

## ORDINANCE NO. 561

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLUSA AMENDING SECTION 12 BY REPEALING AND REPLACING SECTIONS 12D AND 12F OF THE COLUSA MUNICIPAL CODE REGARDING CANNABIS DISPENSARIES AND CANNABIS BUSINESSES REGULATORY PERMITS

**WHEREAS**, the City is updating Section 12D of the Colusa Municipal Code relative to cannabis dispensaries;

**WHEREAS**, the City is updating Section 12F relative to cannabis business's regulatory permits; and

**WHEREAS**, the City of Colusa City Council has considered public comment at a duly noticed public hearing.

**The City Council of the City of Colusa, State of California does hereby ordain as follows:**

#### **SECTION 1.**

Section 12D, "Cannabis Dispensaries" of the Colusa Municipal Code is hereby repealed and replaced as set forth below:

#### **Chapter 12D - CANNABIS DISPENSARIES**

##### **12D-1 - General Provisions.**

- A. Purpose and Intent. It is the purpose and intent of this Chapter to provide opportunities for cannabis dispensaries to operate in the City for both adult use cannabis and cannabis products, defined as cannabis or cannabis products that are intended for adults who are 21 years of age and older and who do not possess a physician's recommendation, and medical cannabis and medical cannabis products, while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the retail sales and retail delivery of cannabis and cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of Colusa, and to enforce rules and regulations consistent with state law. In part to meet these objectives, an annual permit shall be required in order to own and/or to operate a cannabis dispensary within Colusa. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes which violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, or other law.
- B. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a cannabis dispensary unless the person first obtains and continues to maintain a valid Cannabis Dispensary Permit from the City as required by this section.
- C. Legal Authority. Pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the Medicinal and Adult Use of Cannabis Regulation and Safety Act, Cal Bus & Prof Code Section 26000 *et seq.* ("MAUCRSA"), the city is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-

related activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the state, or any of its departments or divisions, shall be the minimum standards applicable in the city to cannabis, and/or cannabis-related activity.

- D. Compliance with Laws. It is the responsibility of the owners and operators of the cannabis dispensary to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate federal, state law or local law with respect to the operation of a cannabis dispensary. It shall be the responsibility of the owners and the operators of the cannabis dispensary to ensure that the cannabis dispensary is, at all times, operating in a manner compliant with all applicable federal, state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis dispensary permit. Nothing in this Chapter shall be construed as authorizing any actions which violate federal or state law with regard to the operation of a cannabis dispensary.

#### **12D-2 - Definitions.**

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision. Any term used in this Chapter not expressly set forth in this section shall have the meaning defined in Chapter 12F.

- A. "Cannabis" means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. "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. For the purpose of this Chapter, "cannabis" does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- B. "Cannabis activity" includes cultivation, manufacture, processing, laboratory testing, transporting, delivery, distribution, or sale of cannabis or a cannabis product, within the meaning of California Business and Professions Code 26000 et seq.
- C. "Cannabis business" means any business or operation which engages in cannabis activity.
- D. "Cannabis dispensary permit" means a regulatory permit issued by the City of Colusa pursuant to this Chapter to a cannabis dispensary, and is required before any cannabis activity may be conducted in the City. The initial permit and annual renewal of a cannabis dispensary permit is made expressly contingent upon the dispensary's ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the cannabis activity at issue.
- E. "City" or "City of Colusa" means the City of Colusa, a California general law City.
- F. "Cultivation" and "Commercial Cultivation" are defined as: "Cultivation" means any activity, whether occurring indoors or outdoors, involving the propagation, planting, growing, harvesting, drying, curing, grading, and/or trimming of cannabis plants or any part thereof for any purpose,

including medical marijuana; and "Commercial Cultivation" means only State-licensed Indoor facilities for cannabis cultivation consisting solely of processing (drying, curing, trimming, and packaging of) cannabis flower (corresponding with State CDFA Cultivation License Type for "Processor") or nursery operations (corresponding with State CDFA Cultivation License Type for "Nursery")

- G. "Cultivation site" means a facility where cannabis is cultivated, propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
- H. "Delivery" means the commercial transfer of cannabis or cannabis products from a dispensary, up to an amount determined to be authorized by the State of California, or any of its departments or divisions, to anyone for any purpose. "Delivery" also includes the use by a dispensary of any technology platform owned, controlled, and/or licensed by the dispensary, or independently licensed by the State of California under the MAUSCRA (as the same may be amended from time-to-time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or cannabis products.
- I. "Delivery Only Cannabis Dispensary" means a Dispensary that does not have a storefront sales facility open to the public for retail sales.
- J. "Dispensary" means a cannabis business facility 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 (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale.
- K. "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a dispensary.
- L. "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- M. "Marijuana" means "cannabis," as that term is defined in this Chapter.
- N. "Medical cannabis," "medical marijuana," "medical cannabis product" or "medical cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time-to-time). For purposes of this Chapter, "medical cannabis" does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- O. "Microbusiness" means a location operating as a microbusiness as defined in the state regulations issued by the Bureau of Cannabis Control for cannabis microbusinesses.
- P. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- Q. "State License" means a permit or license issued by the State of California, or one of its departments or divisions, under MAUSCRA to engage in cannabis activity.
- R. "Storefront Cannabis Dispensary" means a Dispensary which utilizes a retail storefront operation open to the public for retail sales.

- S. "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- T. "Transport" means the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting cannabis activity authorized by the MAUSCRA.
- U. "Transporter" means a person authorized to transport cannabis or cannabis products in amounts authorized by the State of California, or by one of its departments or divisions under the MAUSCRA.

### **12D-3 - Limitation on the Number of Cannabis Dispensaries.**

#### **A. Initial Maximum Number of Cannabis Dispensary Permits.**

1. Upon the effective date of this provision, the City Council may issue a maximum of up to one (0) cannabis dispensary permits to a qualified storefront retail cannabis dispensary or cannabis microbusiness at any one given time.
2. Upon the effective date of this provision, the City Council may issue a maximum of up to one (1) cannabis dispensary permits to a qualified delivery only cannabis dispensary at any one given time.
3. The dispensary permits shall be issued in accordance with the application and permit approval process contained in this Chapter 12D and resolutions adopted pursuant to this Chapter.
4. The cannabis dispensary must obtain a cannabis dispensary permit from the City before commencing operations, must be in compliance with all applicable state and federal laws pertaining to its operation, including obtaining all necessary licenses from the state, and shall comply with all applicable operational and zoning requirements set forth in the Colusa Municipal Code.
5. No cannabis dispensary permit shall be valid until either the city council approves a development agreement for the site, an operations agreement for a site, or until after the effective date of an approved ballot measure authorizing the taxation of commercial cannabis dispensaries in the city.
6. Nothing in this Chapter creates a mandate that the City Council must issue one or more cannabis business permit to a cannabis dispensary if the City Council determines that there are no qualified applicants, the proposed locations for cannabis businesses are incompatible with neighboring land uses, or if the City Council determines that the issuance of a cannabis dispensary would have a negative effect on the health, safety, or welfare of the citizens or businesses of Colusa, or for any other reason allowed by law.

- B. City Council Review and Increased Maximum Number of Cannabis Dispensaries to be Issued. Eighteen (18) months after the first cannabis dispensary permit is issued, the City Manager shall deliver a report to the City Council during a regular meeting which examines the positive and negative impacts that the cannabis dispensary has had on the community during the preceding eighteen (18) months. The report shall include, among other things, an analysis of how the cannabis dispensary has complied with state and local regulations, any positive or negative community and law enforcement impacts, and any revenue generated. If after hearing the report the City Council makes a determination that there are no significant consequences of allowing cannabis dispensaries to operate in the City, the City Council at its sole discretion may vote to expand the number of authorized cannabis dispensary permits to be issued up to a maximum of six dispensary permits. If the City Council takes no action, or finds that the impacts are unacceptable, then the maximum number and type of cannabis dispensaries authorized shall continue to be limited to one (1) retail storefront cannabis dispensary permits as provided in subdivision 1 above, and one (1) delivery only cannabis dispensary permits as provided in subdivision 2 above.

### **12D-4 - Application for Cannabis Dispensary Permit: Renewal Applications; and Effect of Revocation or Suspension of State License.**

#### **A. Initial Application Procedure.**

1. The City Council shall adopt by resolution the procedures which will govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any cannabis dispensary permit(s). The resolution shall authorize the City Manager or his or her

designee to prepare the necessary forms, adopt any necessary rules, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately provide a final recommendation to the City Council of the top applicant for consideration for retail storefront/microbusiness dispensary permits and the top applicants for consideration for delivery only dispensary permits.

2. At the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.
3. After the initial review the City Manager or his designee will make a recommendation to the City Council, and the City Council shall make a final determination in accordance with the selection procedure set forth in the Resolution adopted by the City Council.

B. The City's Reservation of Rights:

The City reserves the right to reject any or all applications. The City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other justification provided a failure to comply with other requirements in this Chapter, an application RISKS BEING REJECTED for any of the following reasons:

1. Proposal received after designated time and date.
2. Proposal not containing the required elements, exhibits, nor organized in the required format.
3. Proposal considered not fully responsive to this request for permit application.
4. Proposal contains excess or extraneous material not called for in the request for permit application.

C. Expiration of Cannabis Dispensary Permits. A cannabis dispensary permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Cannabis dispensary permits may be renewed as provided in subsection E below.

D. Revocation of Permits. Cannabis dispensary permits may be revoked for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to this Chapter 12D or applicable sections of Chapter 12F.

E. Renewal Applications.

1. An application for renewal of a cannabis dispensary permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
2. The renewal application shall contain all the information required for new applications.
3. The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
4. An application for renewal of a cannabis dispensary 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 dispensary permit is suspended or revoked at the time of the application.

- c. The cannabis dispensary has not been in regular and continuous operation in the four (4) months prior to the renewal application, unless substantial evidence is provided to the City Manager to show the failure to operate is due to a delay in state license processing or other market factors outside of the control of the licensee.
  - d. The cannabis dispensary 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. The permittee fails or is unable to renew its State of California license.
  - f. 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 dispensary permit.
- 5. The City Manager or his designee is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager or his designee is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Manager or his designee shall be handled pursuant to Section 12D-5 entitled "Appeals."
  - 6. If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.
- F. Effect of state license suspension, revocation, or termination. Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a cannabis dispensary to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a cannabis dispensary, such revocation or termination shall also revoke or terminate the ability of a cannabis dispensary to operate within the City of Colusa.

**12D-5 - Appeals.**

- A. Appeals from Decisions of the City Manager or his Designee under this Chapter. Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the City Manager or his or her designee, the appeal shall be conducted as prescribed in this Section.
- B. Written request for Appeal.
  - 1. Within ten (10) calendar days after the date of a decision of the City Manager or his designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
  - 2. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.
- C. Appeal Hearing.
  - 1. Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set forth by the City.

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

#### **12D-6 - Permittee Selection Process.**

##### **A. Selection and Review of Finalists.**

1. The City Council shall adopt by resolution a procedure by which the top applicant applying for a cannabis dispensary permit in each dispensary category will be presented to the City Council for a final determination at a public meeting.
2. The top three finalists in the cannabis dispensary category shall be invited to attend the City Council meeting, where they will be expected to make a public presentation introducing their team and providing an overview of their proposal. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary.
3. At least ten (10) days prior to the hearing, notice of the hearing shall be sent to all property owners located within three hundred (300) feet of the proposed dispensary locations of each of the finalists to be considered by the City Council.
4. The City Council shall rank the final three candidates and shall select one or more candidates to be issued a cannabis permit for a cannabis dispensary as permitted by this Chapter 12D. The City Council's decision as to the selection of the candidate(s) to receive a cannabis dispensary permit shall be final.
5. Official issuance of a cannabis dispensary permit, however, is conditioned upon the prevailing candidate(s) obtaining all required land use approvals. Following the Council's selection, the prevailing candidate(s) shall apply to the City's planning department to obtain any required land use approvals or entitlements for the permittee's location, if any. Land use approvals shall include compliance with all applicable provisions of the California Environmental Quality Act (CEQA). The City Manager shall formally issue a cannabis dispensary permit once the City Manager and Chief of Police have both affirmed that all of the required land use approvals have been obtained.  
  
If the selected permittee(s) is/are unable to fulfill all the requirements of obtaining the cannabis dispensary permit(s), the City Council, in its sole discretion, may award the permit to the next highest ranked applicants, or may begin the application process again to allow for selection of a new set of applicants.
6. Issuance of a cannabis dispensary permit does not create a land use entitlement. A cannabis dispensary permit shall only be for a term of twelve (12) months and shall expire at the end of the twelve (12) month period unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit, have been complied with.
7. Notwithstanding anything in this Chapter to the contrary, the City Council reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no



right to a cannabis dispensary permit until a permit is actually issued, and then only for the duration of the permit's term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter.

8. If an application is denied, a new application may not be filed for one (1) year from the date of the denial.
9. A person or entity granted a cannabis dispensary permit shall be required to pay the permit fee established by resolution of the City Council, to cover the costs of administering the cannabis dispensary permit program created in this Chapter."

**B. Prohibition on Transfer of Cannabis Dispensary Permits.**

1. Cannabis dispensary permits are not a property right, and permittees have no economic interest in any permit issued to them. No person may transfer ownership or control of a cannabis dispensary or transfer any cannabis dispensary permit issued under this Chapter without the express written consent of the City Manager after a finding, based on substantial evidence, that the sale or transfer is for financing or business restructuring purposes which will result in no substantial change of the management of the dispensary from the then current management team.
2. Any attempt to transfer ownership of a cannabis dispensary or of a cannabis dispensary permit without the express written consent of the City Manager shall render the cannabis dispensary permit void.
3. In any situation where a permit has been lost as a result of an attempted transfer of the cannabis dispensary permit or of the cannabis dispensary, or as a result of the abandonment or revocation of the permit, any new permit shall be issued using the standard process for the issuance of permits in the first instance. No preference shall be given to any person proposed as new owner or assignee by the former permit holder. In such case, prior to accepting any new applications, the City shall post the availability of the cannabis dispensary permit at issue on the City's website. The City Manager or his/her designee may take other actions to help ensure the broadest pool of applicants for the new permit.

**12D-7 - Requirements Before Permittee May Commence Operations.**

- A. City Business License. Prior to commencing operations, a cannabis business shall obtain a City of Colusa business license.
- B. Building Permits and Inspection. Prior to commencing operations, a cannabis dispensary shall be subject to a mandatory building inspection and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), fire department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.
- C. Certification from Planning Director. Prior to commencing operations, a cannabis dispensary must obtain a certification from the Planning Director certifying that the business is located on a site that meets all of the requirements of the City's Zoning and Municipal Code.
- D. Right to Occupy and to Use Property. As a condition precedent to the City's issuance of a cannabis dispensary permit pursuant to this Chapter, any person intending to open and to operate a cannabis dispensary shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the cannabis dispensary on the owner's property.
- E. Limitations on City's Liability. To the fullest extent permitted by law, the City of Colusa shall not assume any liability whatsoever with respect to having issued a cannabis dispensary permit pursuant

to this Chapter or otherwise approving the operation of any cannabis dispensary. As a condition to the approval of any cannabis dispensary permit, the applicant shall be required to meet all of the following conditions before they can receive the cannabis dispensary permit:

1. They must execute an agreement, in a form approved by the city attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Colusa, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the cannabis dispensary permit, the City's decision to approve the operation of the cannabis dispensary or activity, to process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the cannabis dispensary or any of its officers, employees or agents.
2. Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the city attorney.
3. Reimburse the City of Colusa for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Colusa may be required to pay as a result of any legal challenge related to the City's approval of the applicant's cannabis dispensary permit, or related to the City's approval of a cannabis activity. The City of Colusa may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

#### **12D-8 - Operating Requirements for Cannabis Dispensaries.**

- A. Compliance with Laws. It is the responsibility of the owners and operators of the cannabis dispensary to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a cannabis dispensary. It shall be the responsibility of the owners and the operators of the cannabis dispensary to ensure that the cannabis dispensary is, at all times, operating in a manner compliant with all applicable state and local laws, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the cannabis dispensary permit. Nothing in this Chapter shall be construed as authorizing any actions which violate state law with regard to the operation of a cannabis dispensary.
- B. Fees, Charges and Taxes.
  1. No person may commence or continue any cannabis activity in the City, without timely paying in full all fees, charges, and any applicable taxes required for the operation of a cannabis dispensary. Fees and charges associated with the operation of a cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
  2. A cannabis dispensary authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Cannabis dispensaries shall cooperate with City with respect to any reasonable request to audit the cannabis dispensary's books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.
- C. Hours of Operation. Storefront cannabis dispensaries or cannabis microbusinesses may be open for access to the public only between the hours of 8:00 A.M. and 8:00 P.M. Monday through Sunday. Delivery only cannabis dispensaries may operate only during the hours specified in the business's cannabis dispensary permit.

- D. Restriction on Consumption. Cannabis shall not be consumed on the premises of any cannabis dispensary.
- E. No outdoor storage of cannabis or cannabis products is permitted at any time.
- F. Reporting and Tracking of Product and of Gross Sales. Each cannabis dispensary shall have in place a point-of-sale tracking system to track and report on all aspects of the cannabis dispensary including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The cannabis dispensary shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the City Manager or his/her designee.
- G. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- H. Emergency Contact. Each cannabis dispensary shall provide the City Manager or his/her designee(s) with the name, telephone number (mobile preferred, if available) of an owner and or manager to whom emergency notice can be provided at any hour of the day.
- I. Signage and Notices.
  - 1. In addition to the requirements otherwise set forth in this section, dispensary identification signage for a cannabis dispensary shall conform to the requirements of the Colusa Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.
  - 2. No signs placed on the premises of a cannabis dispensary shall obstruct any entrance or exit to the building or any window.
  - 3. Each entrance to a cannabis dispensary shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the cannabis dispensary is prohibited.
- J. Minors.
  - 1. Persons under the age of eighteen (18) years shall not be allowed on the premises of a cannabis dispensary unless the person is accompanied by their own parent, guardian, or primary caregiver. Persons under the age of eighteen (18) years of age shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a storefront cannabis dispensary who is not at least twenty-one (21) years of age.
  - 2. The entrance to the cannabis dispensary shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) years of age is permitted to enter upon the premises of the cannabis dispensary unless the person is accompanied by their own parent, guardian, or primary caregiver.
- K. Odor Control. Odor control devices and techniques shall be incorporated in all cannabis dispensaries to ensure that odors from cannabis are not detectable off-site. Cannabis dispensaries shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis dispensary that is distinctive to its operation 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 cannabis dispensary. As such, a cannabis dispensary must install and maintain the following equipment, or any other equipment which the City Manager or his/her designee(s) determine is a more effective method or technology:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally. The dispensary applicant shall provide a statement from the exhaust air filtration manufacturer that the system has been designed to achieve the above standard based on the specific building size and layout.
  2. An air system that creates negative air pressure between the cannabis dispensary's interior and exterior, so that the odors generated inside the cannabis dispensary are not detectable on the outside of the cannabis dispensary. The dispensary applicant shall provide a statement from the air system manufacturer that the system has been designed to achieve the above standard based on the specific building size and layout.
- L. Display of Permit and City Business License. The original copy of the cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the cannabis dispensary in a location readily visible to the public.
- M. Background Check.
1. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes, and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, or supervisor of the cannabis business must submit fingerprints and other information deemed necessary by the City Manager or his/her designee(s) for a background check by the Colusa Police Department. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a permit to operate a cannabis business unless they have first cleared the background check, as determined by the Chief of Police, as required by this section.
  2. A fee for the cost of the background investigation, which shall be the actual cost to the City of Colusa to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a cannabis business permit is submitted. The applicant(s) shall provide an initial deposit in an amount the City Manager or his/her designee(s) estimates will cover the cost of the background investigation, which shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If this amount is not sufficient, the applicant shall provide additional amounts that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Upon completion of the investigation or in the event the applicant withdraws their application, any fees paid for this process will be deemed non-refundable.
  3. The City shall not disseminate background check results information to any private party.
  4. When reviewing background check results, the Chief of Police shall verify that applicants have not been convicted of any crimes listed in Business and Professions Code section 26057. Applicants found to have committed any crimes listed in Business and Professions Code Section 26057 shall fail the background and shall be ineligible for a City cannabis business permit.
- N. Loitering. The owner and/or operator of a cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises of the business.
- O. Permits and other Approvals. Prior to the establishment of any cannabis business or the operation of any such business, the person intending to establish a cannabis business must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which

may be applicable to the zoning district in which such cannabis business intends to establish and to operate.

- P. All cannabis business permittees other than cannabis dispensary businesses must comply with the following security requirements:
1. A cannabis business permittee shall comply with the security plan that is approved by the City Manager, which plan may include building specifications, lighting, alarms, and state-licensed security personnel.
  2. Each security plan approved by the City Manager must include the following:
    - a. Security surveillance cameras. Security surveillance cameras and a video recording system must be installed to monitor all doors into the buildings on the business site, the parking lot, loading areas, and all exterior sides of the property adjacent to the public rights of way. The cameras and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present on the business site. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium, such as a DVD or USB drive.
    - b. Security video recording and retention. Video from the security surveillance cameras must be recording at all times (24 hours a day, seven days a week) and the recording shall be maintained for at least 30 days. The video recordings shall be made available to the city upon request.
    - c. Alarm system. Professionally and centrally monitored fire, robbery, and burglar alarm systems must be installed and maintained in good working condition. The alarm system must include a private security company that is required to respond to every alarm.
  3. A cannabis business permittee shall report to the City Police Department all criminal activity occurring on the cannabis business site.

**12D-9 - Additional Operating Requirements for Cannabis Dispensaries.**

- A. Records and Recordkeeping.
1. Each owner and operator of a cannabis dispensary shall maintain accurate books and records, detailing all of the revenues and expenses of the dispensary, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each cannabis dispensary shall file a sworn statement detailing the number of sales by the cannabis dispensary during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.
  2. Each owner and operator of a cannabis dispensary shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the cannabis dispensary, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the cannabis dispensary. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
  3. Each cannabis dispensary shall maintain a record of all persons, patients, collectives and primary caregivers served by the cannabis dispensary, for a period of no less than as required by state law.
  4. Cannabis dispensaries shall maintain records of their inventory acquired, including the name and address of each supplier, the date of acquisition and the quantity acquired from each supplier, and

the location of the cultivation of the supplier, and shall maintain a copy of the supplier's state license to cultivate (if required).

5. Subject to any restrictions under state or federal law, each cannabis dispensary shall allow City of Colusa officials to have access to the dispensary's books, records, accounts, together with any other data or documents relevant to its permitted cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City.

B. Security Measures.

1. A permitted cannabis dispensary shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the cannabis dispensary. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
  - a. Preventing individuals from remaining on the premises of the cannabis dispensary if they are not engaging in an activity directly related to the permitted operations of the cannabis dispensary.
  - b. Establishing limited access areas accessible only to authorized cannabis dispensary personnel.
  - c. All cannabis and cannabis products shall be stored in a secured and locked room, safe, or vault. All cannabis and cannabis products shall be kept in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes or for immediate sale at a dispensary.
  - d. Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the cannabis dispensary which are open and accessible to the public, and all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis. The cannabis dispensary shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and the City's Police Department, and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the City Manager or his/her designee(s) and to the City's police department. Video recordings shall be maintained for a minimum of forty-five (45) days and shall be made available to the City Manager or his designee upon request.
  - e. Sensors shall be installed to detect entry and exit from all secure areas.
  - f. Panic buttons shall be installed in all cannabis dispensaries.
  - g. Having a professionally installed, maintained, and monitored alarm system.
  - h. Any bars installed on the windows, or the doors of the cannabis dispensary shall be installed only on the interior of the building.
  - i. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld.
  - j. Each cannabis dispensary shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

- k. Entrances into the dispensary shall be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system shall be utilized to limit access to and entry to the dispensary, to separate it from the reception/lobby area.
- 2. A cannabis dispensary shall identify a designated security representative/liaison to the City of Colusa, who shall be reasonably available to meet with the City Colusa or his/her designee regarding any security related measures or and operational issues.
- 3. As part of the application and permitting process a cannabis dispensary shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
- 4. The cannabis dispensary shall cooperate with the City whenever the City Manager or his designee makes a request, upon reasonable notice to the cannabis dispensary, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- 5. A cannabis dispensary shall notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
  - a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee.
  - b. Diversion, theft, loss, or any criminal activity involving the cannabis dispensary or any agent or employee of the cannabis dispensary.
  - c. The loss or unauthorized alteration of records related to cannabis, records of sales, or employees or agents of the cannabis dispensary.
  - d. Any other breach of security.
- C. Restriction on Alcohol Sales. No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the cannabis dispensary.
- D. Owners and Operators are required to verify the age and the necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years.
- E. Dispensaries may have on-site, in the retail sales area of the dispensary, only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale. Dispensaries may also sell non-cannabis products, such as cannabis and health related educational books and publications, apparel, and the like. However, sales of non-cannabis products shall constitute no more than fifteen percent (15%) of the floor area and not to exceed three hundred (300) feet.
- F. All restroom facilities shall remain locked and under the control of management.
- G. All cannabis and products containing cannabis shall be dispensed in packaging as required by state law and shall remain in such packaging until off the premises, unless otherwise provided by state law.

**12D-10 - Delivery by Cannabis Dispensary Permitted.**

Legally permitted cannabis dispensaries are authorized to make deliveries within the City and within any jurisdiction that permits deliveries, subject to following requirements:

- A. The owner, operator, and delivery personnel shall comply with all applicable state law requirements.
- B. The delivery personnel must be an employee of the cannabis dispensary.
- C. Before dispensing any products to persons requesting delivery, the delivery personnel must verify that the requestor is of legal age to possess cannabis.

**12D-11 - Application of Chapter; Other Legal Duties.**

A. Promulgation of Regulations and Standards.

1. In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of cannabis dispensary permits, the ongoing operation of a cannabis dispensary and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
2. Regulations shall be published on the City's website.
3. Regulations promulgated by the City Manager shall become effective upon date of publication. A cannabis dispensary shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his designee.

B. Community Relations Requirements for Cannabis Dispensaries.

1. Each cannabis dispensary shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the cannabis dispensary can be provided. Each cannabis dispensary shall also provide the above information to all businesses and residences located within one hundred (100) feet of the cannabis dispensary property and shall provide opportunity for those businesses and residents within one hundred (100) feet to visit and to tour the cannabis dispensary at least once on a mutually convenient date and time. Any additional request shall be at the sole discretion of the dispensary operator.
2. During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from the cannabis dispensary holding a permit issued pursuant to this Chapter shall attend a quarterly meeting with the City Manager or his/her designee(s) to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from the cannabis dispensary shall meet with the City Manager or his/her designee(s) when and as requested by the City Manager or his/her designee(s).
3. The cannabis dispensary to which a permit is issued pursuant to this Chapter shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth abuse of cannabis, and that identifies resources available to youth related to drugs and drug addiction.

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

D. Permit Holder Responsible for Violations. The person or members of a business entity to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Colusa, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the cannabis business whether or not said violations occur within the permit holder's presence.

E. Inspection and Enforcement.

1. The City Manager or his/her designee(s) are charged with enforcing the provisions of the Colusa Municipal Code, or any provision thereof, may enter the location of a cannabis dispensary at any time during the hours of operation without notice, and inspect the location of any cannabis dispensary as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.



2. It is unlawful for any person having responsibility over the operation of a cannabis dispensary, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a cannabis dispensary under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a cannabis dispensary under this Chapter or under state or local law.
  3. The City Manager or his/her designee(s) charged with enforcing the provisions of this Chapter may enter the location of a cannabis dispensary at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Colusa shall be logged, recorded, and maintained in accordance with Colusa Police Department standards for evidence.
- F. Concurrent Regulation with State. It is the stated intent of this Chapter to regulate cannabis activity in the City of Colusa concurrently with the state of California.

#### **12D-12 - Violations and Enforcement.**

- A. Violations declared a public nuisance. Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.
- B. Each violation a separate offense. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Colusa Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement, and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Colusa may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the cannabis dispensary or persons related to, or associated with, the cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, his/her designee, or the Chief of Police, may take immediate action to temporarily suspend a cannabis dispensary permit issued by the City, pending a hearing before the City Council.
- C. Remedies cumulative and not exclusive. The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

#### **SECTION 2.**

Section 12F, "Cannabis Businesses Regulatory Permit," of the Colusa Municipal Code is hereby repealed and replaced as set forth below:

#### **CHAPTER 12F.**

#### **CANNABIS BUSINESSES REGULATORY PERMIT.**

##### **Sec. 12F-1. Purpose and intent; Legal Authority.**

Cannabis businesses shall be permitted, in accordance with the criteria and procedures set forth in this Code, upon application and approval of a regulatory permit pertaining to the operation of the facility. Prior to obtaining a regulatory permit under this chapter, all applicants must obtain and maintain a cannabis business special use permit pertaining to the location of the facility or show proof of a business relationship as a tenant or subcontractor of an entity holding a cannabis business special use permit, which has been validly issued by the city per the Code. Pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the Medicinal and Adult Use of Cannabis Regulation and

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Safety Act, Cal Bus & Prof Code Section 26000 et seq. ("MAUCRSA"), the city is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the state, or any of its departments or divisions, shall be the minimum standards applicable in the city to cannabis, and/or cannabis-related activity.

**Sec. 12F-2. Cannabis business facilities.**

Cannabis business facilities permitted under this chapter include facilities where cannabis is manufactured into cannabis products, tested, and distributed, and the associated activities of planting, growing, harvesting, trimming and grading, and transporting cannabis, subject to the provisions of the Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code Sections 11362.7 through 11362.83), the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, the Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643), and all other state laws pertaining to cultivating cannabis.)

**Sec. 12F-3. Regulatory permit required.**

- A. Prior to initiating operations and as a continuing requisite to operating a cannabis business facility, the legal representative of the persons wishing to operate a cannabis business facility shall first obtain a regulatory permit from the city manager or designee under the terms and conditions set forth in this chapter. The legal representative shall file an application with the city manager or designee upon a form provided by the city and shall pay an application fee as established by resolution adopted by the city council as amended from time to time. An application for a regulatory permit shall include, but shall not be limited to, the following information:
- B. The initial regulatory permit application period for cannabis business facilities will not begin until either the city council approves a development agreement for the site, an operations agreement for a site, or until after the effective date of an approved ballot measure authorizing the taxation of commercial cannabis cultivation, manufacturing, distribution, testing, or transportation facilities in the city.

**Sec. 12F-4. Cannabis business regulatory permit application and responsible party designation.**

- A. Application. Applications for regulatory permits shall be filed by the proposed business owner(s) with the city manager or designee and include the information set forth herein. The city manager or designee may request such information he or she deems necessary to determine who the applicant is. The applicant shall certify under penalty of perjury that all of the information contained in the application is true and correct. The application shall contain the following items for the business owner, operator and all responsible parties known at the time (if different than the business owner), and any other party designated below, to the extent the same shall apply:
1. The full name, present address, and telephone number, including such information to identify the premises owner.
  2. Date of birth.
  3. Tax identification number.
  4. The address to which notices relating to the application is to be mailed.
  5. Previous addresses for the five years immediately preceding the present.
  6. The height, weight, color of eyes and hair.
  7. Photographs for identification purposes (photographs shall be taken by the police department).
  8. All business, occupation, or employment for the five years immediately preceding the date of submittal of the application form.
  9. The cannabis operation business history, including whether the business owner and responsible parties while previously operating in this or another city, county or state has had a cannabis related license revoked or suspended, the reason therefor, and the business or activity or occupation subsequent to such action of suspension or revocation.
  10. Complete property ownership and lease details, where applicable. If the business owner is not the premises owner, the application form must be accompanied with a notarized acknowledgment from the premises owner that cannabis operations will occur on its property.
  11. A descriptive business plan for the cannabis operation, including a detailed list of all cannabis business operations and activities proposed to occur on the premises.
  12. A diagram and floor plan of the entire premises, denoting all areas of the site proposed for the cannabis business operations, including, but necessarily limited to, cultivation, processing, manufacturing, testing, transportation, deliveries, and storage. The diagram and floor plan need not be prepared by a licensed design professional but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
  13. The name or names of the operator. The operator shall designate one or more responsible parties, one of which shall at all times be available as a point of contact for the city, twenty-four hours per day. The contact information and schedule of the operator and responsible parties shall be provided to the city manager or designee and updated within twenty-four hours of any changes.
  14. The proposed security arrangements for ensuring the safety of persons and to protect the premises from theft.

15. An accurate straight-line drawing prepared within thirty days prior to the application depicting the building and the portion thereof to be occupied by the cannabis operation and the property line of any school as set forth in the operational requirements.
  16. Authorization for the city, its agents and employees to seek verification of the information submitted.
- B. **Improper or Incomplete Application.** If the applicant has completed the application improperly, or if the application is incomplete, the city manager or designee shall, within thirty days of receipt of the original application, notify the applicant of such fact.
  - C. **Changes in Information.** Except as may otherwise be provided, the information provided in this subsection shall be updated to the city manager or designee upon any change within ten days.
  - D. **Other Permits or Licenses.** The fact that an applicant possesses other types of state or city permits or licenses does not exempt the applicant from the requirement of obtaining a regulatory permit.
  - E. **Term of Permits and Renewals.** Regulatory permits issued under this chapter shall expire one year following the date of issuance. Applications for renewal shall be made at least forty-five days prior to the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in this section. When made less than forty-five days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on similar to applications for permits except that the city manager or designee shall renew annual permits for additional one-year periods if the circumstances and information provided with the initial application have not materially changed.
  - F. **Grounds for Denial of Regulatory Permit.** The grounds for denial of a regulatory permit shall be one or more of the following:
    1. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule or regulation.
    2. The business owner or operator has been issued a local or state permit related to cannabis operations in any other location in California, or another state, and that permit was suspended or revoked, or the business owner or operator has had disciplinary action relating to the permit.
    3. The business owner or operator has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application.
    4. Consistent with the Act or other applicable state law, the business owner or operator, or any responsible person, has been:
      - a. Convicted of a serious or violent offense as listed under California Penal Code sections 667.5 and 1192.7(c); or
      - b. Convicted of any of the offenses listed in Business and Professions Code section 19323; or
      - c. Convicted of a misdemeanor involving moral turpitude as defined under state law (generally crimes relating to theft and dishonesty) within the five years preceding the date of the application; or
      - d. Convicted of a felony involving the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, unless the individual has received a certificate of rehabilitation as defined in the Act; or

- e. Has engaged in misconduct related to the qualifications, functions, and duties of a permittee, such as lying on an application, falsifying legal documents, or anything that would otherwise ban the permittee from obtaining a state license under the Act.
    - f. A conviction within the meaning of this subsection means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
  5. Consistent with the Act or other applicable state law, the business owner or operator has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.
  6. The business owner or operator is under eighteen years of age, or any older other age set by the state.
  7. The cannabis operation does not comply with the zoning ordinance standards of the City of Colusa.
  8. The required annual business license fee, annual regulatory fee or revenue raising fee has not been paid.
- G. Notice of Decision and Final Action.
  1. Regulatory Permit. Action on the regulatory permit shall be as follows:
    - a. The city manager or designee shall cause a written notice of his or her recommendation on the issuance or denial of a regulatory permit, and the date and time when the city council will consider action on the regulatory permit, to be personally delivered or mailed to the applicant by certified U.S. mail, postage prepaid.
    - b. Following a public hearing before the city council, the council may grant the regulatory permit subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community, or it may deny the issuance of the regulatory permit for any of the grounds specified in this section. The decision of the council shall be final, subject to judicial review below.
- H. Suspension and Revocation of Regulatory Permit.
  1. Regulatory Permit. The city council may suspend or revoke the regulatory permit of a commercial cannabis operation when any of the following occur:
    - a. The cannabis operation is conducted in violation of any provision of this section, the Act, or any other applicable state law.
    - b. The cannabis operation is conducted in such a manner as to create a public or private nuisance.
    - c. A failure to pay the regulatory fee required by this section.
    - d. A failure to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside or outside the premises, traffic control problems, or obstruction of the operation of another business.
    - e. A failure to comply with the terms and conditions of the regulatory permit or any cannabis business special use permit issued in connection therewith.
    - f. Any act which would be considered grounds for denial of the regulatory permit in the first instance.
  2. Procedures for Revoking Regulatory Permits. For regulatory permits, the procedures for revoking cannabis business special use permits shall be utilized except that the matter shall be

heard by the city council in the first instance and shall be subject to the same judicial process as applied to a cannabis business special use permit.

3. Immediate Suspension. The city manager or designee may immediately suspend or revoke a regulatory permit without notice or a hearing, subject to the appeal rights set forth herein, under either of the following circumstances:
  - a. The business owner or operator is convicted of a public offense in any court for the violation of any law which relates to the cannabis operation.
  - b. The city manager or designee determines that immediate suspension is necessary to protect the public health, safety, and welfare of the community. The city manager or designee shall articulate the grounds for the immediate suspension in writing and the suspension shall only be for as long as necessary to address the circumstances which led to the immediate suspension.
- I. Effect of Denial or Revocation. When the city council shall have denied a regulatory permit or revoked a regulatory permit, no new application for a regulatory permit shall be accepted and no regulatory permit shall be issued to such person or to any corporation in which he or she shall have any beneficial interest for a period of one year after the action denying or revoking the regulatory permit.
- J. Abandonment. In addition to the suspension or revocation of a regulatory permit, a regulatory permit shall be deemed abandoned if cannabis operations cease for a period of more than ninety consecutive days. Before restarting operations, a new regulatory permit shall be secured. The ninety-day period shall be tolled during periods of force majeure, which shall be defined as follows: war; insurrection; strikes; lock outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the "public enemy"; epidemics; quarantine restrictions; freight embargoes; lack of transportation; unusually severe weather; inability to secure necessary labor; materials or tools; delays of any contractor, subcontractor or supplier; or any other causes beyond the reasonable control of the permittee.

#### **Sec. 12F-5. Limitations on city's liability.**

To the fullest extent permitted by law, the city shall not assume any liability whatsoever, with respect to approving any regulatory permit pursuant to this chapter or the operation of any cannabis business facility approved pursuant to this chapter. As a condition of approval of a regulatory permit as provided in this chapter, the applicant or its legal representative shall:

- A. Execute an agreement indemnifying the city from any claims, damages, etc., associated with the operation of the cannabis business facility.
- B. Maintain insurance in the amounts and of the types that are acceptable to the city manager or designee.
- C. Name the city as an additionally insured on all city required insurance policies.
- D. Agree to defend, at its sole expense, any action against the city, its agents, officers, and employees related to the approval of a regulatory permit; and
- E. Agree to reimburse the city for any court costs and attorney fees that the city may be required to pay as a result of any legal challenge related to the city's approval of a regulatory permit. The city may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

**Sec. 12F-6. Additional terms and conditions.**

Based on the information set forth in the application, the city manager or designee may impose reasonable terms and conditions on the proposed operations of the cannabis business facility in addition to those specified in this chapter.

**Sec. 12F-7. Hours.**

All cannabis business shall be allowed to operate per the requirements of the underlying zone district and subject to the city's noise and nuisance ordinances.

**Sec. 12F-8. Cannabis secured.**

All cannabis and cannabis products shall be kept in a secured manner during business and non-business hours.

**Sec. 12F-9. Consumable cannabis products.**

Cannabis operations that manufacture products in the form of food or other comestibles shall obtain and maintain the appropriate approvals from the state department of public health for the provision of food or other comestibles, unless otherwise governed by the Act and licensed by the state.

**Sec. 12F-10. Taxes to be paid.**

All cannabis business facilities must pay any applicable sales tax or other tax imposed pursuant to federal, state, and local law.

**Sec. 12F-11. Point of sale system.**

Cannabis business facilities shall have an electronic point of sale system that produces historical transactional data for review by the city manager or designee for auditing purposes.

**Sec. 12F-12. Odor control.**

Cannabis business facilities shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis business facility that is distinctive to its operation is not detected outside the cannabis business facility, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the cannabis business facility. As such, cannabis business facilities must install and maintain the following equipment or any other equipment which the city manager or designee determines has the same or better effectiveness:

- A. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or
- B. An air system that creates negative air pressure between the cannabis business facility's interior and exterior so that the odors generated inside the cannabis business facility are not detectable outside the cannabis business facility.

**Sec. 12F-13. Records.**

- A. All cannabis business facilities shall perform an inventory on the first business day of each month and shall record the total quantity of each form of cannabis on the premises. These records shall be maintained for two years from the date created and shall be made available to the city manager or designee upon request.

- B. Register of Employees. The operator shall maintain a current register of the names of persons required to have employee permits. The register shall be available to the city manager or designee at all times immediately upon request.

**Sec. 12F-14. Community relations.**

Each cannabis business facility shall provide the city manager or designee with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom the city can provide notice if there are operating problems associated with the cannabis business facility or refer members of the public who may have any concerns or complaints regarding the operation of the cannabis business facility. Each cannabis business facility shall also provide the above information to its business neighbors located within one hundred feet of the cannabis business facility as measured in a straight line without regard to intervening structures, between the front doors of each establishment.

**Sec. 12F-15. Compliance.**

All cannabis business facilities and their related collectives or cooperatives shall fully comply with all the provisions of the Compassionate Use Act of 1996, the Medical Marijuana Program Act, the 2008 Attorney General Guidelines, the Medical Marijuana Regulation and Safety Act (AB 243, AB 266, and SB 643), all applicable provisions of this Code, and any specific, additional operating procedures and measures as may be imposed as conditions of approval of the regulatory permit.

**Sec. 12F-16. Inspections and enforcement.**

- A. Recordings made by security cameras at any cannabis business facility shall be made immediately available to the police chief upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.
- B. Subject to provisions of the regulatory permit regarding the use and handling of confidential information below, the permittee shall provide IP access for remote monitoring of security cameras by the Colusa Police Department or department designee.
- C. The city manager or designee shall have the right to enter all cannabis business facilities from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter.
- D. Operation of the cannabis business facility in non-compliance with any conditions of approval or the provisions of this chapter shall constitute a violation of the Municipal Code and shall be enforced pursuant to the provisions of this Code.
- E. The city manager or designee may summarily suspend or revoke a medical cannabis regulatory permit if any of the following, singularly or in combination, occur:
  - 1. The city manager or designee determines that the cannabis business facility has failed to comply with this chapter or any condition of approval or a circumstance or situation has been created that would have permitted the city manager or designee to deny the permit under Section 5.68.090.
  - 2. Operations cease for more than ninety calendar days, including during change of ownership proceedings.
  - 3. Ownership is changed without securing a regulatory permit.
  - 4. The cannabis business facility fails to maintain two hundred forty continuous hours of security recordings; or



5. The cannabis business facility fails to allow inspection of the security recordings, the activity logs, or the premises by authorized city officials.

**Sec. 12F-17. Confidentiality statement.**

The city, police chief, police department employees, and any other law enforcement official acting under the direction of the police chief who access the premises and video and/or audio feeds or recordings of the premises ("recipients") may receive or be provided with confidential information relating to the cannabis operations, which may include the following: data, records, plans, and matters relating to customers, vendors, tenants, agreements, and business records (collectively "confidential information").

To the extent confidential information is acquired without a warrant from access to the premises and video and/or audio feeds or recordings as authorized under this section, the recipients shall, to the maximum extent possible, keep such confidential information confidential and not disclose the confidential information to any third parties. Provided, however, that the recipients may disclose confidential information to the state or federal courts in California in connection with any criminal law enforcement action against the business owner or operator, (including its employees, contractors and agents conducting business within the premises) arising from or related to the cannabis operations, but only to the extent it is necessary and relevant to such criminal prosecution, and the recipients shall file any such documents under seal to the extent they contain any confidential information.

Notwithstanding the foregoing, the city may disclose confidential information:

- A. As may be required by the California Public Records Act or pursuant to a civil subpoena, provided however, the city shall notify the operator and provide the operator with a reasonable opportunity to obtain a protective order before disclosing the confidential information.
- B. In connection with any city enforcement proceeding relating to compliance with City's Municipal Code and this section, but only to the extent the confidential information is relevant to the proceeding.

**Sec. 12F-18. Permits not transferable.**

Prohibition on Transfer of Cannabis Business Permits.

1. Cannabis business permits are not a property right, and permittees have no economic interest in any permit issued to them. No person may transfer ownership or control of a cannabis business or transfer any cannabis business permit issued under this Chapter without the express written consent of the City Manager after a finding, based on substantial evidence, that the sale or transfer is for financing or business restructuring purposes which will result in no substantial change of the management of the business from the then current management team.

2. Any attempt to transfer ownership of a cannabis business or of a cannabis business permit without the express written consent of the City Manager shall render the cannabis business permit void.

3. In any situation where a permit has been lost as a result of an attempted transfer of the cannabis business permit or of the cannabis business, or as a result of the abandonment or revocation of the permit, any new permit shall be issued using the standard process for the issuance of permits in the first instance. No preference shall be given to any person proposed as new owner or assignee by the former permit holder. In such case, prior to accepting any new applications, the City shall post the availability of the cannabis business permit at issue on the City's website. The City Manager or his/her designee may take other actions to help ensure the broadest pool of applicants for the new permit. Sec. 12F-19. Violations.

A. Any violation of any of the provisions of this chapter is unlawful and a public nuisance.

- B. Any violation of any of the provisions of this chapter shall constitute a misdemeanor violation and upon conviction thereof any violation shall be punishable by a fine not to exceed one thousand dollars, or by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment. Each day a violation is committed or permitted to continue shall constitute a separate offense.
- C. In lieu of issuing a misdemeanor citation, the city may issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars for each violation of this chapter pursuant to the procedures set forth in Title 3.
- D. A separate offense occurs for each day any violation of this chapter is continued and/or maintained.
- E. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the city may pursue any proceedings or remedies otherwise provided by law.

**Sec. 12F-20. Definitions.**

"Act" means the Medical Marijuana Regulation and Safety Act, now called the Medical Cannabis Regulation and Safety Act. Both names may be used interchangeably but shall have the same meaning.

"AUMA" means the Adult Use of Marijuana Act, approved by California voters in November 2016, with the express purpose to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products. Adults, age twenty-one and older, will be allowed to possess marijuana and grow certain amounts at home for personal use.

"Applicant" means a person who is required to file an application for a permit under this article.

"Business owner" means the owner(s) of the cannabis business operation. For corporations and limited liability companies, business owner means the president, vice president, and any shareholder owning a ten percent or greater share of the corporation or company. For partnerships, business owner means all general partners and managing partners.

"Cannabis" or "marijuana" shall have the meaning set forth in California Business and Professions Code section 19300.S(f). Cannabis and marijuana may be used interchangeably but shall have the same meaning.

"Cannabis business facility" or "cannabis operation(s)" means a cannabis business facility where cannabis is planted, grown, harvested, dried, cured, graded, trimmed, manufactured into cannabis products, tested, distributed, or transported.

"Cannabis business regulatory permit" or "regulatory permit" means the permit required under Article 21.5 and Chapter 12F of this Code to operate a cannabis business facility, or to undertake any subcomponent of a cannabis business which is done within the cannabis business facility by a subcontractor or tenant of the holder of a cannabis business regulatory permit and special use permit.

"Cannabis Cultivation Site" means the premise(s), leased area(s), property, location or facility where Cannabis is planted, grown, harvested, dried, cured, graded, or trimmed or that does all or any combination of those activities.

"Cannabis Distributor" means a Cannabis Operator permitted pursuant to this Chapter to operate a location or a facility where a Person conducts the business of procuring Cannabis from permitted Cannabis Cultivation Sites or Cannabis Manufacturers for sale to permitted Cannabis Dispensaries, and the inspection, quality assurance, batch testing by a Type 8 licensee, storage, labeling, packaging, and other processes prior to transport to permitted Medical Cannabis Dispensaries.

"Cannabis License" means a state license issued pursuant to MAUCRSA, as may be amended from time to time.

“Cannabis Licensee” means a Person issued a Cannabis License under MAUCRSA to engage in commercial Cannabis activity.

“Cannabis Manufacturer” means a Person that produces, prepares, 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 relabels its container, that holds a valid Cannabis License and that holds a valid City zoning clearance or use permit.

“Cannabis Microbusiness” means a location operating as a microbusiness as defined in the state regulations issued by the Bureau of Cannabis Control for cannabis microbusinesses but must include a dispensary component.

“Cannabis Nursery” means a location operating as a nursery solely for purposes of supplying immature plants to cannabis cultivation facilities.

“Cannabis Processor” means a location that dries, cures, grades, trims and packages cannabis products.

“Cannabis Product” means any product containing Cannabis, including but not limited to flowers, buds, oils, tinctures, concentrates, extractions, and edibles intended to be sold for use according to MAUCRSA. For the purposes of this chapter, Cannabis does not include industrial hemp, as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

“Cannabis Testing Laboratory” means a facility, entity, or site in the State that offers or performs tests of Cannabis or Cannabis Products and is both of the following:

- a. Accredited by an accrediting body that is independent from all other Persons involved in the Cannabis Testing Laboratory.
- b. Registered with the California Department of Public Health.

“Cannabis Operator” or “Operator” means the Person or entity that is engaged in the conduct of any commercial Cannabis use.

"City" means the City of Colusa.

“Commercial Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis that is intended to be transported, processed, distributed, dispensed, delivered, or sold in accordance with MAUCRSA for use by Medical Cannabis patients in California pursuant to the Compassionate Use Act of 1996 (“Proposition 215”), found at Section 11362.5 of the Health and Safety Code or for adult use. Commercial Cannabis Cultivation is allowed only within a fully enclosed, permanent and secure structure, and outdoor commercial cannabis cultivation is prohibited in the City. Any cannabis cultivation which does not strictly comply with the provisions for Personal Cannabis Cultivation set forth in Article 18-9 of this Chapter shall be considered Commercial Cannabis Cultivation.

“Delivery” means the commercial transfer of cannabis or cannabis products from a licensed or permitted dispensary to a customer. “Delivery” also includes the use by a licensed or permitted dispensary of any technology platform owned or accessed via software license that enables the consumer to arrange for or facilitate the commercial transfer of cannabis by a licensed dispensary or retailer of cannabis or cannabis products.

"Dispensary" means a cannabis business facility 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 (whether fixed or mobile) that delivers, pursuant to express authorization, cannabis and cannabis products as part of a retail sale.

"Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a dispensary.

"Operator" means the business owner and any other person designated by the business owner as responsible for the day-to-day cannabis operations.

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

"Police chief" means the police chief of the City of Colusa or his or her designee.

"Premises" or "site" means the actual building(s), and/or designated units/suites, as well as any accessory structures, parking areas, or other immediate surroundings, and includes the entire parcel of property used by the business owner in connection with the cannabis operations.

"Premises owner" means the fee owner(s) of the premises where cannabis operations are occurring.

"Responsible party" shall mean the business owner, operator, manager(s), and any employee having significant control over the cannabis operations.

"Transporter" means a person authorized to transport cannabis or cannabis products in amounts authorized by the State of California, or by one of its departments or divisions under the MAUSCRA.

"Youth-Oriented Facility" shall mean a public or private school (K-12), licensed daycare facilities, public parks, or a "youth center" as defined by state law as 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 3. ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to Section 15061 (b) (3) (general rule) of the CEQA Guidelines, in that the City Council hereby finds that it can be seen with certainty that there is no possibility that the passage of this ordinance amending the Municipal Code will have a significant effect on the environment.

#### **SECTION 4. SEVERABILITY.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

#### **SECTION 5. EXECUTION.**

The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

PASSED AND ADOPTED THIS 21ST DAY OF NOVEMBER 2023 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

ABSTAIN:

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GREG PONCIANO, MAYOR

**ATTEST:**

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Shelly Kittle, City Clerk