

## CHAPTER 10.15 CANNABIS

### 10.15.010 Purpose.

---

The purpose of this chapter is to recognize and respect the will of the California voters in approving, in November 2016, Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act, referred to as the Adult Use of Marijuana Act ("AUMA"), which legalized, subject to certain restrictions, specified nonmedical cannabis uses for purposes of state law, through adoption of less restrictive local cannabis regulations, while at the same time promoting the public health, safety and welfare of the Petaluma community by:

- A. Protecting citizens from the secondary impacts associated with cannabis dispensaries and commercial cannabis activity, including, but not limited to, increased public consumption of cannabis and the potential for increased cannabis DUIs, illegal resale of cannabis obtained at low cost from dispensaries, loitering, robbery, assaults, and other crimes;
- B. Protecting citizens from secondary impacts associated with commercial cannabis activity such as cannabis cultivation, including, but not limited to, electrical fires and ignition of chemical substances utilized in the cultivation process, crimes occurring at grow sites, and neighborhood concerns regarding odors, late night traffic, and related nuisances;
- C. Protecting citizens from secondary impacts of cannabis delivery, including, but not limited to, delivery during nighttime hours and delivery by minors;
- D. Preventing increased demands for police response resulting from activities at cannabis dispensaries and cultivation sites, commercial cannabis activity and cannabis delivery and thereby avoiding reduction in the ability of the city's public safety officers to respond to other calls for service; and
- E. Maintaining the access of qualified patients and primary caregivers to medical cannabis and medical cannabis products.

(Ord. 2634 NCS §3 (part), 2017.)

### 10.15.020 Definitions.

---

For purposes of this chapter, the following terms are defined as follows:

- A. "Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, as defined in California Business and Professions Code Section [26001](#), subdivision (f), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. "Cannabis" does not mean "industrial hemp" as defined by Section [11018.5](#) of the California Health and Safety Code, as that section may be amended or interpreted by the California courts or superseded by any successor statute. "Cannabis" includes "medical cannabis."
- B. "Cannabis concentrate" means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency, in accordance with the definition in California Business

and Professions Code Section [26001](#), subdivision (h), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

C. "Cannabis products" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients in accordance with the definition in California Health and Safety Code Section [11018.1](#), as that section may be amended or interpreted by the California courts or superseded by any successor statute.

D. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of cannabis and cannabis products in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (k), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

E. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (m), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

F. "Customer" means a natural person twenty-one years of age or older in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (n), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

G. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer and includes the use by a retailer of any technology platform in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (p), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

H. "Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale at that location, as well as an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale. Dispensary does not include the following uses, so long as the location of such uses is otherwise regulated by and strictly complies with this code and other applicable law, including California Health and Safety Code Section [11362.5](#), known as the CUA, and California Health and Safety Code Section [11362.7](#) and following, known as the MMP, as such sections may be amended or interpreted by the California courts or superseded by any successor statute:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code.
4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
5. The delivery, administration or provision of medical cannabis by a designated primary caregiver to the qualified patient of the primary caregiver or to the person with an identification card who has designated the individual as a primary caregiver at the primary residence of the qualified patient or person with an identification card who has designated the individual as a primary caregiver.

I. "Fully enclosed and secure structure" means a code compliant space within a building, greenhouse or other structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, provides complete visual screening, and which is accessible only through one or more locking doors.

J. "Licensee" means any person holding a license under Division 10, entitled "Cannabis," of the California Business and Professions Code, and includes the holder of a testing laboratory license, in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (z), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

K. "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product, in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (ag), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

L. "Manufacturer" means a licensee that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly 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 marijuana or marijuana products or labels or relabels its container, in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (ah), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

M. "Medical cannabis" or "medical cannabis product" means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section [11362.5](#) of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician's recommendation, in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (ai), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

N. "Primary caregiver" shall have the same definition as set forth in California Health and Safety Code Section [11362.7](#), subdivision (d), as that section and subsection may be amended or interpreted by the California courts, including, but not limited to, the California Supreme Court case of *People v. Mentch* (2008) 45 Cal. 4th 274, or superseded by any successor statute.

O. "Qualified patient" shall have the same definition as set forth in California Health and Safety Code Section [11362.7](#), subdivision (f), as that section and subsection may be amended or interpreted by the California courts or superseded by any successor statute.

P. "Private residence" means a house, an apartment unit, a mobile home, or other similar dwelling, in accordance with the definition in California Health and Safety Code Section [11362.2](#), subdivision (b), paragraph (5), as that section, subdivision and paragraph may be amended or interpreted by the California courts or superseded by any successor statute.

Q. "Sell," "sale," and "to sell" mean any transaction whereby, for any consideration, title to cannabis is transferred from one person to another, and includes the delivery of cannabis or cannabis products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of cannabis or cannabis products by a licensee to the licensee from whom the cannabis or cannabis product was purchased, in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (as), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

R. "Testing laboratory" means a laboratory, facility or entity in the state that offers or performs tests of cannabis or cannabis products and that is both of the following: accredited by an accrediting body that is independent from all other persons involved in commercial cannabis activity in the state and licensed by the Bureau of Cannabis Control, in accordance with the definition in California Business and Professions Code Section [26001](#), subdivision (at), as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute.

S. "Volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures, in accordance with the definition in California Health and Safety Code Section [11362.3](#), subdivision (b), paragraph (3), as that section, subdivision and paragraph may be amended or interpreted by the California courts or superseded by any successor statute.

(Ord. 2634 NCS §3 (part), 2017.)

#### **10.15.030 Prohibition of dispensaries.**

---

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in the city of Petaluma, the operation of a dispensary, except for dispensaries that qualify for the exception in Section [10.15.040](#)(D). (Ord. 2634 NCS §3 (part), 2017.)

#### **10.15.040 Commercial cannabis activity.**

---

A. It is unlawful for any person to engage in, conduct, or carry on, or to permit to be engaged in, conducted or carried on, in the city of Petaluma, commercial cannabis activity, other than the commercial cannabis activity specified in subsections B through D of this section. The exceptions in subsections B through D of this section shall only apply: (1) 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 regulations, including, but not limited to, the regulations adopted or promulgated pursuant to Section [10.15.090](#); and (2) to commercial cannabis activity conducted in areas of the city where such uses are permitted in accordance with the city's zoning regulations;

B. Manufacture and only business to business (nonretail) sale of topical or edible cannabis products using cannabis infusions, infusion processes, or cannabis concentrates, but excluding manufacture of cannabis products involving volatile solvents, and excluding repackaging cannabis or cannabis products or relabeling cannabis or cannabis product containers;

C. Testing laboratories;

D. Retail sale of cannabis and cannabis products using a delivery-only method in accordance with Section [10.15.060](#), at a maximum of two different locations in the city, with no sale of cannabis or cannabis products to customers, primary caregivers or qualified patients occurring at the business location, no customers, primary caregivers or qualified patients permitted at the business location at any time, and no 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.

(Ord. 2634 NCS §3 (part), 2017.)

#### **10.15.050 Cannabis cultivation.**

---

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in the city of Petaluma, the cultivation of cannabis, other than the cultivation of cannabis in accordance with and as specified in subsections A and B of this section. The exceptions in subsections A and B of this section are

not subject to, and do not require, issuance of a license, permit, or other authorization or notice issued by an authorized city official.

A. Indoor cultivation of not more than six living cannabis plants in a private residence, or a lesser number if both indoor cultivation pursuant to this subsection A and outdoor cultivation pursuant to subsection B of this section are occurring at the private residence, such that the total number of living cannabis plants at the private residence, including indoor and outdoor cultivation, does not exceed a total of six living cannabis plants; where the cultivation area does not exceed fifty percent or one hundred square feet of the nonliving or garage area of the private residence; does not displace any required on-site parking; is within a fully enclosed and secure structure with no visual or olfactory evidence of cultivation detectable from the public right-of-way or other private property; does not utilize lighting that exceeds one thousand two hundred watts; does not require the use of an electric generator; and does not involve the use of volatile solvents; and

B. Outdoor cultivation on the grounds of a private residence, but only where less than the six living cannabis plants permitted pursuant to subsection A of this section are being cultivated within a fully enclosed and secure structure, such that the total number of living cannabis plants at the private residence, including indoor and outdoor cultivation, does not exceed a total of six living cannabis plants; with no visual or olfactory evidence of cultivation detectable from the public right-of-way or other private property; and where the outdoor cultivation does not utilize lighting that exceeds one thousand two hundred watts, does not require the use of an electric generator, and does not involve the use of volatile solvents.

(Ord. 2634 NCS §3 (part), 2017.)

#### **10.15.060 Cannabis delivery.**

---

Subject to the requirements of California Business and Professions Code Section [26080](#), subdivision (b), which prohibits local jurisdictions from preventing those that are licensed under the AUMA from transporting cannabis or cannabis products on public roads within the jurisdiction, as that section and subdivision may be amended or interpreted by the California courts or superseded by any successor statute, it is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in the city of Petaluma, the delivery of cannabis; except for delivery of cannabis:

A. That qualifies for the exception in Section [10.15.040](#)(D); and

B. Delivery of medical cannabis to qualified patients and primary care givers in the city of Petaluma from cannabis sellers lawfully operating outside the city of Petaluma in accordance with all applicable state and local laws.

For cannabis delivery to qualify for the exceptions in subsection A or B of this section, such delivery must (1) be carried out by a person at least twenty-one years of age; and (2) occur between the hours of eight o'clock a.m. and eight o'clock p.m. (Ord. 2634 NCS §3 (part), 2017.)

#### **10.15.070 Cannabis entitlements.**

---

No cannabis dispensary, commercial cannabis activity or cannabis delivery operation (other than commercial cannabis activity or cannabis dispensary or delivery operations that qualify for one or more of the exceptions specified in Section [10.15.040](#)(B) through (D)), or cannabis cultivation, however described by the applicant, will be eligible for or be issued any license, permit, or other authorization, notice or other entitlement to operate in the city, or have any such entitlement renewed, including, but not limited to, any business license or home occupation permit, and any such application shall be denied citing this section. (Ord. 2634 NCS §3 (part), 2017.)

#### **10.15.080 Medical cannabis.**

---

No provision of this chapter is to be construed as prohibiting qualified patients and primary caregivers in the city of Petaluma from cultivating medical cannabis, or as prohibiting sale or delivery of medical cannabis or medical cannabis products to qualified patients or primary caregivers in the city of Petaluma, in accordance with all applicable state and local laws and regulations, including the requirements of this chapter and any regulations promulgated hereunder. (Ord. 2634 NCS §3 (part), 2017.)

#### **10.15.090 Regulations.**

---

The city council shall, by duly adopted resolution, adopt regulations, or authorize the city manager to promulgate regulations, intended to implement the requirements of this chapter in accordance with all applicable provisions of the city charter, this chapter, the CUA, the MMP, the AUMA, and other applicable law. The city council shall review this chapter and any regulations adopted or promulgated pursuant to this section from time to time as necessary to ensure effective implementation of this chapter and protection of the public health, safety and welfare. (Ord. 2634 NCS §3 (part), 2017.)

#### **10.15.100 Prohibited cannabis activities a public nuisance.**

---

Any cannabis dispensary, commercial cannabis activity, cannabis cultivation, cannabis delivery or other cannabis use or activity caused or permitted to exist in the city in violation of any provision of this chapter or any of the regulations adopted or promulgated thereunder shall be and is hereby declared a public nuisance. Violations of this chapter may be enforced by any applicable laws or ordinances, including, but not limited to, Chapter [1.10](#). (Ord. 2634 NCS §3 (part), 2017.)

---

#### **The Petaluma Municipal Code is current through Ordinance 2634, passed December 4, 2017.**

Disclaimer: The City Clerk's Office has the official version of the Petaluma Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

---