

Chapter 9.30 Cannabis Businesses with EDITS

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9.30.010 PURPOSE AND INTENT

It is the purpose and intent of this chapter to regulate cannabis businesses in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City. **It sets forth the regulations for a cannabis business permit, herein after referred to as “the Permit”**

9.30.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. **In the event that there is no definition in the municipal code, the City may use the definition from the State of California Code of Regulations Title 3. Food and Agriculture Division 8. Cannabis Cultivation Chapter 1.**

**Cannabis Cultivation Program or BUSINESS AND PROFESSIONS CODE – BPC
DIVISION 10. Cannabis [26000 - 26250]:**

APPLICANT. A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a cannabis business.

CANNABIS. All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means cannabis as defined by § 11018 of the Health and Safety Code and by other state law. “Cannabis” does not mean “industrial hemp” as defined by § 11018.5 of the Health and Safety Code.

CANNABIS BUSINESS. An entity engaged in the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products for commercial purposes.

CANNABIS MANUFACTURING: The production, preparation, propagation, or compounding of 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.

CANNABIS OPERATOR or OPERATOR. The person or entity that is engaged in the conduct of any commercial cannabis business.

CANNABIS PRODUCT. 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.

CANNABIS RETAIL. A cannabis business where cannabis or cannabis products are offered, either individually or in any combination, for retail sale directly to customers. The primary use of a cannabis retail business is to sell products directly to on-site customers. Sales may also be conducted by delivery. Also known as a cannabis “dispensary.”

CANNABIS RETAIL – DELIVERY ONLY. A cannabis business that is closed to the public and conducts sales exclusively by delivery.

CHIEF OF POLICE. The Chief of Police of the City of Fort Bragg or the authorized representatives thereof.

COMMERCIAL CANNABIS ACTIVITY. The cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products as provided for in this chapter.

COMMERCIAL CANNABIS CULTIVATION. The planting, growing, harvesting, **drying, curing, grading, or trimming** of cannabis plants that are intended to be transported, processed, distributed, dispensed, delivered or sold.—~~Commercial cannabis cultivation is permitted as an accessory use to a permitted cannabis business.~~

RETAIL CANNABIS – DELIVERY ONLY. The commercial transfer of cannabis or cannabis products to a consumer. “Delivery” also includes the use of any technology platform owned and controlled by a cannabis business operator that enables customers to arrange for or facilitate the commercial transfer by a permitted cannabis retail facility.

EDIBLE CANNABIS PRODUCT. A cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with § 32501) of the Food and Agricultural Code.

FULLY ENCLOSED AND SECURE STRUCTURE. A space within a building that complies with the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily broken through, Plastic sheeting, regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with all applicable Building, Electrical, and Fire Codes.

PERMITTEE. A person who holds an effective and current permit under this chapter.

9.30.030 LIMITATIONS ON USE.

A. Compliance with City Code. Cannabis businesses shall only be allowed in compliance with this chapter and all applicable regulations set forth in the City Code, including but not limited to all regulations governing building, grading, plumbing, septic, electrical, fire, hazardous materials, nuisance, and public health and safety.

B. Compliance with State Laws and Regulations. Cannabis businesses shall comply with all applicable state laws and regulations, as may be amended, including all permit, approval, inspection, reporting and operational requirements, imposed by the state and its regulatory agencies having jurisdiction over cannabis and/or cannabis businesses. All cannabis businesses shall comply with the rules and regulations for cannabis as may be adopted and as amended by any state agency or department including, but not limited to, the Bureau of Cannabis Control, the Department of Food and Agriculture, the Department of Public Health, the Department of Pesticide Regulation, and the Board of Equalization.

C. Cannabis businesses shall provide copies of state, regional and local agency permits, approvals or certificates upon request by the City to serve as verification for such compliance.

D. Cannabis business permits are only valid for one year from date of issue and must be renewed.

E. Cannabis business permits are valid only for the cannabis business activities specified on the approved permit.

9.30.040 CANNABIS BUSINESSES PERMIT.

A. 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 commercial cultivation, processing, manufacture, distribution or retail sale of cannabis unless the person first obtains and continues to maintain in full force and effect a cannabis business permit from the City and a license from the State of California as herein required.

B. Cannabis businesses shall be located in compliance with the requirements of the Inland Land Use and Development Code (ILUDC) and/or the Coastal Land Use and Development Code (CLUDC), as applicable.

C. Cannabis businesses that are subject to the standards in this chapter shall not be established or maintained except as authorized by the land use permit required by Article 2 of the Inland Land Use and Development Code and/or the Coastal Land Use and Development Code, as applicable. "Cannabis retail" and "cannabis retail – delivery only," "Commercial Cannabis Cultivation," are defined land uses specifically referenced in Article 2 and Article 4 of the Inland Land Use and Development Code (ILUDC). The Director shall classify other cannabis businesses, including, but not limited to, those that involve manufacturing, distribution, processing, storing, laboratory testing, packaging, labeling, and/or transportation for commercial purposes as existing land uses already established by Articles 2 and 10 of the ILUDC, based on the characteristics of the proposed use. For example, a cannabis business proposing to engage in activities requiring a cannabis distribution license from the state may be classified as "wholesaling and distribution," and allowable based on the permit and district requirements for the "wholesaling and distribution" use in Article 2 of the ILUDC.

D. Dual Licensing. State law requires dual licensing at the state and local level for cannabis businesses. All cannabis operators shall therefore be required to obtain a cannabis license from the State of California, and shall comply at all times with all applicable state licensing requirements and conditions. Cannabis businesses shall not be allowed to commence operations until the cannabis business can demonstrate that all necessary state licenses and agency permits have been obtained.

E. Failure to demonstrate dual licensing in accordance with this chapter shall be grounds for revocation of City approval. Revocation of a local permit and/or a state

license shall terminate the ability of the cannabis business to operate until a new permit and/or state license is obtained.

9.30.050 APPLICATIONS.

Any application for a cannabis business permit shall be filed with the **Community Development Department and may be filed concurrently with a conditional use permit or a Business License Application**. The application shall be made under penalty of perjury. Any application for a cannabis business permit shall include the following information:

- A. The full name, present address, and telephone number of the applicant;
- B. The address to which notice of action on the application and all other notices are to be mailed;
- C. Previous addresses for the past 5 years immediately prior to the present address of the applicant;
- D. Written proof that the applicant is over 21 years of age;
- E. Photographs for identification purposes (photographs shall be taken by the Police Department);
- F. A copy of all the Applicant's valid state cannabis license(s) or copy of the complete pending cannabis application(s) related to the permit.
- F. The cannabis business history of the applicant, including whether the applicant, in previously operating in any city, county, or state under permit, has had a permit revoked or suspended and, if so, the reason therefor;
- G. The name or names of the person or persons having the management or supervision of applicant's business;
- H. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of the offense(s), and the sentence(s) received therefor;
- I. A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;
- J. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the cannabis business and the purpose and security of each room or area of operation;
- K. A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions;

L. A notarized statement by the property owner certifying under penalty of perjury that he or she has given consent to the applicant to operate a cannabis business at the location, or providing proof that the applicant owns the property;

M. Detailed operating procedures, which shall include the following:

1. Proposed hours of operation;
2. How the business will comply with applicable state regulations;
3. Product safety and quality assurances;
4. Record keeping procedures;
5. Product recall procedures;
6. A solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis business;
7. Product supply chain information (cultivation, testing, transportation, manufacturing, packaging and labeling, etc.);
8. An odor prevention plan, illustrating how the cannabis business will be consistent with § 17.30.080(J) and/or § 18.30.080(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; and
9. Other information as required by the Chief of Police as necessary to ensure the project's compliance with local, state and federal regulations;

N. Authorization for the City, its agents and employees to seek verification of the information contained within the application; and

O. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

9.30.060 TIME LIMIT FOR FILING APPLICATION FOR PERMIT.

If the applicant has completed the application improperly, or if the application is incomplete, the **Community Development Director** ~~Chief of Police~~ shall, within ~~10~~**30** days of receipt for the original application, notify the applicant of the fact and, on request of the applicant, grant the applicant an extension of time of ~~10~~**30** days or more to submit a complete application.

9.30.070 TERM OF PERMITS AND RENEWALS.

Cannabis business permits issued under this chapter shall expire 1 year following their issuance. Cannabis business permits may be renewed by the ~~Chief of Police~~ **Community Development Director** for additional 1-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § 9.30.190.

Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in § 9.30.080.

When made less than 45 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for permits. The Chief of Police may **recommend to** deny an application for renewal based on any of the grounds referenced in §§ 9.30.100 and 9.30.190. An applicant aggrieved by the ~~Chief of Police's~~ **Community Development Director's** ~~Chief of Police's~~ decision to deny a renewal of a cannabis business permit may appeal pursuant to § 9.30.110.

9.30.080 FEES.

Every application for a cannabis business permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

A. The fee schedule is intended to allow recovery of all costs incurred by the City in processing permit applications to the maximum extent allowed by the law.

B. Timing of payment. No application shall be deemed complete, and processing shall not commence on any application until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for denial or revocation of any permit.

C. Refunds and withdrawals. Application fees cover City costs for public hearings, mailings, staff time, and the other activities involved in processing applications. Therefore, no refund due to a disapproval shall be allowed. In the case of a withdrawal, the Director shall have the discretion to authorize a partial refund based upon the prorated costs to date and the status of the application at the time of withdrawal.

9.30.090 ~~INVESTIGATION~~ **PUBLIC SAFETY REVIEW** AND ACTION ON APPLICATION.

After the application is deemed complete and the fees or deposits have been collected, the Community Development Director will send the completed application to the Chief of Police for Public Safety review. The Chief of Police or his designee shall conduct a background check of the applicant and conduct a public safety review of the

application. After the background checks and public safety review are complete, the Chief of Police or his designee shall formally recommend either approval or denial of the application.

If an application is recommended for denial by the Chief of Police or his designee, the Community Development Director cannot approve the application. The applicant will be notified by a letter sent by certified mail and will have 30 days to modify the existing application. If the application is not modified within 6 months, the applicant may request more time or it will be denied by the Community Development Director.

The Chief of Police or his designee may recommend conditional approval of an application with specific requirements that the applicant shall meet. The Community Development Director will require the fulfillment of the conditions prior to final issuance of the permit.

9.30.100 GROUNDS FOR REJECTION DENIAL OF APPLICATION.

The grounds for a ~~rejection~~ denial of a cannabis business permit application shall be one or more of the following:

- A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;
- B. The applicant has violated any local or state law, statute, rule, or regulation respecting a cannabis business;
- C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;
- D. The applicant, his or her agent, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, with the exception of cannabis related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a guilty plea or verdict or a conviction following a plea of nolo contendere;
- E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;
- F. The applicant is under 21 years of age;
- G. The cannabis business does not comply with Title 17 (Coastal Land Use Development Code) or Title 18 Inland Land Use and Development Code;
- H. The required application or renewal fees have not been paid.
- I. The applicants plan fails to comply with the 9.30.130.

9.30.110 APPEAL FROM CHIEF OF POLICE COMMUNITY DEVELOPMENT DEPARTMENT DECISION TO REJECT-DENY APPLICATION.

The ~~Chief of Police~~ **Community Development Director** shall cause a written notice of decision to ~~deny~~ **reject** a cannabis business permit application to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested, to the address provided by the applicant for sending of notices. An applicant aggrieved by the decision to ~~reject~~ **deny** an application may appeal the decision in accordance with the procedures described in Chapter 1.08. If an appeal is not taken within such time, the **Community Development Director's** ~~Chief of Police's~~ decision shall be final.

An appeal may be filed within 15 days of the decision and is subject to the procedures outlined in Chapter 1.08 Appeal of Administrative Decision.

9.30.120 PROCESSING OF CANNABIS BUSINESS PERMIT.

If an application is recommended for approval by the Chief of Police, it shall be reviewed by the Community Development Department. The review process will include identification of other required permits or licenses necessary prior to operation.

9.30.130 OPERATING REQUIREMENTS.

A cannabis business shall meet the following operating requirements for the duration of the use:

A. The design, location, size and operating characteristics of the cannabis business shall comply with the findings and conditions of any applicable discretionary permit obtained for its operation.

B. A cannabis business use shall maintain a current register of the names of all current owners and all current employees who will be on the premise.

C. Individuals not listed as employees, owners, or managers of the business, are not be permitted in non-public areas of the business.

D. The building entrance to a cannabis business shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

E. No cannabis business shall hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cannabis business use.

F. A cannabis business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry.

G. A cannabis business shall provide the Chief of Police and Fire Chief with the name, phone number, and facsimile number of an on-site community relations staff person to whom one can provide notice if there is an emergency or there are operating problems associated with the cannabis business. The cannabis business management shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police or Community Development Department.

9.30.140 MINORS.

A. It shall be unlawful for any permittee, operator, or other person in charge of any cannabis business to employ any person who is not at least 21 years of age.

B. Persons under the age of 21 shall not be allowed on the premises of a cannabis business unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

9.30.150 DISPLAY OF PERMIT.

Every cannabis business shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for cannabis businesses in a conspicuous place so that the same may be readily seen by all persons entering the cannabis business.

9.30.160 REGISTRATION OF NEW EMPLOYEES.

A. As a further condition of approval of every cannabis business permit issued pursuant to this chapter, every owner or operator shall register every employee with the Police Department within five business days of the commencement of the employee's period of employment at the cannabis business, in order to provide necessary information to conduct background checks.

B. Each employee shall be required to provide two recent color passport quality photographs and, at the discretion of the Chief of Police, shall allow themselves to be fingerprinted by the Police Department for purposes of identification.

C. Failure to register each new employee within 5 days of the commencement of employment or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

9.30.170 TRANSFER OF PERMITS.

A. A permittee shall not operate a cannabis business under the authority of a Cannabis Business Permit at any place other than the address of the cannabis business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a cannabis business or transfer a Cannabis Business Permit to another person unless and until the transferee obtains an amendment to the permit from the **Community Development Director** ~~Chief of Police~~ stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the **Community Development Director** ~~Chief of Police~~ in accordance with § 9.30.050, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with § 9.30.090 that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the **Community Development Director** ~~Chief of Police~~ has notified the permittee that the Permit has been or may be suspended or revoked.

D. Any attempt to transfer a Permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

9.30.180 SUSPENSION AND REVOCATION – NOTICE.

A. Any permit issued under the terms of this chapter may be suspended or revoked by the Chief of Police **or the Community Development Director** when it appears to them that the permittee has committed any one or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.

B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held by the City. Written notice of the time and place of the hearing shall be served upon the person to whom the permit was granted at least 5 days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the permittee at the address provided by the permittee for sending of notices.

9.30.190 SUSPENSION AND REVOCATION – GROUNDS.

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

A. Does any act which violates any of the grounds set forth in § 9.30.100, which sets forth the grounds for ~~rejection~~ **denial** of an application for a permit for the cannabis business;

- B. Violates any other provision of this chapter or any local or state law, statute, rule, or regulation relating to his or her permitted activity;
- C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public;
- D. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business;
- E. Violates any provision of Title 15; or
- F. Violates or fails to comply with the terms and conditions of any required discretionary permit.

9.30.200 SUSPENSION AND REVOCATION – APPEALS.

Any permittee aggrieved by the decision of the City in suspending or revoking a permit may, within 10 calendar days, appeal the decision in accordance with the procedures described in Chapter 1.08. If a decision of the City to suspend or revoke a permit is not appealed within 10 calendar days, the decision of the City shall be final.

9.30.210 SUSPENSION OR REVOCATION WITHOUT HEARING.

If any person holding a permit or acting under the authority of the permit under this chapter is convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the Chief of Police shall revoke the permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. If a permit is summarily revoked pursuant to the provisions of this section, a permittee may, within 10 calendar days, appeal the revocation in accordance with the procedures described in Chapter 1.08. During the pendency of the appeal, the permit shall be deemed suspended. If the appeal is not taken within 10 days, the decision of the Chief of Police shall be final.

9.30.220 SEPARATE OFFENSE FOR EACH DAY.

Any person that violates any provision of this chapter 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.

9.30.230 PUBLIC NUISANCE.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to Chapter 6.12.

9.30.240 CRIMINAL PENALTIES.

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

9.30.250 CIVIL INJUNCTION.

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief.

9.30.260 ADMINISTRATIVE REMEDIES.

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City ordinance.

9.30.270 SEVERABILITY.

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of this chapter. The City Council of the City hereby declares that it would have passed the ordinance codified in this chapter and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that 1 or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.