

CHAPTER 12F. CANNABIS FACILITIES REGULATORY PERMIT.

Sec. 12F-1. Purpose and intent.

Cannabis ~~manufacturing~~ facilities 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 manufacturing 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 manufacturing special use permit, which has been validly issued by the city per the Code.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

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

Cannabis ~~manufacturing~~ **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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-3. Regulatory permit required.

- A. Prior to initiating operations and as a continuing requisite to operating a cannabis ~~manufacturing~~ facility, the legal representative of the persons wishing to operate a cannabis manufacturing 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 ~~manufacturing~~ 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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-4. Cannabis manufacturing 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 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 manufacturing operations and activities proposed to occur on the premises.
 12. A diagram and floor plan of the entire premises, denoting all the use of areas proposed for cannabis operations, including, but necessarily limited to, cultivation, processing, manufacturing, testing, transportation, deliveries, and storage. The diagram and floor plan need not be prepared, 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 insuring the safety of persons and to protect the premises from theft.

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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.

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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 manufacturing 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 manufacturing 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 manufacturing 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.

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- 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.
- (Ord. No. 519, § 8(Exh. B), 7-18-2017)

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 manufacturing 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 manufacturing 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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

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 manufacturing facility in addition to those specified in this chapter.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-7. Hours.

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

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-8. Cannabis secured.

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

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

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

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

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

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

Cannabis ~~manufacturing~~ 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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-12. Odor control. (551_21.10_updates and addition of point 3 and 3b)

Cannabis ~~manufacturing~~ facilities shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the cannabis manufacturing facility that is distinctive to its operation is not detected outside the cannabis manufacturing 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 manufacturing facility. As such, cannabis manufacturing 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

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- B. An air system that creates negative air pressure between the cannabis manufacturing facility's interior and exterior so that the odors generated inside the cannabis manufacturing facility are not detectable outside the cannabis manufacturing facility.

C. A City issued Certificate of Occupancy approving installed odor absorbing ventilation, proper exhaust air filtration system, and any other odor control equipment, is required before Cannabis operations commence.

(1) Any Cannabis business that was existing, open and operating within the City as of December 1, 2017, will file an application with the City for a Certificate of Occupancy within 90 days after the adoption of this article. The Certificate of Occupancy constitutes a revocable privilege, which shall be subject to revocation/suspension of any issued Cannabis Use Permits.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-13. Records.

- A. All cannabis manufacturing 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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-14. Community relations.

Each cannabis manufacturing 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 manufacturing facility or refer members of the public who may have any concerns or complaints regarding the operation of the cannabis manufacturing facility. Each cannabis manufacturing facility shall also provide the above information to its business neighbors located within one hundred feet of the cannabis manufacturing facility as measured in a straight line without regard to intervening structures, between the front doors of each establishment.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-15. Compliance.

All cannabis manufacturing 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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-16. Inspections and enforcement.

- A. Recordings made by security cameras at any cannabis manufacturing 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 manufacturing 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 manufacturing 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 manufacturing 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 manufacturing facility fails to maintain two hundred forty continuous hours of security recordings; or
 - 5. The cannabis manufacturing facility fails to allow inspection of the security recordings, the activity logs, or the premises by authorized city officials.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-18. Permits not transferable.

Regulatory permits issued pursuant to this chapter are not transferable.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

Sec. 12F-19. Violations.

- A. Any violation of any of the provisions of this chapter **or article 21** 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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)

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 manufacturing 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.

"City" means the City of Colusa.

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

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

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

"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.

(Ord. No. 519, § 8(Exh. B), 7-18-2017)