

Resolution No. 2017-182 N.C.S. of the City of Petaluma, California

ADOPTING COMMERCIAL CANNABIS REGULATIONS AND COMMERCIAL CANNABIS PERMIT FEES PURSUANT TO CHAPTER 10.15 OF THE PETALUMA MUNICIPAL CODE

WHEREAS, in November 2016, California voters approved Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, referred to in ballot materials as the Adult Use of Marijuana Act (“AUMA”), which established a regulator scheme for nonmedical cannabis similar to that previously enacted for medical cannabis pursuant to the Medical Marijuana Regulation and Safety Act; and

WHEREAS, as codified in the California Health and Safety Code and the California Business and Professions Code, the AUMA decriminalized for purposes of state law specified nonmedical cannabis uses pursuant to California Health and Safety Code section 11362.1, including, possession, processing, transporting, purchasing, obtaining and given away to persons 21 years old or older, without compensation, not more than 28.5 grams of non-concentrated cannabis or not more than 8 grams of concentrated cannabis, including cannabis contained in cannabis products; possessing, planting, cultivating, harvesting, drying or processing not more than six living cannabis plants and possessing the cannabis produced by the plants; smoking or ingesting cannabis or cannabis products, and possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away to persons 21 years of age or older without compensation cannabis accessories; and

WHEREAS, in response to enactment of the AUMA, the City Council introduced on November 13, 2017 and subsequently adopted on December 4, 2017, Ordinance no. 2634 N.C.S. repealing and replacing former Chapter 10.15 of the Petaluma Municipal Code entitled “Medical Marijuana” with a new chapter 10.15 entitled “Cannabis” extending the City’s cannabis regulations to non-medical cannabis uses in the City; and

WHEREAS, section 10.15.010 of Ordinance 2634 N.C.S. provides that the purpose of Chapter 15 is to recognize and respect the will of the California voters in approving the AUMA through adoption of less restrictive local cannabis regulations, while at the same time promoting the public health, safety and welfare of the Petaluma community; and

WHEREAS, Section 10.15.040 of Ordinance 2634 N.C.S. authorizes certain limited commercial cannabis activity, subject to issuance of a City permit therefore, for manufacture and wholesale sale of topical or edible cannabis products, testing laboratories, and delivery-only retail sale at up to two locations in the City; and

WHEREAS, Section 10.15.090 provides that the City Council shall adopt regulations or authorize the City Manager to promulgate regulations intended to implement the requirements of Ordinance 2634 N.C.S.; and

WHEREAS, Section 10.15.040, paragraph (B) of Ordinance 2634 N.C.S. provides that the commercial cannabis activities authorized under that section may only be carried out while and to the extent the activity is conducted pursuant to and in accordance with a current, valid, unexpired, unrevoked, fully-paid, license, permit or other authorization or notice issued by an authorized city official, and pursuant to and in accordance with all other applicable state and local laws and regulation, including, but not limited to the regulations adopted or promulgated pursuant to section 10.15.090; and

WHEREAS, the City Council found in adopting Ordinance 2634 N.C.S. that new Chapter 10.15 of the Petaluma Municipal Code would result in negligible environmental impacts, if any, because commercial cannabis activity authorized under the ordinance would be subject to granting of a City license, permit or other authorization, and subject to CEQA review; and

WHEREAS, the City Council found that due to the negligible environmental impacts anticipated from enactment of new Chapter 10.15 of the Petaluma Municipal Code that would not be subject to subsequent CEQA review, Ordinance 2634 N.C.S. was exempt from CEQA pursuant to Sections 15061(b)(3), 15301 and 15303;

NOW, THEREFORE, be it resolved by City Council of the City of Petaluma, as follows:

1. The above recitals are hereby declared to be true and correct and are hereby adopted as findings of the City Council.
2. Adoption of this resolution is exempt from CEQA for the same reasons that adoption of Ordinance 2634 N.C.S. was determined to be exempt from CEQA, namely that environmental impacts of adoption of this resolution, if any, are determined to be negligible.
3. The Commercial Cannabis Permit Regulations attached to and made a part of this resolution as Exhibit A are hereby approved and adopted in satisfaction of the requirements in Section 10.15.090 of Chapter 10.15 of the Petaluma Municipal Code.
4. The commercial cannabis permit fees of \$3,500 for the initial permit and \$2,500 for a permit renewal are hereby adopted as regulatory fees of the City pursuant to the



City of Petaluma Commercial Cannabis Permit Regulations

Dated:
March 7, 2018

Commercial Cannabis Businesses

These regulations apply to the establishment and operation of cannabis businesses within the City of Petaluma in accordance with and subject to Chapter 10.15 of the Petaluma Municipal Code.

- A. Purpose.** To recognize the will of the voters in approving Proposition 64 while promoting the public health, safety, and welfare through regulating specified commercial cannabis activity in the City in accordance with Petaluma Municipal Code Section 10.1510.
- B. Permit Eligibility.** The following commercial cannabis activities are eligible for issuance of a City permit, so long as the activity is conducted in areas of the City where the use is permitted in accordance with the City's zoning regulations, as required by Section 10.15.040(A)(2) of the Petaluma Municipal Code:
 - 1. Manufacturing.** In accordance with Petaluma Municipal Code section 10.15.040(B), commercial cannabis permits may be issued to businesses that manufacture and sell topical or edible cannabis products using cannabis infusions, infusion processes, or cannabis concentrates only business to business (non-retail). Manufacture of cannabis products involving volatile solvents, and repackaging cannabis or cannabis products or re-labeling cannabis or cannabis product containers are not authorized commercial cannabis activities under Chapter 10.15 of the Petaluma Municipal Code and are not eligible for issuance of a City permit.
 - 2. Testing.** In accordance with Petaluma Municipal Code section 10.15.040(C), commercial cannabis permits may be issued to laboratories, facilities or entities that offer or perform testing of cannabis or cannabis products. To be eligible for issuance of a City permit, testing businesses must be:
 - a)** Accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state; and
 - b)** Licensed by the state Bureau of Cannabis Control.
 - 3. Delivery-only dispensary / retailer.**

In accordance with Section 10.15.040(D) of the Petaluma Municipal Code, the following retail cannabis sales activity is eligible for issuance of a City permit:

- a)** A total of up to two (2) delivery-only cannabis dispensary permits may be issued to businesses in the City that sell cannabis and cannabis products using a delivery-only method in accordance with section 10.15.060 of the Petaluma Municipal Code

- b) The City delivery only dispensary / retailer permits will be issued using a request for proposal process.

In accordance with Petaluma Municipal Code section 10.15.040(D), the following are not authorized commercial cannabis activities under Chapter 10.15 of the Petaluma Municipal Code and are not eligible for issuance of a City permit:

- c) Onsite sale of cannabis or cannabis products to customers, primary care givers or qualified patients occurring at the business location;
- d) Customers, primary caregivers or qualified patients at the business location at any time; and
- e) Signage at the business location or on the delivery vehicles indicating the presence of cannabis or cannabis products or that the seller sells cannabis or cannabis products.

C. Commercial Cannabis Business Owner and Employee Requirements.

1. All commercial cannabis business owners and employees must be 21 years of age or older
2. Commercial cannabis business owners and/or employees applying for and/or operating under a City permit are subject to background check. Commercial cannabis permit applications may be denied, and issued commercial cannabis permits may be revoked, if the business owner and/or the business owner's employees have been convicted of an offense that substantially relates to the qualifications, functions or duties of the business that is the subject of the permit application or an issued permit. Such offenses that may disqualify an applicant or result in revocation of an issued permit include, but are not limited to, a felony conviction involving fraud, deceit, or embezzlement, and a criminal conviction for the sale or provision of illegal controlled substances to a minor.

D. Location limitations.

In accordance with Petaluma Municipal Code section 10.15.040, commercial cannabis businesses are only permitted to operate in areas of the City where commercial cannabis business uses are expressly listed as permitted uses in accordance with the City's zoning regulations.

E. Permit Application Process

1. **Application.** Applications for a City cannabis business permit shall be submitted to the Chief of Police on a form provided by the City. Applications that are not complete, including a completed City form, and any required supporting information, may be returned. Applicants should allow approximately 60 days for City permit application review.

2. **Fee.** The fee that applies to process applications for cannabis business permits shall be set by City Council resolution. No fee payments will be prorated or refunded in the event of a permit denial or revocation. Applications that are submitted without the required fee may be returned.
 3. **Applicable Regulations.** Cannabis business permit applications are subject to the laws and regulations in effect at the time an application is submitted.
 4. **No Entitlement.** The City has no duty or obligation to issue any cannabis business permits. Issuance of cannabis business permits is not ministerial and is subject to exercise of the Police Chief's discretion. Neither Chapter 10.15 of the Petaluma Municipal Code nor these regulations create in any person or entity any entitlement or vested right to receive a cannabis business permit.
 5. **Police Chief Review.** Permit applications will be subject to the Police Chief's review. The Police Chief will determine in the Police Chief's sole discretion whether to issue a permit taking into account the factors listed under the Permit Denial and Revocation section, below, and any other factors the Police Chief deems relevant. The Police Chief may issue cannabis business permits subject to conditions the Police Chief deems necessary or appropriate to protect the public health, safety and welfare.
- F. **Permit Term.** Unless revoked or suspended, cannabis business permits and permit renewals shall be valid through the end of the calendar year in which they are issued and unless timely renewed will expire without further action of the City January 1 of the immediately following year.
- G. **Permit Renewal Process.**
1. **Application.** Cannabis business permit renewal applications shall be submitted to the Police Chief on a form provided by the City. Renewal applications that are not complete, including a completed City form, and any required supporting information, may be returned.
 2. **Fee.** The fee that applies to process applications for renewing cannabis business permits shall be set by City Council resolution. Permit renewal applications that are submitted without the required fee may be returned.
 3. **Renewal Application Deadline.** Renewal applications and any applicable fees and required supporting information must be submitted at least sixty (60) days before the expiration of the permit. Permits of eligible renewal applicants that do not submit timely, complete renewal applications may expire prior to issuance of a renewal permit, if a renewal permit is issued, requiring cessation of commercial cannabis business operations until the renewal permit takes effect.
 4. **Failure to Apply for Renewal.** Failure to submit a completed cannabis business permit renewal application prior to the expiration date of a permit will result in the automatic

expiration of the permit effective January 1 of the year immediately following the year in which the permit was issued.

5. **Applicable Regulations.** Permit renewal is subject to the laws and regulations in effect at the time a renewal application is submitted. Such laws and regulations may be substantially different from the laws and regulations in effect when a permit was issued. Renewal applications may require submittal of additional information, and compliance with updated fee and other requirements as required by the laws and regulations then in effect.
6. **No Entitlement.** The City has no obligation or duty to renew any cannabis business permits. Issuance cannabis business permits is not ministerial and is subject to exercise of the Police Chief's discretion. Neither Chapter 10.15 of the Petaluma Municipal Code nor these regulations create in any person or entity any entitlement or vested right to receive a cannabis business permit renewal.
7. **Police Chief Review.** Permit renewal requests will be subject to the Police Chief's review. The Police Chief will determine in the Police Chief's sole discretion whether to issue a renewal permit taking into account the factors listed under the Permit Denial and Revocation section, below, and any other factors the Police Chief deems relevant. The Police Chief may renew cannabis business permits subject to conditions the Police Chief deems necessary or appropriate to protect the public health, safety and welfare.

H. Permit denial and revocation.

Applications to issue or renew a cannabis business permit may be denied and existing permits may be revoked based on violations by the permit applicant or permit holder of any provision of these regulations or of the Petaluma Municipal Code, including, but not limited to, violations of Petaluma Municipal Code Chapter 1.10 of the Petaluma Municipal Code. In addition, applications to issue or renew a cannabis business permit may be denied and issued permits may be revoked based on a determination that:

1. Continuation of a cannabis business's operations presents a threat to the health, safety or welfare of the public.
2. Information contained in a cannabis business's permit application is found to be incorrect or misleading.
3. A cannabis business has failed to operate in accordance with all local, state, and federal laws or any requirements of these regulations.
4. A cannabis business owner and/or the business owner's employees have failed to comply with the commercial cannabis security requirements which are attached to and made a part of these regulations as Exhibit A.
5. A cannabis business's state license for commercial cannabis operations has been revoked, terminated, or not renewed.

6. A commercial cannabis business has not been in regular and continuous operation for three (3) consecutive months.
7. State law permitting the use for which a cannabis business's permit was issued is amended or repealed resulting in such use becoming unlawful under state law.
8. The City receives credible information that the federal government will commence enforcement measures against cannabis businesses and/or local governments that permit them.
9. The circumstances under which a cannabis business permit was issued have changed such that the public health, safety, and welfare require the suspension, revocation, or modification of the permit.
10. A cannabis business is delinquent in timely remitting applicable City taxes or fees.

I. Permit Transfer.

1. Cannabis business permits are not transferable to a location different from the location for which a permit has been issued, or to another cannabis business owner.
2. Cannabis business owners wishing to relocate to a new location in the City and prospective cannabis business owners wishing to acquire an existing, permitted cannabis business must submit new permit applications for such transfer or acquisition. New cannabis business locations and owner(s) must meet all requirements for new cannabis business permit applications.

J. Revocation Proceedings and Appeals. Cannabis business permit revocation proceedings, appeals of cannabis business permit revocations, appeals of cannabis business permit application denials, and judicial review of permit revocation and denial appeals, will be subject to and conducted in accordance with the requirements for administrative enforcement of violations of the Petaluma Municipal Code pursuant to Chapter 1.14 of the Petaluma Municipal Code.

K. Cannabis Business Operating Requirements.

1. **State License.** In addition to complying with these regulations, all activities under City cannabis business permits that are subject to State license requirements must be conducted subject to and in accordance with all applicable state licenses. Cannabis business permit holders must also hold valid, unrevoked state licenses for all activities of the cannabis business permit holder that are subject to state license.
2. **City Business License.** All cannabis business permits holders must also hold a valid, unrevoked City of Petaluma business license.
3. **Hours of Operation.** Cannabis business permit holders may operate their cannabis business only between the hours of 8:00 a.m. and 8:00 p.m.

4. **No Cannabis Signage.** Cannabis business may not display exterior signage or symbols that advertise the availability of cannabis or cannabis products, nor shall any such signage or symbols be displayed on the interior of the facility in such a way as to be visible from the exterior.
5. **No Onsite Consumption.** No cannabis or cannabis products may be smoked or ingested on the premises of any cannabis business, including by owners, employees, vendors or customers. The term “premises” includes the entire cannabis business premises, including buildings, as well as any accessory structures, parking areas, or other immediate surroundings.
6. **Cannabis Deliveries.** Cannabis deliveries may only be made by an owner or employee of the cannabis delivery business, and such owners and employee must carry with them at all times while conducting deliveries, either on their person or in their delivery vehicle, a physical copy of the City commercial cannabis business permit under which they are operating, the City business license under which they are operating, and all state cannabis licenses under which they are operating.
7. **Employees.** All employees of commercial cannabis businesses must be at least 21 years of age and are subject to background check by local law enforcement. The City may implement a registration system whereby all commercial cannabis business owners and employees must register with the City to permit background checks as a condition of issuance or renewal of commercial cannabis business permits.
8. **Onsite Security.** Commercial cannabis businesses must comply with the Commercial Cannabis Security Requirements attached as Exhibit A to these regulations. Commercial cannabis business permits of cannabis businesses that fail to comply with the Commercial Cannabis Security Requirements are subject to non-renewal and revocation.

L. Enforcement.

1. **Public Nuisance.** In accordance with Petaluma Municipal Code section 10.15.100, any violation of these regulations or of Chapter 10.15 of the Petaluma Municipal Code is a public nuisance.
2. **Remedies.** The City may seek remedies for any violations of these regulations and/or Chapter 10.15 of the Petaluma Municipal Code pursuant to any applicable authorities, including, but not limited to those contained in Chapter 26 and those contained in Title 1 of the Petaluma Municipal code.
3. **Right to Access and Audit.**

As a condition of issuance of a commercial cannabis business permit and continued operations under a commercial cannabis business permit, commercial cannabis permit holders must:

- a)** Provide the City, its employees and / or agents full access to enter permitted premises to inspect business operations and cannabis and cannabis products at the business premises to ensure compliance with these regulations and Chapter 10.15 of the Petaluma Municipal Code.
- b)** Permit the City, its employees and/or agents to review and copy any materials, books, or records in the permit holder's possession to ensure compliance with these regulations and Chapter 10.15 of the Petaluma Municipal Code.

Failure or refusal to cooperate with the City inspections and audits in accordance with this section is, in the absence of any other violations of Chapter 10.15 of the Petaluma Municipal Code or of these regulations, sufficient grounds for revoking cannabis business permits.



City of Petaluma Commercial Cannabis Security Requirements

Commercial Cannabis Permit holders shall comply with the following security measures:

- 1) Security cameras shall be required and shall be motion-sensored and be installed with capability to record activity on the property, including entry points to the property, and within all buildings and structures on the property, including all entrances, exits, perimeter windows and all areas where customers and employees may have access, with the exception of any restroom area.
- 2) Security cameras shall record 24 hours a day, 7 days a week
- 3) Areas where cannabis products are manufactured or stored shall have camera placement in the room facing the primary entry door at a height which will provide a clear unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.
- 4) Cameras shall also be placed at each location where weighing, packaging, transport preparation, processing, or labeling activities occur.
- 5) At least one camera must be dedicated to record the access points to the secured surveillance recording area.
- 6) At each point-of-sale location, camera coverage must enable recording of the customer(s) and employee(s) facial features with sufficient clarity to determine identity.
- 7) Surveillance video shall be kept for a minimum of sixty (60) days in a format that can be easily accessed for viewing. Video must use standard industry format to support criminal investigations.
- 8) Permit holders shall be required to cooperate with all law enforcement investigations and provide video footage related to any such investigation upon request.
- 9) Motion-sensor lighting and alarms shall be required and shall be professionally installed and monitored to ensure the safety of persons and to protect the premises from theft.
- 10) Alarm and surveillance systems shall be equipped with a failure notification system that provides prompt notification to the operator of any prolonged surveillance interruption and/or failure of the system. All surveillance equipment, records, and recordings must be stored in a secured area that is only accessible to management staff. Operators must keep a current list of all authorized employees who have access to the surveillance system and/or alarm system.
- 11) Permit holders shall maintain up-to-date and current records and existing contracts on the premises that describe the location and operation of each security alarm

system, a schematic of security zones, the name of the alarm installation company, and the name of any monitoring company. Off-site monitoring and video recording storage of the premises by the licensee or an independent third-party is authorized as long as standards exercised at the remote location meet or exceed all standards for onsite monitoring.

- 12) All security measures installed onsite shall have the capability to remain fully operational during a power outage.
- 13) Weapons, firearms, and replica or airsoft firearms are prohibited on the property.
- 14) Security measures shall be designed to ensure emergency access in compliance with fire safety standards.
- 15) All structures used for commercial cannabis activities shall have locking doors, with commercial-grade non-residential locks, to prevent free access.
- 16) Security measures shall prevent individuals from remaining on the premises of the commercial cannabis business if they are not engaging in activities expressly related to the operations of the business.
- 17) Security measures shall include a transportation plan that details the procedures established for the safe and secure transport of cannabis, cannabis products, and currency to and from the business.
- 18) All cannabis compounds and cannabis products shall be stored in a secured and locked room, safe, or vault that meets approval by the Petaluma Police Department. To the fullest extent possible, all cannabis and cannabis products shall be kept in a manner that prevents theft and loss.
- 19) Panic buttons shall be installed in all commercial cannabis facilities with easy access by employees and all employees shall be properly trained on its use.
- 20) Each commercial cannabis business shall identify a liaison and their contact information to the Petaluma Police Department who shall be reasonably available to meet with the Chief of Police or designee(s) regarding security measures and operational issues.

City's police power under Article 11, Section 7 of the California Constitution and other applicable law to cover the cost of staff review of permit applications and related proceedings, permit issuance, and administration and enforcement of the City's commercial cannabis regulations.

5. If any section, subsection, sentence, clause, phrase or word of this resolution is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction or preempted by state or federal legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution. The City Council hereby declares that it would have passed and adopted this resolution and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 18th day of December 2017, by the following vote:

Approved as to
form:

City Attorney

AYES:

Albertson, Vice Mayor Barrett, Mayor Glass, Healy, Kearney, King

NOES:

None

ABSENT:

Miller

ABSTAIN:

None

ATTEST:

City Clerk

Mayor