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Zoning Code

Article 21.5. - Cannabis Business Use Regulations.

Sec. 21.5.01. - Allowable zones; regulations generally.

- (a) Cannabis business facilities are permitted, only upon the approval of a cannabis business special use permit issued by the city council, in the following zones:

Article 12. M-1 Light Industrial District

Article 13. M-2 General Industrial District

Article 14. M-L Limited Manufacturing District

- (b) Cannabis storefront dispensaries and microbusinesses are permitted, only upon the approval of a cannabis dispensary special use permit issued by the city council, in the following zones:

Article 12. M-1 Light Industrial District (excluding the “Riverfront District” as identified within the *2007 City of Colusa General Plan*)

- (c) Upon application for a cannabis business special use permit, to be approved directly by the city council without need for a recommendation from the planning commission, the following regulations shall apply as to building type and construction, safety and security, required permits, and other relevant provisions necessary to protect the public health, safety and welfare. In any district where a cannabis business facility is permitted, the regulations of this article shall apply in addition to those hereinbefore specified for such district, provided that if a conflict in regulations occurs the regulations of this article shall govern.

Sec. 21.5.02. - Purpose and intent.

Cannabis business facilities shall be permitted, in accordance with the criteria and procedures set forth in this Code, upon application and approval of a cannabis business special use permit and a regulatory permit, pertaining to the location and operation of the facility. The regulations set forth in Chapter 12D and Chapter 12E shall not be applicable to any cannabis business facility subject to a valid cannabis business special use permit and a cannabis business regulatory permit, and the regulations set forth in this Article 21.5 and Chapter 12F of the Municipal Code shall control the location and operation of a cannabis business facility.

Sec. 21.5.03. - Cannabis business special use permit.

Prior to, or concurrently with, application for a regulatory permit, the applicant shall process and be issued a cannabis business special use permit as required by this article and Article 33, Section 33.03 of this Code. Information that may be duplicative in the two applications can be incorporated by reference. The cannabis business special use permit shall run with the regulatory permit and not the land.

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Sec. 21.5.04. - Cannabis business facilities.

Cannabis business facilities permitted under this chapter include facilities where cannabis is manufactured into cannabis products, tested, and distributed, and may also include the associated activities of planting, growing, harvesting, trimming and grading, and transporting, that holds a valid cannabis business special use permit pursuant to this article, and a regulatory permit as required by this Code, 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 statutes and regulations promulgated to implement the AMUA, and any other state laws pertaining to cultivating cannabis.

Sec. 21.5.05. - Definitions

"Applicant" means an owner that is applying for a City- and State-issued license.

"Business owner" means the owner(s) of the cannabis business operation. An owner of the commercial cannabis business includes all of the following:

(1) A person with an aggregate ownership interest of 20 percent or more in the commercial cannabis business, unless the interest is solely a security, lien, or encumbrance. For purposes of this section, "aggregate" means the total ownership interest held by a single person through any combination of individually held ownership interests in a commercial cannabis business and ownership interests in an entity that has an ownership interest in the same commercial cannabis business. For example, a person who owns 10 percent of the stock in a commercial cannabis business as an individual shareholder and 100 percent of the stock in an entity that owns 10 percent of the stock in the same commercial cannabis business has a 20 percent aggregate ownership interest in the commercial cannabis business.

(2) An individual who manages, directs, or controls the operations of the commercial cannabis business, including but not limited to:

- (A) A member of the board of directors of a nonprofit.
- (B) A general partner of a commercial cannabis business that is organized as a partnership.
- (C) A non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company.
- (D) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.
- (E) The chief executive officer, president or their equivalent, or an officer, director, vice president, general manager or their equivalent.

"Cannabis" or "marijuana" 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

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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. Cannabis and marijuana may be used interchangeably but shall have the same meaning.

"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.

"Cannabis dispensary special use permit" means a use permit issued by the City of Colusa pursuant to this Section to a cannabis dispensary and is required before any cannabis dispensary activity may be conducted in the City.

"Cannabis business facility" or "cannabis operation(s)" means a cannabis business facility permitted under this chapter where cannabis activity occurs and cannabis is manufactured into cannabis products, tested, and distributed, and may also include the associated activities of planting, growing, harvesting, trimming and grading, and transporting, as further defined in Sec. 21.5.04 above, but does not include storefront dispensaries, delivery only dispensaries, or cannabis microbusinesses.

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

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

"City" means the City of Colusa.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"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.

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“Delivery Only Cannabis Dispensary” means a Dispensary that does not have a storefront sales facility open to the public for retail sales.

"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.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. The term “manufacture” includes the following processes:

- (A) Extraction;
- (B) Infusion;
- (C) Packaging or repackaging of cannabis products;
- (D) Labeling or relabeling the packages of cannabis products;
- (E) Post-processing refinement of cannabis extract (“post-processing”); and
- (F) Remediation of failed harvest batches or cannabis product batches, other than relabeling to correct cannabinoid content

The term “manufacture” does not include the processes and activities listed in California Code of Regulations, Title 17; Division 1; Chapter 13. Manufactured Cannabis Safety; SUBCHAPTER 1. General Provisions and Definitions; Article 1. Definitions; §40100. Definitions, subpart (dd) (2).

“Manufacturing” or “manufacturing operation” means all aspects of the extraction process, infusion process, post processing, remediation, and packaging and labeling processes, including processing, preparing, holding, and storing of cannabis products. Manufacturing also includes any processing, preparing, holding, or storing of components and ingredients

"MAUCRSA" means the provisions of the Medicinal and Adult Use of Cannabis Regulation and Safety Act as set forth in Sections 5 and 7 of Article XI of the California Constitution and the Cal Bus & Prof Code Section 26000 et seq.

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

"Non-commercial and recreational marijuana activity" means all uses not included within the definitions of cannabis business and cannabis dispensary, including the personal use, cultivation, or consumption of marijuana, whether medical or recreational.

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"Nursery" means all activities associated with producing clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.

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

"Ordinance" means the ordinance adopting this article, and including the terms of this Article, which may be commonly referred to as the city's "Cannabis Business Ordinance".

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

"Premises" or "site" means the designated structure(s) and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

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

"Process," "Processing," and "Processes" mean all activities associated with the drying, curing, grading, trimming, rolling, storing, packaging, and labeling of cannabis or nonmanufactured cannabis products.

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

Sec. 21.5.06. - Minimum operational requirements and restrictions.

The following operational requirements and restrictions shall apply to all cannabis businesses and cannabis dispensaries, also referred to herein as cannabis operations:

- (a) The Act and Other State Laws. The cannabis operations shall at all times be in compliance with the MAUCRSA and the implementing regulations, as they may be amended from time to time, as well as all required state license(s) under the MAUCRSA, and any other applicable state law.
- (b) Marijuana and Cannabis Products Consumption. No marijuana or cannabis products shall be smoked, ingested or otherwise consumed on the premises. adequate signage of this prohibition shall be displayed throughout the facility.
- (c) Alcoholic Beverages. No cannabis operation shall hold or maintain a retail license from the state department of alcohol beverage control to sell alcoholic beverages or operate a business that sells alcoholic beverages. In addition, alcohol for personal consumption shall not be provided, stored, kept, located, sold, dispensed, or used on the premises.
- (d) Transportation. Transportation shall only be conducted according to activity permitted by state law.
- (e) Non-Cannabis Business Activity. No non-commercial or recreational marijuana activity shall occur on the premises.

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- (f) Retail Sales. "Storefront retail sales and non-storefront delivery only retail sales of any cannabis product are expressly prohibited without a valid City issued Cannabis Dispensary Regulatory Permit and Cannabis Dispensary Special Use Permit.
- (g) Minors. It shall be unlawful for any operator to employ any person who is not at least eighteen (18) years of age, or any older age if set by the state.
- (h) Distance Separation from Schools. Cannabis operations shall comply with the distance separation requirements from schools as required by state law. In addition, a cannabis business operation shall not be located within 1200 feet from any existing school or proposed school site as identified in the general plan. Measurements shall be from the property boundary to property boundary. For purposes of this article, school means any public or private school providing instruction in kindergarten or grades 1-12, inclusive, but does not include any private school in which education is primarily conducted in private homes.
- (i) Building and Related Codes. The cannabis operation shall be subject to the following requirements:
 - 1. The premises in which the cannabis operations occur shall comply with all applicable local, state and federal laws, rules, and regulations including, but not limited to, building codes and the Americans with Disabilities Act, as certified by the building official of the city. The operator shall obtain all required building permits and comply with all applicable city standards.
 - 2. The responsible party shall ensure that the premises have sufficient electrical load for the cannabis operations.
 - 3. Butane and other flammable materials are permitted to be used for extraction and processing provided the operator complies with all applicable fire and building codes, and any other laws and regulations relating to the use of those products, to ensure the safety of that operation. The Colusa Fire Department shall inspect and approve the premises for use of the products prior to city's issuance of a certificate of occupancy, or otherwise prior to opening for business, to ensure compliance with this requirement.
 - 4. The operator shall comply with all laws and regulations pertaining to use of commercial kitchen facilities for the cannabis operations.
 - 5. The operator shall comply with all environmental laws and regulations pertaining to the cannabis operations, including the use and disposal of water and pesticides, and shall otherwise use best practices in the handling and application of pesticides to avoid environmental harm.
- (j) Odor Control. Cannabis operations shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the facility that is distinctive to its operation is not detected outside the premises, outside the building housing the cannabis operations, or anywhere on adjacent property or public rights-of-way. As such, cannabis operations must install and maintain the following equipment or any other equipment which the city's building official determines has the same or better effectiveness:
 - 1. An exhaust air filtration system with odor control that prevents internal odors and pollen from being emitted externally; or

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2. An air system that creates negative air pressure between the cannabis facility's interior and exterior so that the odors generated inside the cannabis facility are not detectable outside the cannabis facility.
- (k) Consumable 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.
- (l) Secure Building. All cannabis operations shall occur entirely inside of a building that shall be secure, locked, and fully enclosed, with a ceiling, roof or top. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures, and include material strong enough to prevent entry except through an open door. The precise building construction and material to be used shall be identified and provided to the city prior to construction and provided with the application.
- (m) Premises Security. The following security conditions shall apply:
1. Alarm system (both perimeter, fire and panic).
 2. Remote monitoring of alarm systems.
 3. Perimeter lighting systems (motion sensor) for after-hours security.
 4. Perimeter security and lighting as approved by the police chief and community development director.
 5. Use of drive gates with card key access or similar to access the facility.
 6. Entrance areas to be locked at all times, and under control of a designated responsible party.
 7. Use of access control systems to limit access to grow and processing areas.
 8. Exterior and interior camera systems approved by the police chief. The camera systems shall meet the minimum requirements of the Act, include interior monitoring of all access points of the site from the interior, and be of a minimum 5 mega pixels in resolution.
 9. All security systems at the site must be attached to an uninterruptible power supply that provides 24 hours of continuous power.
 10. Security patrols by a recognized security company licensed by the California Department of Consumer Affairs or otherwise acceptable to the police chief, in a time, place and manner to the satisfaction of the police chief. All current contact information regarding the security company shall be provided to the police chief.
 11. Accounting software systems need to be in place to provide audit trails of both product and cash, where applicable.
 12. Electronic track and trace systems for cannabis products as approved by the police chief.
 13. Premises may be inspected, and records of the business owner audited by the city for compliance on a quarterly basis.
 14. State of the art network security protocols and equipment need to be in place to protect computer information.

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15. The foregoing requirements shall be approved by the police chief prior to commencing operations. The police chief may supplement these security requirements once operations begin, subject to review by the city council if requested by the business owner.

- (n) The business owner, operator, and all responsible parties shall continually maintain the premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety, and general welfare of employees, patrons, surrounding properties, and the general public. The premises of the cannabis business shall not be maintained in a manner that causes a public or private nuisance.
- (o) Cannabis business operations permitted by this article shall only be allowed in the specific areas designated on the diagram and floor plan of the premises submitted with the application for the regulatory permit under Chapter 12D or Chapter 12F. The cannabis business shall not operate at any place other than the address of the cannabis operation stated in the regulatory permit.

Sec. 21.5.07. - Deliveries of supplies and transportation of cannabis products to cannabis businesses and dispensaries.

The following rules apply to deliveries and transportation:

- (a) Receiving of transported supplies to the premises of a cannabis business or dispensary shall only occur at the location shown on the diagram and floor plan on file with the city as part of the regulatory permit application. Delivery vehicles shall not have any markings indicating that deliveries are being made to a cannabis operation.
- (b) The transportation of cannabis samples and product to and from a cannabis business or dispensary shall be in unmarked vehicles with no indication that the vehicles are transporting cannabis samples and products. The responsible party shall stagger transportation times, vary routes from the facility, and take other security measures as requested by the police chief.

Sec. 21.5.08. - Additional operational requirements and restrictions for cannabis businesses.

- (a) Signage. There shall be no signage or markings on the premises, or off-site, which in any way evidences that cannabis operations are occurring on the property. Interior building signage is permissible provided the signage is not visible outside of the building.
- (b) Public Access. There shall be no general unescorted public access to the premises of a cannabis business.
- (c) Hours of Operation. 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.

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Sec. 21.5.09. - Additional operational requirements and restrictions for cannabis dispensaries and microbusiness.

- (a) 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 use permit if any. If no specific hours of operation are stated in the delivery only use permit or regulatory permit, the delivery only dispensary shall be allowed to operate per the requirements of the underlying zone district and subject to the city's noise and nuisance ordinances.
- (b) Signage shall be considered and approved with the cannabis business special use permit.
- (c) No person or entity shall operate a cannabis dispensary within the City of Colusa without first obtaining a cannabis dispensary regulatory permit from the city as set forth in Chapter 12D of the Municipal Code. The regulatory permit shall be site specific and shall specifically identify the cannabis dispensary activities that will be allowed at that site. No cannabis dispensary activities will be allowed unless specifically identified in the regulatory permit.
- (d) Cannabis dispensaries shall comply with all requirements and shall be subject to all of the regulations set forth in subsections 21.5.11 through 21.5.15 below.

Sec. 21.5.10. - Cannabis business regulatory permit.

No person or entity shall operate a cannabis business facility within the City of Colusa without first obtaining a cannabis business regulatory permit from the city as set forth in Chapter 12F of the Municipal Code. The regulatory permit shall be site specific and shall specifically identify the cannabis business activities that will be allowed at that site. No cannabis business activities will be allowed unless specifically identified in the regulatory permit. In addition, all persons or entities who undertake any subcomponent of the cannabis business operations or processes performed as a subcontractor or tenant of the holder of a cannabis business special use permit within the cannabis business facility shall first obtain a cannabis business regulatory permit from the city.

Sec. 21.5.11. - Fees and taxes.

All cannabis operations shall pay applicable fees and taxes, which may include one or more of the following:

- (a) City Business License Fee. The business owner shall at all times maintain a current and valid business certificate and pay all business taxes pertaining to business licensing.
- (b) Regulatory License Fee. The business owner shall pay an annual regulatory license fee ("regulatory fee") to cover the costs of anticipated enforcement relating to the cannabis operation. The amount of the fee shall be set by resolution of the city council and be supported by the estimated additional costs of enforcement and monitoring

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associated with the cannabis operation. The regulatory fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The regulatory fee may be amended from time to time based upon actual costs.

Sec. 21.5.12. - Record keeping.

- (a) The responsible party shall make and maintain complete, accurate and legible records of the permitted cannabis operations evidencing compliance with the requirements of this article. Accounting and transaction records shall be maintained for a minimum of five years. Security surveillance system records shall be kept for a minimum of one year.
- (b) On or before the 10th day of each month, the responsible party shall submit a production and sales report to the City Manager or designee disclosing all products manufactured, acquired, sold, and/or distributed by the permitted cannabis operations listed by type of product for the prior month of operations.

Sec. 21.5.13. - Inspection.

Cannabis business operations shall be open for inspection by any city law enforcement officer or city code enforcement officer at any time the cannabis business is operating, at any other time upon responding to a call for service related to the property where the cannabis operation is occurring, or otherwise upon reasonable notice. Recordings made by security cameras at any cannabis business 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.

Sec. 21.5.14. - Insurance.

- (a) The business owner shall at all times carry a comprehensive general liability policy in the minimum amount of one million dollars (\$1,000,000) combined single limit policy, as shall protect the business owner and city from claims for such damages, and which policy shall be issued by an "A" rated insurance carrier. Such policy or policies shall be written on an occurrence form. The city manager, in consultation with city's risk manager, may allow the business owner to obtain lesser amounts of insurance where multiple business owners are operating on the premises, provided at all times the minimum insurance set forth herein is applicable to the cannabis operations.
- (b) The business owner shall furnish a notarized certificate of insurance countersigned by an authorized agent of the insurance carrier on a form approved by the city setting forth the general provisions of the insurance coverage. This countersigned certificate shall name the city and its respective officers, agents, employees, and volunteers, as additionally insured parties under the policy, and the certificate shall be accompanied by a duly executed endorsement evidencing such additional insured status. The certificate and endorsement by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify the city of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination.
- (c) Coverage provided hereunder by the business owner shall be primary insurance and not be contributing with any insurance maintained by the city, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the city.

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Sec. 21.5.15. - Violations; enforcement.

- (a) Any person that violates any provision of this article shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.
- (b) Any use or condition caused or permitted to exist in violation of any of the provisions of this article shall be and is hereby declared a public nuisance and may be summarily abated by the city pursuant to the City of Colusa Municipal Code.
- (c) Any person who violates, causes, or permits another person to violate any provision of this article commits a misdemeanor.
- (d) The violation of any provision of this article shall be, and is hereby declared to be, contrary to the public interest and shall, at the discretion of the city, create a cause of action for injunctive relief.
- (e) In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this article may be subject to an administrative fine of up to one thousand dollars (\$1,000) for each violation and for each day the violation continues to persist.

Sec. 21.5.16. - Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this article or of the regulatory permit issued to implement this article, or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this article.