS**

**WHEREAS**, the City Council passed and adopted Ordinance No. 2018-10 on December 12, 2018, comprehensively re-enacting Chapter 9.22 to allow adult use cannabis businesses in addition to the medical-only businesses previously allowed; and

**WHEREAS**, some areas of the Ordinance still mistakenly refer to “medical” businesses after the medical-only restriction on cannabis businesses has been removed and needs to be cleaned up.

**WHEREAS**, additional regulations on businesses that produce or use hazardous material are necessary to protect public safety and welfare

NOW THEREFORE, The City Council of the City of Nevada City does ordain as follows:  
...

**SECTION I**

Chapter 9.22 of Title 9 of the Nevada City Municipal Code is hereby amended as follows:

9.22.050 - Application for Cannabis Business Permit: Renewal Applications; and Effect of Revocation or Suspension of State License.

...

E. Renewal Applications.

4. An application for renewal of a cannabis business permit shall be rejected if any of the following exists:

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

b. The cannabis business permit is suspended or revoked at the time of the application.

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

d.c. The cannabis business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter as existing at the time the original permit was issued, including separation of the location from sensitive uses.

- e.d. The permittee fails or is unable to renew its State of California license.
- f.e. If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, or the City's Municipal Code as existing at the time the original permit was issued, including separation of the location from sensitive uses, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the cannabis business permit.

## SECTION II

Chapter 9.22 of Title 9 of the Nevada City Municipal Code is hereby amended as follows:

### 9.22.125 – Additional Requirements for Cannabis Manufacturing Businesses that utilize or produce hazardous materials, including those defined by the State as volatile solvents and ethanol

#### A. Definitions:

1. **Hazardous Material:** Public Resources Code Section 40141 as it now exists or may subsequently be amended; namely, a waste or combination of wastes which, because of its quantity, concentration, toxicity, or physical, chemical or infectious characteristics, may do either of the following: (1) cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (2) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. "Hazardous waste" includes extremely hazardous waste and acutely hazardous waste, and any other waste as may hereafter from time to time be designated as hazardous by the Environmental Protection Agency ("EPA") or other agency of the United States government, or by the California legislature or any agency of the state of California empowered by law to classify or designate waste as hazardous, extremely hazardous or acutely hazardous with the following exceptions:

B. In addition to the provisions requirements outlined in Chapter 9.22.120, applicable to all cannabis manufacturing businesses, the following provisions are required for those manufacturing businesses that either use or produce hazardous materials defined as hazardous by and in the quantities specified below.

**Quantities of hazardous waste exempt from these provisions:** Any use handling in aggregate less than five hundred pounds, fifty-five gallons or two hundred cubic feet in gaseous state at standard temperature and pressure a year, whichever is the lesser of a hazardous material. The exemption of this subsection shall not apply to the using or handling of carcinogens except to the extent that such carcinogens are handled or used solely for personal purposes, nor shall it

apply to the using or handling of viral, bacterial or other biological agents, including genetically altered organisms, which may pose health risks

1. Applicant shall comply with all applicable Building and Fire requirements to the satisfaction of the Building Official and the Chief of the Nevada City Fire Department, including, but not limited to, testing requirements and installation of a NFPA recognized and compliant automatic fire suppression sprinkler system appropriate to the use as required in Section 8.30.010 of the Nevada City Municipal Code, the California Fire Code or the Chief of the Nevada City Fire Department. Prior to City's issuance of permanent certificate of occupancy, applicant shall conduct a wind tunnel test by a qualified third party to show compliance with safety r shall comply with all applicable Building and Fire requirements to the satisfaction of the Building Official and the Chief of the Nevada City Fire Department, including, but not limited to, testing requirements and installation of a NFPA recognized and compliant automatic fire suppression sprinkler system appropriate to the use as required in Section 8.30.010 of the Nevada City Municipal Code, the California Fire Code or the Chief of the Nevada City Fire Department. Prior to City's issuance of permanent certificate of occupancy, applicant shall conduct a wind tunnel test by a qualified third party to show compliance with safety requirements and provide the results to the equirements and provide the results to the Fire Department.
2. Prior to issuance of permits, the applicant shall obtain approval from the Northern Sierra Air Quality Management District (NSAQMD) and comply with NSAQMD requirements, if NSAQMD approval is required.
3. Prior to consideration at a public meeting, the application shall include a wastewater discharge protocol and prior to issuance of a Cannabis business permit the applicant shall obtain approval from the City Engineer and comply with the conditions of a wastewater discharge permit, if a permit is required.
4. Prior to City's issuance of permanent certificate of occupancy, the applicant shall notify and comply with Nevada County Environmental Health requirements, if any.
5. Prior to consideration at a public meeting, the application shall include employee training manuals/protocols for any specialized equipment that involves use of a hazardous material or that produces hazardous waste.
6. Prior to consideration at a public meeting, the application shall include an equipment maintenance schedule for any specialized equipment that involves use of a hazardous material or that produces hazardous waste.

7. Prior to consideration at a public meeting the application shall include a Hazardous Materials Inventory Statement (HMIS)

SECTION III:

Chapter 17.142 of Title 17 of the Nevada City Municipal Code is hereby amended as follows:

17.142.040 – Location of Cannabis Businesses – Other than Dispensaries.

- A. ~~Medical-C~~eannabis businesses, other than dispensaries, including ~~medical~~ cannabis cultivation, manufacturing, distribution, transporting, and testing laboratory businesses shall be permitted in the Light Industrial (L1) zones only. Where it can be established that infrastructure improvement expenditures to comply with the special requirements for other ~~medical~~ cannabis businesses to secure the initial permit were in excess of Twenty-Five Thousand Dollars (\$25,000.00), the requirements of Chapter 9.22, or of any regulations adopted pursuant to Chapter 9.22, as they existed for the original permit, including separation of the location from sensitive uses, shall continue in the same force and effect for subsequent permits for the same use at the same location unless the location is found to be a nuisance which cannot reasonably and feasibly be cured to maintain the public health, safety, and welfare of the residents of the City.
- B. ~~Medical-C~~annabis cultivation businesses may not be located within six hundred (600) feet of a school that is in existence at the time the initial medical cannabis cultivation permit is issued as required by California Health and Safety Code Section 11362.768."
- ~~B-C.~~ Cannabis businesses that utilize hazardous materials or produce hazardous waste above quantities outlined in section 9.22.125(B) may not be located within six hundred (600) feet of a school that is in existence at the time the initial ~~medical~~ cannabis business permit is issued.

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