

Sec. 9-5.128. - Cannabis cultivation, manufacturing, testing, transportation and distribution.

- (a) *Purpose.* The purpose of this section is to adopt local regulations applicable to commercial cannabis operations as may be permitted under the California Medicinal and Adult-Use Cannabis Regulation and Safety Act (SB 94), approved by the Governor on June 27, 2017 or subsequently enacted State law pertaining to the same.
- (b) *Definitions.* Except as set forth herein, or where a different meaning is clearly intended by the language, the definitions set forth in the Act shall apply to interpretations under this section.

Act means the Medicinal and Adult-Use Cannabis Regulation and Safety Act or a subsequent cannabis related law adopted by the State.

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

Business owner means the owner(s) of the cannabis operations. For corporations and limited liability companies, business owner means the President, Vice President, and any shareholder owning a twenty (20) percent or greater share of the corporation or company. For partnerships, business owner means all general partners and managing partners.

Cannabis shall have the meaning set forth in California Business and Professions Code section 19300.5(f).

City means the City of Coalinga.

Commercial cannabis operation means any commercial cannabis activity allowed under the Act and the implementing regulations, as the Act and the implementing regulations may be amended from time to time, and all uses permitted under any subsequently enacted State law pertaining to the same or similar uses for recreational cannabis.

Commercial cannabis regulatory permit or regulatory permit means the permit required under this section to have a commercial cannabis operation, and any prior permit granted by the City under Urgency Ordinance No. 791 pursuant to the registration process.

Co-Location of Businesses shall mean the existence of multiple cannabis operations located at a single location (parcel, building or structure) or as defined by the State of California. This also includes the co-location of both adult-use and medicinal commercial cannabis operations as prescribed by law.

Employee permit means the permit required under this section for every employee or independent contractor working at a commercial cannabis operation or involved in transportation/delivery related services for a commercial cannabis operation.

Non-commercial and adult-use cannabis activity means all uses not included within the definition of commercial cannabis operation, including the personal use, cultivation, or consumption of cannabis, whether medicinal or for adult-use.

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 section, and including the terms of this section, which may be commonly referred to as the City's "Commercial Cannabis Ordinance".

Outdoor Cultivation means the cultivation of cannabis, outside of a structure, without the use of artificial lighting in the canopy area at any point in time. Cultivation within a hoop structure is considered outdoor cultivation. No artificial lighting is permissible for outdoor cultivation, including within hoop structures.

Police Chief means the Police Chief of the City of Coalinga or his or her designee.

Premises means the designated structure or structures 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.

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

(c) *Permitted uses and zoning.* Business owners meeting the requirements of this section, unless specified otherwise, shall be allowed to conduct the following commercial cannabis operations in the MBL - Light Manufacturing/Business Zone District of the City:

- Indoor cultivation (up to 5,000 square feet canopy).
- Indoor cultivation (5,001 to 10,000 square feet canopy).
- Indoor cultivation (10,001 to 22,000 square feet canopy).

• [Outdoor cultivation.](#)

• ~~Manufacturing~~ • [Manufacturing](#) (nonvolatile).

- Manufacturing (volatile).
- Testing laboratory.
- Distributer.
- Nursery.
- Microbusiness.

The commercial cannabis operation shall at all times be in compliance with this section or as otherwise specified as it may be amended from time to time or repealed and replaced by another section governing the commercial cannabis operation.

(d) *Minimum operational requirements and restrictions.* The following operational requirements and restrictions shall apply to all commercial cannabis operations:

- (1) *The Act and other state laws.* The cannabis operations shall at all times be in compliance with the Act and the implementing regulations, as they may be amended from time to time, as well as all required State license(s) under the Act, and any other applicable State law. The operator shall obtain required licenses under the Act prior to opening for business, or if the State is not ready to issue licenses under the Act prior to the time of opening, within twelve (12) months of the State being ready to issue the required license(s). Provided, however, that the operator shall at all times be in compliance with all other requirements of the Act and implementing regulations, and any other applicable State law, regardless of the timing of the issuance of a license under the Act.
- (2) *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 Police Chief at all times immediately upon request.
- (3) *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.
- (4) *Cannabis consumption.* ~~No~~ [Except in connection with a consumption lounge attached to a facility licensed for the retail sale cannabis, no](#) cannabis shall be smoked, ingested or otherwise consumed on the premises. Adequate signage of this prohibition shall be displayed throughout the facility.
- (5) *Distribution.* There shall be no distribution of cannabis or cannabis containing products from a cannabis operation except by another State or local licensed or permitted cannabis business holding a distributor license.
- (6) *Manufacturers.* Manufacturers shall adhere to Assembly Bill 2679, applicable State Law and subsequent state regulations.

- (7) *Testing Facilities.* Testing Facilities shall meet all the requirements of State Law (including B&P Code 26100 and all subsequent State Department Regulations).
- a. Testing laboratories shall dispose of any waste byproduct resulting from their operations in the manner required by State and local laws and regulations.
- (8) *Non-commercial cannabis activity.* No non-commercial cannabis activity shall occur on the licensed premises.
- (9) *Retail sales.* The retail sale of cannabis is permitted in accordance with Section 9-5.129.
- (10) *Public access.* There shall be no public access to the commercial cannabis operations premises except for retail facilities.
- (11) *Minors.* It shall be unlawful for any operator to employ any person who is not at least twenty-one (21) years of age, or any older age if set by the State.
- (12) *Distance separation from schools.* Cannabis operations shall comply with the distance separation requirements from schools as required by State law. In addition, a commercial cannabis operation shall not be located within 1,800 feet from any existing school or proposed school site as identified in the General Plan. Measurements shall be from property boundary to property boundary. For purposes of this section, 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.
- (13) *Hours of operation.* Commercial cannabis operations shall be allowed to operate per the requirements of an approved conditional use permit and subject to the City's noise and nuisance ordinances.
- (14) *Building and related codes.* The cannabis operation shall be subject to the following requirements [as applicable](#):
- a. 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.
- b. The responsible party shall ensure that the premises has sufficient electrical load for the cannabis operations.
- c. 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 Coalinga 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.
- d. The operator shall comply with all laws and regulations pertaining to use of commercial kitchen facilities for the cannabis operations.
- e. 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 to avoid environmental harm.
- (15) *Odor control.* [Except for Outdoor Cultivation](#), 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 of 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 and Police Chief determines has the same or better effectiveness, if a smell extends beyond a property line:

- a. An exhaust air filtration system with odor control that prevents internal odors and pollen from being emitted externally; or
 - b. 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.
- (16) *Consumable products.* Cannabis operations that manufacture products in the form of food or other comestibles shall obtain and maintain the appropriate approvals from the appropriate State and Local Agencies for the provision of food or other comestibles, unless otherwise governed by the Act and licensed by the State.
- (17) *Secure building.* ~~All~~ Except for Outdoor Cultivation, all cannabis operations shall occur entirely inside of a building that shall be secure, locked, and fully enclosed, with a ceiling, roof or top.
- a. The building shall include a burglar alarm monitored by an alarm company or private security company.
 - b. The primary building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for industrial structures (including, without limitation, commercial greenhouse structures), and include material strong enough to prevent entry except through an open door. The roof may be of solid translucent material provided other security measures exist to ensure that the cannabis operation cannot be seen, heard or smelled beyond the property line.
 - c. Greenhouses shall be considered ancillary to the primary use/structure and constructed in accordance with the California Building Code related to utility structures. Greenhouses shall be secured in way, as approved by the Police Chief, to prevent vehicle intrusion.
 - d. 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.
- (18) *Premises security.* The following security conditions shall apply:
- a. Alarm system (both perimeter, fire and panic).
 - b. Remote monitoring of alarm systems.
 - c. Perimeter lighting systems (motion sensor) for after-hours security.
 - d. Perimeter security and lighting as approved by the Police Chief and Community Development Director.
 - e. Use of drive gates with card key access or similar to access the facility.
 - f. Entrance areas to be locked at all times areas, and under the control of a designated responsible party.
 - g. Use of access control systems to limit access to cannabis related areas.
 - h. 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 resolution in order to read license plates and facial recognition from all exterior and interior locations.
 - i. All security systems at the site are attached to an uninterruptable power supply that provides twenty-four (24) hours of power.
 - j. Security patrols by a recognized security company licensed by the California Department of Consumer Affairs or otherwise acceptable to the Police Chief.
 - k. All current contact information regarding the security company shall be provided to the Police Chief.

2. 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.

- (19) *Deliveries of supplies and transportation of product.* The transportation of cannabis and cannabis products shall only be conducted by persons holding a State distributor license or employees of those persons and shall follow all the regulations and safety standards established by the Bureau of Cannabis Control.
- (20) *Premises maintenance.* 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 or commercial cannabis operation shall not be maintained in a manner that causes a public or private nuisance.
- (21) *Location of uses.* The commercial cannabis operation permitted by this section shall only be allowed in the locations designated on the diagram and floor plan of the premises submitted with the application for a regulatory permit. The commercial cannabis operation shall not operate at any place other than the address of the cannabis operation stated in the regulatory permit.

(22) Outdoor Cultivation.

(a) Distance separation from Residences. To avoid visual impacts and nuisances associated with significant concentrations of cannabis cultivation, no outdoor cultivation will be licensed or allowed within one (1) mile of any Residential District ("Residential Ranchette", "Residential Estate", "Residential Single Family", "Residential Medium Density", and "Residential High Density") as identified in the General Plan. Measurements shall be from property boundary to property boundary.

(b) Premises Security. Section 9-5.128(d)(18), subparts (a)-(i) shall be modified as applicable for an outdoor cultivation site as reasonably 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. Section 9-5.128(d)(18), subparts (o) shall not apply to Outdoor Cultivation.

- (e) *Commercial cannabis regulatory permit.* No person or entity shall operate a commercial cannabis operation within the City of Coalinga without first obtaining a commercial cannabis regulatory permit from the City. The regulatory permit shall be site specific and shall specifically identify the commercial cannabis activity that will be allowed at that site. No commercial cannabis activity will be allowed unless specifically identified in the regulatory permit.
- (f) *Conditional use permit.* Prior to, or concurrently with, applying for a regulatory permit, the applicant shall process a conditional use permit as required by the City's Land Use Regulations. Information that may be duplicative in the two (2) applications can be incorporated by reference. The conditional use permit shall run with the regulatory permit and not the land.
- (g) *Applications for regulatory permits and responsible party designation.*
 - (1) *Application.* Applications for regulatory permits shall be filed by the proposed business owner(s) with the Police Chief and include the information set forth herein. The Police Chief 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:
 - a. The full name, present address, and telephone number, including such information to the premises owner.
 - b. Date of birth.

- (1) *Business license fee.* The business owner shall at all times maintain a current and valid business certificate and pay all business taxes required by Title 3, Chapter 1, of the Coalinga Municipal Code pertaining to business licensing.
- (2) *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 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.
- (3) *Revenue raising fee (voter approved tax).* An annual revenue raising fee ("revenue fee") for the privilege of having the right to operate in the City as approved by the local citizens.
 - a. *Amount of fee and terms of payment.* ~~The~~ For each Nursery, the revenue fee shall be an annual fee of ~~twenty-two dollars (\$2.00) per square foot of canopy.~~ For each other commercial cannabis Cultivation operation, the revenue fee shall be an annual fee of seven dollars (\$7.00) per square foot of canopy. For all other commercial cannabis operations, the revenue fee shall be an annual fee of twenty five dollars (\$25.00) per square foot for the first three thousand (3,000) square feet and ten dollars (\$10.00) per square foot for the remaining space utilized in connection with each commercial cannabis operation. The square footage calculation shall be determined by including all portions of the premises under the control of the business owner and deducting therefrom driveways, sidewalks, landscaping, vacant unused space, areas used exclusively for office space, employee break rooms, restrooms, and storage space unrelated to the commercial cannabis operation (such as a janitorial closet). Anywhere cannabis is located or is expected to be located shall be subject to the revenue fee square foot calculation.

If more than one commercial cannabis operation operates on the premises, whether within a single building or multiple buildings, each regulatory permit holder shall be responsible for paying the fee. The fee shall be payable in advance, in not less than quarterly installments, with the first quarterly payment due prior to issuance of a certificate of occupancy. The first payment shall be prorated so that future payments coincide with calendar year quarters, but in no event shall the first payment be less than the equivalent of one full quarterly payment. Except for the first quarterly payment, all quarterly payments shall be received by the City before the end of the quarter.
- (4) All other state and local rules.
- (t) *Record keeping.* The responsible party shall make and maintain complete, accurate and legible records of the permitted cannabis operations evidencing compliance with the requirements of this section. Those records shall be maintained for a minimum of five (5) years and shall be accessible to the City of Coalinga upon request.
- (u) *Inspection.* Cannabis operations shall be open for inspection by any City law enforcement officer, staff member or any other City designated agent at any time the cannabis operation is operating, at any other time upon responding to a call for service related to the property where the Cannabis operations is occurring, or otherwise upon reasonable notice. Recordings made by security cameras at any cannabis operation 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.
- (v) *Indemnification.* In authorizing commercial cannabis operations under this section, the City makes no guarantees or promises as to the lawfulness of the approved activity under State or Federal law, and the business owner, operator and all responsible parties are obligated to comply with all applicable laws. To the fullest extent permitted by law, the City shall not assume any liability whatsoever with respect to the adoption of this section or the operation of any commercial cannabis operation approved pursuant to this section or under State or federal law. The business owner, operator and all responsible parties shall defend, hold harmless, release, and indemnify the City, its agents, officers, and employees, from any liability associated with the approved use or adverse

(aa) *Judicial review.* Judicial review of a decision made under this section or any actions taken pursuant to this section, may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6, which shall be applicable for such actions.

~~(Ord. No. 797, § 4, eff. 12-3-2016; Ord. No. 804, § 1, eff. 2-3-2018; Ord. No. 834, § 2, eff. 12-7-2019)~~