

Addendum 2.0 to Public Review Draft Zoning and Subdivision Regulations

October 12, 2016 – Draft for City Staff review

The text below will add updated regulations for medical marijuana uses, formerly located in Chapter 7.102 of the Richmond Municipal Code, to the August 18th Public Review Draft of the Zoning and Subdivision Regulations and will be considered by the Planning Commission along with changes recommended in Addendum 1.0 at its October 20th meeting.

15.04.610.260 Medical Marijuana Uses

Medical marijuana uses, including but not limited to dispensaries, cultivation facilities, product manufacturers, testing laboratories, and distributors, are subject to the standards and procedures of the Municipal Code, State Law, and the regulations set forth in these Zoning Regulations.

- A. **Applicability.** These standards apply to all establishments that are involved in any commercial marijuana activity, also known as commercial cannabis activity.
- B. **Definitions**¹. The following words or phrases, whenever used in this Section, have the following definitions:
 - 1. **Attending Physician.** An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of cannabis is appropriate.
 - 2. **Bureau of Medical Marijuana Regulations (“the Bureau”).** The bureau within the California Department of Consumer Affairs created to develop, administer and enforce comprehensive rules for the marijuana industry in California, from licensing marijuana growers to crafting environmental protections.
 - 3. **Cannabis.** See Marijuana.

¹ Certain terms, such as “applicant” and “person”, “permit” and “use”, are defined in front part of the Zoning and Subdivision Regulations, Series 100, General Provisions, and are not repeated here.

4. **Collective.** See Dispensary.
5. **Commercial Cannabis Activity.** Commercial cultivation activity means the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 19319 of the California Business and Professions Code related to qualifying patients and primary caregivers.
6. **Cultivation.** Any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of medical cannabis within an enclosed structure.
7. **Delivery.** The commercial transfer of medical marijuana or medical marijuana products from a dispensary, up to an amount determined by the Bureau, to a primary caregiver or qualified patient as defined in Section 11362.7 of the California Health and Safety Code. Then term “delivery” also includes the use by a dispensary or any technology platform owned by and controlled by a dispensary or independently licensed under State law whereby qualified patients or primary caregivers arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
8. **Dispensary.** A facility where medical cannabis, medical cannabis products, edible 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, including an establishment that delivers, pursuant to Section 19340 of the California Business and Professions Code, medical cannabis and medical cannabis products as part of a retail sale. A dispensary is considered a commercial cannabis activity.
9. **Distributor.** A person engaged in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.
10. **Edible Marijuana Product.** Manufactured cannabis 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 Section 32501) of the California Food and Agricultural Code.
11. **Management Member.** A person with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a medical marijuana business, including but not limited to persons who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the business, or any person or entity having a financial interest in the medical marijuana business.

12. **Manufacturer.** A State-licensed person that conducts the production, preparation, propagation, or compounding of manufactured medical marijuana or medical marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or re-labels its container.
13. **Manufactured medical marijuana.** Manufactured medical marijuana is raw marijuana that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.
14. **Marijuana.** All parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the crude or purified resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It 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. For the purposes of these zoning regulations, "marijuana" does not include "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
15. **Medical Marijuana Cultivation Facility.** Any building in which medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of these activities.
16. **Medical Marijuana Product.** A product containing marijuana, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code.
17. **Medical Marijuana Business.** Establishments, properties, parcels, and/or structures involved in any commercial cannabis activity, including dispensaries, medical marijuana manufacturers, transporters, testers, and distributors.
18. **Medical Marijuana Regulation and Safety Act (MMRSA).** Article 6 (commencing with Section 19331) of Chapter 3.5 of Division 8 of the California Business and Professions Code.
19. **Primary Caregiver.** The individual, designated by a qualified patient or by a person with an identification card issued pursuant to California Health and Safety Code Section 11362.7, who has consistently assumed responsibility for the housing, health, or safety of that patient or person. The primary caregiver

may be a licensed clinic, residential care facility, hospice, or home health agency.

20. **Qualified Patient.** A person who is entitled to the protections of California Health and Safety Code Section 11362.5, for patients who obtain and use cannabis for medical purposes upon the recommendation of an attending physician, whether or not that person applied for and received a valid identification card issued pursuant to State Law.
 21. **Testing Laboratory.** The facility where tests are performed on medical cannabis or medical cannabis products and that holds a valid certificate of accreditation and license from the Bureau, if required.
 22. **Transporter.** A person issued a license by the Bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the Bureau between facilities that have been issued a license pursuant to the MMRSA.
- C. **Permits Required.** A conditional use permit is required for all commercial cannabis activity. Permits will only be granted to entities operating legally according to the Medical Marijuana Regulation and Safety Act (MMRSA), other applicable State Law, and the Bureau's regulations. Reasonable conditions of approval may be imposed, including requirements for permits from the County for retail sales of edible marijuana products and from the State for food product manufacturing.
- D. **Locations Where Allowed and Number Allowed.**
1. **Cultivators, Manufacturers, Testing Laboratories, Distributors, and Transporters.** All medical marijuana cultivation, manufacturing, testing laboratory, distributor and/or transporter operations shall be located only in the ILL, IL, and IG Industrial districts with a conditional use permit and in the IW district only within a city-owned building with a conditional use permit.
 2. **Dispensaries.** Medical marijuana dispensaries are only allowed to locate in a CR Regional Commercial Zoning District with a conditional use permit unless, following a public hearing, the Planning Commission makes all of the following findings to authorize a dispensary to locate on a site in the CG General Commercial Zoning District:
 - a. The dispensary has demonstrated that it considered locations within the CR District and found no location meeting the requirements of this section that serves the needs of its members; and
 - b. The proposed location within the CG District would complement the surrounding community while providing necessary services to its members; and
 - c. The proposed location is not abutting a residential use.

3. ***Distance from Schools, Parks, Community Centers, Youth Center, Child-Care Center, or Nursery School.***

- a. All commercial cannabis activity must be located a minimum of 1,500 feet from any public or private high school and a minimum of 600 feet from any public or private kindergarten, elementary, middle or junior high school, pursuant to State law.
- b. All medical marijuana cultivation, manufacturing, testing laboratories, distributors and/or transporter operators shall be located a minimum of 500 feet from any park, community center, youth center, public or private child-care center or nursery school, without exception.
- c. All medical marijuana dispensaries shall be located a minimum of 1,500 feet from any public or private high school and a minimum of 500 feet from any park, community center, youth center, public or private child-care center or nursery school unless, following a public hearing, the Planning Commission makes all of the following findings based on specific facts:
 - i. The location, design and proposed operating characteristics of the dispensary are such that it is highly improbable persons on, in or travelling to or from nearby parks, community centers, youth centers, or child-care centers would be able to view persons in, entering, or leaving the dispensary;
 - ii. Allowing the dispensary to locate within 1,500 feet of a public or private high school or within 500 feet of a park, community center, youth center, public or private child-care center or nursery school, will not grant the dispensary a special privilege not available to other medical marijuana dispensaries within the City; and
 - iii. The dispensary has demonstrated that it considered other locations and selected the location that would have the minimum negative impact on the surrounding community while providing necessary services to its members.

4. ***Number of Medical Marijuana Businesses.***

- a. No more than three medical marijuana dispensaries shall be permitted or allowed to operate in the City.
- b. There shall be no limit on the number of commercial cultivators, transporters, distributors, testing laboratories, or marijuana manufacturing businesses in the City as long as they obtain valid State and local permits and licenses, including a conditional use permit from the City of Richmond for each location.

E. **Transporting and Delivery of Medical Cannabis and Medical Cannabis Products.** Transporting and delivery of medical marijuana and marijuana products

to persons within the City limits are prohibited with three exceptions: 1) transporting cultivated marijuana to a City-permitted medical marijuana manufacturer by Bureau-licensed transporters is permitted; 2) transporting cultivated marijuana or manufactured marijuana products to a City-permitted medical marijuana dispensary by Bureau-licensed transporters is permitted; and 3) delivery by a member of a City-permitted dispensary to a City resident that is a member of the dispensary is permitted. All other transporting and delivery service within the City is banned.

F. Permits Application Process.

1. ***Permit Applications.*** In addition to any application forms and fees required in accordance with Article 15.04.803, an application for a medical marijuana business must provide specific information, as determined by the Zoning Administrator, based on this Section, State law and regulations, and County input relative to edible marijuana projects. This information includes, but is not limited to, the following:
 - a. *Requirements for All Medical Marijuana Businesses.* A medical marijuana business is required to provide the following information in support of its permit application.
 - i. Information Regarding the Proposed Property.
 - (1) The address of the property where the proposed medical marijuana business will operate.
 - (2) A site plan with fully dimensioned interior and exterior floor plans, including electrical, mechanical, plumbing, and disabled access compliance pursuant to Title 24 of the State of California Code of Regulations and the federal Americans with Disabilities Act. For a dispensary, the site plan must show that there are separate rooms or partitioned areas within the dispensary for the receipt of supplies and for the distribution of medical marijuana to qualified patients and/or primary caregivers.
 - (3) Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front, rear and side(s) of the site.
 - (4) Photographs depicting the entire existing interior of buildings on the site.
 - (5) If the site is being rented or leased or is being purchased under contract, a copy of such lease or contract.
 - (6) If the site is being rented or leased, written proof that the property owner, and landlord if applicable, were given notice that the property will be used as a medical marijuana business, and that the property

owner, and landlord if applicable, agree(s) to said operations. If the dispensary is to be a subtenant, then "landlord" shall mean the primary tenant.

- ii. Information Regarding Each Management Member. For each management member, the following information must be provided, to the extent applicable:
 - (1) The name, address, telephone number, title and function(s);
 - (2) A fully legible copy of one valid government-issued form of photo identification, such as a driver's license; and
 - (3) A summary criminal history ("LiveScan") prepared by the Richmond Police Department not more than two weeks prior to the date of application.
- iii. Information Regarding the Medical Marijuana Business.
 - (1) Written confirmation as to whether the medical marijuana business, or a medical marijuana business with one or more management members in common with the applicant, previously operated in the City or any other county, city or state under a similar license/permit, and whether the business applicant ever had such a license/permit revoked or suspended and the reason(s) therefore.
 - (2) The name and address of the medical marijuana business' current Agent for Service of Process.
- iv. Seller's Permit. A seller's permit from the California Board of Equalization.
- v. Compliance Statement. A copy of the medical marijuana business operating conditions, containing a statement dated and signed by each management member, under penalty of perjury, that they have read, understand and shall ensure compliance with all operating conditions.
- vi. Plan for Unsold Medical Marijuana. A plan for the disposal of any unsold medical marijuana or medical marijuana product must be submitted that protects any portion thereof from being possessed or ingested by any person or animal.
- vii. Neighborhood Responsibility Plan. A neighborhood responsibility plan that demonstrates how the business will fulfill its responsibilities to the neighborhood, including neighborhood outreach, methods for future communication, and dispute resolution, must be submitted and approved by

the Planning Commission prior to issuance of a conditional use permit.

- viii. Security Plan. A security plan indicating how the applicant will comply with the requirements of this Section and any other applicable law, rule, or regulation.
 - ix. Affirmation that the Application is True. A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the supervision of the management member(s).
- b. *Supplemental Application Requirements for Dispensaries*. In addition to the application requirements applicable to all medical marijuana businesses, the following apply to medical marijuana dispensaries.
- i. Security Plan. A dispensary's security plan must include procedures for verifying identification of qualified patients and primary caregivers both before entering the dispensary and again before receiving medical marijuana; the number, location and hours of security guards; and a theft prevention plan.
 - ii. Communication with Other Richmond Dispensaries. Evidence of a computerized or telephonic system for communicating with all other permitted dispensaries within the City of Richmond in order to ensure that a qualified patient, directly or through his or her primary caregiver(s), does not purchase, obtain, or otherwise receive a total of more than one ounce of medical marijuana per day.
- c. *Supplemental Application Requirements for Manufacturers*. In addition to the standards applicable to all medical marijuana businesses, the following apply to medical marijuana manufacturing operations.
- i. Safety of Manufacturing Process. A medical marijuana manufacturer must demonstrate one or both of the following:
 - (1) The only manufacturing processes used are either solventless or employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
 - (2) The manufacturing processes only uses solvents exclusively within a closed-loop system that meets all of the following requirements:

- (a) The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).
 - (b) The system is designed to recapture and contain solvents during the manufacturing process and otherwise prevent the off-gassing of solvents into the atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.
 - (c) A licensed engineer certifies that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers, the American National Standards Institute, Underwriters Laboratories, the American Society for Testing and Materials, or OSHA Nationally Recognized Testing Laboratories.
 - (d) The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.
 - ii. Fire, Safety, and Building Code Requirements. The manufacturer must meet all required fire, safety, and building code requirements.
 - iii. Approval from Fire Chief. The medical marijuana manufacturer must receive and maintain approval from the Fire Chief for the closed-loop system and for other equipment used for manufacturing and extraction operations.
 - iv. Edible Medical Marijuana Products. Medical marijuana manufacturers that prepare edible medical marijuana products must demonstrate compliance with State, County and local requirements regarding the preparation, distribution, labeling, and sale of food, even if those laws and regulations are not directly applicable to edible medical marijuana products.
- d. *Supplemental Application Requirements for Cultivators and Manufacturers.* In addition to the application requirements applicable to all medical marijuana businesses, the following apply to medical marijuana cultivation and manufacturing operations.

- i. Plans for Use of Renewable Electricity. All cultivation and manufacturing operations must submit detailed plans demonstrating that the electricity used in the cultivation and manufacturing operations is from a renewable energy source or arrangements have been made to offset use of nonrenewable electrical energy with renewable energy from another source. If written evidence of enrollment in the Deep Green 100 percent renewable energy program administered by Marin Clean Energy (MCE) is provided, no further details need to be submitted with the application.
 - ii. Plans for Water Conservation. All cultivation and manufacturing operations must submit detailed plans demonstrating strict water conservation methods will be instituted and maintained at all times, and such plans must include records of monthly water consumption. These plans also must show that the cultivation facility will be equipped with water collection and filtration systems to reduce irrigation water to the maximum extent possible as determined by the Zoning Administrator or the Bureau, if its regulations are more restrictive.
 - iii. Plans for Wastewater. All cultivation and manufacturing operations must demonstrate compliance with the limitations on discharge into the City's wastewater system, as set forth in Richmond Municipal Code Chapter 12.18.
 - iv. Plans to Prevent Mold. All cultivation and manufacturing operations must submit a plan that specifies the methods to be used to prevent the growth of harmful mold.
 - v. Ventilation Plan. All cultivation and manufacturing operations must submit detailed information about the proposed ventilation system, including technical specifications indicating that the system is capable of preventing the release into the atmosphere of marijuana odors from the cultivation or manufacturing operation.
2. ***Circulation of Complete Application to State and Local Agencies.***
All complete applications for a conditional use permit for a medical marijuana business will be circulated to the Police Department for concurrent review. Complete applications will also be submitted to State and local agencies, as appropriate, including the Fire Department and the County Environmental Health Department, for necessary inspections, review and comment.
3. ***Duration of Conditional Use Permit.*** Permits issued under this Section will be subject to time limits, renewal, and reporting requirements as specified in conditions of approval. These conditions shall include

resubmittal requirements for any change in circumstances, including substantive changes in ownership, management, sources of electricity, or operations, from those described in the original application.

4. ***Failure to Commence Operations.*** If a medical marijuana business that has not opened at the approved location and begun operations within one year of being issued/granted a permit under this Section, the permit shall be deemed expired and void. The City shall provide written notice to the medical marijuana business that the permit has expired and is void. A medical marijuana business may appeal the permit expiration as set forth in Article 15.04.803. Upon a factual showing of good cause by the medical marijuana business for its failure to commence operations within the required time, the hearing body may grant a one-time only 60-day maximum extension based upon its factual finding of good cause for the extension. That determination shall be final. “Good cause” includes, but is not limited to, termination of the medical marijuana business’ lease by the property owner; a change in federal, state or local law that now prohibits use of the previously approved location as a medical marijuana business; foreclosure or sale of the approved location resulting in the medical marijuana business’ inability to enter into a new lease; damage to or deterioration to the building that prevents the safe use and/or occupation of the structure until all required repairs are made in conformity with a Notice and Order to Repair issued to the property owner by the City’s Building Official pursuant to the California Code of Regulations and the Uniform Code for Abatement of Dangerous Buildings. However, if the medical marijuana business was responsible for the condition, including any non-permitted construction or alteration of the structure, or non-permitted electrical, mechanical or plumbing, “good cause” shall not be found.
 5. ***Modification of Permit Conditions.*** Modifications to the permit or the conditions of approval may be requested in accordance with Section 15.04.803.110.
 6. ***Revocation or Suspension.***
 - a. The permit for a medical marijuana business may be revoked if the Bureau denies or revokes a State license for the operation of medical marijuana business.
 - b. Whenever a permit for a medical marijuana business has been revoked or suspended, no permit application by any of the managing members of that medical marijuana business shall be considered for a period of three years from the date that the notice of the revocation or suspension was mailed to the business owner.
- G. **Minimum Standards Related to the Operation of Medical Marijuana Businesses.** Any permit issued, renewed, or modified pursuant to this Section includes the following conditions of operation. Each permittee is required to comply

with the following conditions. The Planning Commission may impose additional conditions as necessary to preserve the public health, safety and welfare.

1. ***Standards Applicable to All Medical Marijuana Businesses.*** The following standards are applicable to all medical marijuana businesses.
 - a. *Compliance with State and Local Law Required.* The applicant shall fully comply with all State laws and local laws for medical marijuana businesses.
 - b. *Maintain Licenses and Permits.* All medical marijuana businesses must maintain all licenses and permits required by the State, the County and the City.
 - c. *Compliance with Laws Regarding Edible Marijuana Products.* Medical marijuana businesses that manufacture, prepare, dispense, and/or sell food, including marijuana-infused foods and/or edible marijuana products, must comply with and are subject to the provisions of all relevant State and local laws and County regulations regarding the preparation, distribution, labeling and sale of such items.
 - d. *Exterior Lighting.* Exterior building and parking area lighting at the medical marijuana businesses must be in compliance with all applicable provisions of Article 15.04.604.
 - e. *Roof Hatches.* The medical marijuana business' windows and roof hatches shall be secured so as to prevent unauthorized entry; equipped with latches that may be released quickly from the inside to allow exit in the event of emergency; and comply with all applicable Building and Fire Code provisions.
 - f. *Ventilation.* The medical marijuana business must provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the property is not detected outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the marijuana dispensary, cultivation site, marijuana product manufacturer or any other subsequently approved marijuana business.
 - g. *Closed-Circuit Television.* The medical marijuana business must be monitored at all times by closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the property. The recordings shall be maintained at the property for a period of not less than 30 days. Failure to maintain the cameras in good working condition at all times is a violation of this Section and cause for permit revocation or suspension.

- h. *Alarm System.* The medical marijuana business must have a centrally-monitored fire and burglar alarm system.
- i. *Consent to Inspection.* City, County, and State representatives may enter and inspect the property of every medical marijuana business between the hours of 9:00 a.m. and 5:00 p.m. during the week (Monday through Friday), or at any reasonable time to ensure compliance and enforcement of the provisions of this Section, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly-executed search warrant, subpoena, or court order. It is unlawful and cause for immediate suspension or revocation of the permit for any property owner, landlord, lessee, medical marijuana business, and/or its owner, agent, employee to refuse to allow, impede, obstruct or interfere with an inspection.
- j. *Restrictions on Access and Sale.* No medical marijuana dispensary shall cause or permit the sale, distribution or exchange of medical marijuana to any person who is not a member of a dispensary or a dispensary owner, agent, or employee. No medical marijuana manufacturer, distributor, laboratory tester, or cultivator shall cause, permit or allow any sale, distribution or exchange of medical marijuana to any person at the manufacturing, testing, distribution, or cultivation location, nor shall the manufacturer, laboratory tester, distributor, or cultivator permit any walk-ins or allow any person into the site, unless such person is authorized to engage in medical marijuana business under State and local law.
- k. *Visibility of Marijuana.* No dried medical marijuana or marijuana products on the site of a medical marijuana business shall be visible with the naked eye from any adjacent public or private property, nor shall cultivated medical marijuana or dried medical marijuana be visible from the building exterior. No cultivation shall occur at the dispensary's location unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry, and has been inspected and approved by the Richmond Fire and Building Departments.
- l. *No Underage Persons.* No person under the age of 18 shall be allowed at a medical marijuana business, unless that minor is a qualified patient and is accompanied by his or her licensed attending physician, parent(s) or documented legal guardian.
- m. *No Alcoholic Beverages.* No medical marijuana business and/or medical marijuana permittee shall cause or permit the sale, dispensing, or consumption of alcoholic beverages at a medical marijuana business or its parking area.

- n. *Secure Storage.* All medical marijuana and medical marijuana products shall be stored on-site in structures that are completely enclosed, in a locked vault or safe that is not bolted to the floor, or in any other secured storage structure. No off-site storage is allowed.
- o. *No Retail Sales in Cultivation or Manufacturing Facilities.* No medical marijuana product manufacturer or cultivator shall allow or permit retail sale of its product at the manufacturing or cultivation location.
- p. *Maintenance of Records.* Records of commercial cannabis activity must be maintained in accordance with State and local law, be maintained in order to show compliance with this Section, and be made available to the City upon request. Failure to provide such records is grounds for revocation of the conditional use permit. Records maintained must include, but are not limited to the following.
 - i. All medical marijuana businesses must maintain:
 - (1) Proof of a valid conditional use permit issued by the Planning Commission in conformance with this Section.
 - (2) The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the property.
 - (3) The full name, address, and telephone number(s) of each person engaged in the management of the business and the exact nature of the participation in the management of the business, and for cultivators, the full name, address, and telephone number(s) of each employee engaged in the cultivation of marijuana at the property.
 - (4) A written accounting of all cash and in-kind contributions, revenues received, reimbursements, and compensation to the business and all expenditures and costs incurred by the business.
 - ii. A dispensary shall maintain the following records on the property:
 - (1) The full name, address, and telephone number(s) of each dispensary member and management member who participates in the collective cultivation of medical marijuana.
 - (2) The current address of all sites at which marijuana is cultivated on behalf of the dispensary.
 - (3) The full name, date of birth, residential address, and telephone number(s) of each dispensary member and management member; the date each member and

- management member joined the collective; the exact nature of each member's and management member's participation in the dispensary; and the status of each member and management member as a qualified patient or primary caregiver.
- (4) An inventory record documenting the dates and the daily amounts of marijuana stored on the property.
 - (5) Copies of the prohibited activity checklist, available from the Richmond Police Department, containing a statement dated and signed by each dispensary member and management member, under penalty of perjury, that they read, understand and shall not engage in any prohibited activity.
 - (6) Evidence of: (a) verification that all manufactured products are manufactured, packaged, and labeled in compliance with all applicable State and local laws; and (b) laboratory testing as required by State and local laws.
- iii. A manufacturer shall maintain the following records on the property:
- (1) Evidence of: (a) verification that all marijuana products manufactured and packaged at the location are manufactured, packaged, and labeled in compliance with all applicable state and local laws; and (b) laboratory testing as required by State and local laws.
 - (2) A list of any medical marijuana dispensary located in the City that the manufacturer has provided, or intends to provide its product to. The list shall include the name of the dispensary, its address, the date the medical marijuana product was distributed to the dispensary, and the type and amount of the product that was distributed.
- iv. A cultivator shall maintain the following records on the property:
- (1) The current address of all sites at which marijuana is cultivated.
 - (2) An inventory record documenting the dates and amounts of marijuana cultivated at the property, the daily amounts of marijuana stored on the property, and an inventory record of all marijuana distributed to dispensaries within the City. The inventory shall

- include total plants grown and total weight of marijuana cultivated by the cultivator, the total weight of all marijuana distributed to dispensaries, and receipts and documents detailing the sale or distribution of marijuana.
- (3) Copies of the prohibited activity checklist, available from the Richmond Police Department, containing a statement dated and signed by the permittee(s) for the cultivation site, under penalty of perjury, that they read, understand and shall not engage in any prohibited activity.
 - (4) Evidence to verify that all marijuana is cultivated in compliance with all applicable state and local laws.
- v. A medical marijuana business that produces edible marijuana products shall maintain the following records on the property:
- (1) Proof of inspection and all required approvals required by the Contra Costa County Environmental Health Department and the County Health Officer for food manufacturers, packagers and/or distributors.
 - (2) Producers of edible marijuana products that are not tested for contaminants, in accordance with subsection (F)(1)(y) below, shall maintain a written or computerized log documenting:
 - (a) The source of the cannabis used in each batch of product;
 - (b) The contaminant testing date; and
 - (c) The testing facility for the cannabis.
- q. *Use of Pesticides.* No pesticides or insecticides that are prohibited by applicable law for fertilization or production of edible produce may be used on any marijuana cultivated, produced, or distributed by a medical marijuana business. A medical marijuana business shall comply with all applicable law regarding use of pesticides.
- r. *Disposal of Medical Marijuana and Marijuana Byproducts.* All medical marijuana and any product containing a usable form of marijuana must be made unusable and unrecognizable prior to removal from the business in compliance with all applicable laws.
- s. *On-site Community Relations Contact.* Medical marijuana businesses must provide the Police Department and all residents, businesses and property owners within 100 feet with the current name, phone

number, secondary phone number and e-mail address of an on-site community relations contact person to whom notice of any operating problems associated with the medical marijuana business may be reported.

- t. *On-Site Manager.* All medical marijuana businesses must have an on-site manager at each medical marijuana business who is responsible for overall operation at all times that employees are conducting operations, and provide the Police Department with contact information for such person, including a telephone number and e-mail address.
- u. *Discouraging Nuisance.* Medical marijuana businesses must take all reasonable steps to discourage and correct objectionable conditions that constitute a public or private nuisance in parking areas, sidewalks, alleys and areas surrounding the medical marijuana business and adjacent properties. Such conditions include, but are not limited to: smoking; creating a noise disturbance; loitering; littering; and graffiti.
- v. *No Marijuana Use.* No marijuana may be smoked, consumed, ingested or otherwise used inside the medical marijuana business.
- w. *State Licenses.* All marijuana businesses must apply for the State licenses within 10 days of the Bureau's application launch date. Any medical marijuana business that fails to obtain or qualify for the required State license, or is refused such license, shall immediately cease all operations in the City.
- x. *Testing and Labeling.* All medical marijuana, medical marijuana products, and edible marijuana products, must be tested as follows. An alternative methodology that the Zoning Administrator determines is sufficiently sensitive to determine that the permissible amount has not been exceeded, using EPA-or FDA-accepted testing protocols, may be approved if acceptable to the County Environmental Health Department and/or the Bureau.
 - i. The following compounds shall be quantitated as set forth in the following table, using equipment and methodologies with limits of detection for all compounds no greater than 0.1 percent by weight, or 1 mg/g.

Constituent	Equipment/Methodology
THCA	HPLC ¹ , or GC ² with derivatization or other methodology approved by the Bureau or the federal government as meeting a limit of quantification of 0.1% by weight.
THC	
CBDA	
CBD	
CBN	
1 High-performance liquid chromatography 2 Gas chromatography	

- ii. The quantitative information required above shall be printed on labels for all medical marijuana, medical marijuana products and edible marijuana products as set forth in the following table. Reference to concentrates includes water processed concentrates.

Product type	Label information
Cannabis (flowers, leaf and concentrates)	% by weight and mg/g
Edibles (other than beverages)	mg/package or mg/serving if applicable; nutritional and allergen information as required by the CDPH for cottage foods.
Capsules/pills	mg/capsule
Oils, butters, tinctures (for internal consumption)	weight/volume mg/g
Topicals (external application)	mg/g or mg/mL, as applicable
Beverages	mg/container and mg/serving, if applicable; nutritional and allergen information as required by the CDPH for cottage foods.

- iii. Medical marijuana, medical marijuana products and edible marijuana products shall be tested for contaminants as set forth in the following table. Medical marijuana, medical marijuana products and edible marijuana products that contain more than the permissible levels may not be provided to any person, and shall either be destroyed or returned to their source(s).

*Richmond Zoning & Subdivision Regulations Update
Addendum 2.0 Related to Medical Marijuana Uses*

Contaminant	Testing methodology	Permissible amount
Pesticides	GC-MS ¹ , Elisa ²	100 ppb (total of all pesticides) ³
Microbiological contaminants	• AOAC ⁴ 986.33	APC ⁵ < 100,000 CFUs ⁶ (Plating only),
	AOAC 997.02 (Milk and Dairy Standards)	Yeast/Mold = APC < 10 CFUs (Plating only)
	• AOAC 991.14	Coliform ≤ 1,000 CFUs (Plating only)
	PCR ⁷ or Petrifilm	Pseudomonas ≤ 1,000 CFUs
	PCR or Petrifilm	Salmonella = 0 CFU
	PCR or Petrifilm	E. coli = 0 CFU (PCR)
Residual flammable solvents (concentrates only)	Head space analysis	400 ppm (total of all solvents) ⁸
Notes:		
1 Gas chromatography-mass spectrometry		5 Aerobic plate count
2 Enzyme-linked immunosorbent assay		6 Colony-forming unit
3 Parts per billion		7 Polymerase chain reaction
4 Association of Analytical Communities		8 Parts per million

- iv. Baked goods, such as cookies and brownies, shall be exempt from testing for contaminants. These products are still subject to testing for potency, as required for the label information, and must use medical marijuana that has been tested for contaminants.
2. ***Supplemental Standards for Dispensaries.*** In addition to the standards applicable to all medical marijuana businesses, the following apply to medical marijuana dispensaries.
- a. *Signage.* A sign must be posted in a conspicuous location inside the medical marijuana business and advise that:
 - i. The diversion of medical marijuana for non-medical purposes is a violation of State law;
 - ii. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery;
 - iii. Loitering at the location of a medical dispensary for an illegal purpose is prohibited by California Penal Code Section 647(h); and
 - iv. This dispensary is permitted in accordance with the Municipal Code, and State law, including the MMRSA, and Bureau regulations.

- b. *Hours of Operation.* No medical marijuana dispensary shall be open or provide medical marijuana, in any form, to its members or patients between the hours of 8:00 p.m. and 9:00 a.m.
 - c. *Safety of Products.* The dispensary must ensure that the medical marijuana, medical marijuana products, and edible marijuana it offers for sale are manufactured, packaged, tested, and labeled in compliance with all applicable state and local laws. No dispensary may obtain or distribute marijuana products from any medical marijuana business unless such business has a valid permit or license issued by the Bureau and a California city or county.
3. ***Supplemental Standards for Cultivators.*** In addition to the standards applicable to all medical marijuana businesses, the following apply to medical marijuana cultivators.
- a. *Outdoor Cultivation Prohibited.* All cultivation must be done inside a fully enclosed structure, which may be a greenhouse, and the cultivation operation shall not be visible from the exterior of the structure. Outdoor cultivation of marijuana is not permitted in any zoning district.
 - b. *Renewable Energy Required.* All cultivation operations are required to obtain their electricity from renewable energy sources.
4. ***Supplemental Standards for Transporters and Persons engaged in Deliveries.*** No person engaged in transporting or delivery of medical marijuana or medical marijuana products shall park and leave unattended a vehicle containing medical marijuana or medical marijuana products at any location other than the site of a medical marijuana business. This prohibition does not apply to temporary parking for pickup or delivery by a member of a City-permitted dispensary to a City resident that is a member of the dispensary.
5. ***Supplemental Standards for Medical Marijuana Businesses Producing Edible Marijuana Products.***
- a. The manufacturer and seller of edible medical marijuana products must ensure that all medical marijuana products and edible marijuana products it manufactures and/or sells complies with the relevant provisions of all State and local laws, including regulations of the Contra Costa County Environmental Health Officer regarding the testing, preparation, distribution, labeling and sale of food, even if those laws are not directly applicable to edible marijuana products.
 - b. *Preparation of Edibles.*
 - i. Individuals involved in the production or distribution of edible marijuana products must thoroughly wash their hands

- before commencing production and before handling the finished product.
- ii. Gloves must be worn when packaging edible products containing medical marijuana.
 - iii. In order to reduce the likelihood of foodborne disease transmission, individuals who are suffering from symptoms associated with acute gastrointestinal illness or are known to be infected with a communicable disease that is transmissible through foodstuffs are prohibited from preparing edible products containing medical marijuana until they are free of that illness or disease, or are incapable of transmitting the illness or disease through foodstuffs. Individuals who have sores or cuts on their hands must use gloves when preparing and handling edible products containing medical marijuana.
 - iv. Edibles that are produced or distributed at a Dispensary may only be prepared by a Member of that Dispensary or only be prepared in a facility in the City that is permitted and inspected for the production of food by the County Environmental Health Officer, such as a commercial kitchen or a facility operating in accordance with the California Homemade Food Act.
 - v. Any and all persons who produce edible marijuana products must be a State-certified food handler. The valid certificate number of such persons must be on record at each dispensary where the edible product is distributed, and a copy of the certificate kept either on-site, or made available during inspections if kept off-site.
 - vi. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the facility in edible marijuana product preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.
- c. *Packaging of Edibles.*
- i. All edible marijuana products shall be individually wrapped at the original point of preparation.
 - ii. Packaging of edible marijuana product shall be opaque, and may not make it appear as if the edible marijuana product is

a food product. Packaging that makes the product attractive to children or imitates candy is not allowed.

iii. Packaging of edible marijuana product shall be tamper-evident.

d. *Labeling.*

i. Edible marijuana products that are made available for sale must bear labels containing the following information, in addition to any other information required by law:

- (1) the name and contact information for the entity that manufactured the edible marijuana product;
- (2) the date of manufacture or production;
- (3) the weight of the product;
- (4) the quantity of compounds as set forth in this Section;
- (5) a complete list of ingredients;
- (6) a warning if nuts or other known allergens are used;
- (7) a warning that the item is a medication containing medical marijuana;
- (8) a statement that the contents are not a food product;
- (9) information indicating any caloric impact on the patient; and
- (10) a warning clearly legible emphasizing that the product is to be kept away from children.

ii. Labels of edible marijuana product that are not tested for contaminants (baked goods) shall include a statement that the marijuana used in the product was tested for contaminants.

6. **Prohibited activity.** Medical marijuana may not be inhaled, smoked, eaten, ingested, or otherwise consumed anywhere on the property of a medical marijuana business, in the parking areas of the business, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79, which include:

- a. Any place where smoking is prohibited by law; and
- b. Within 1,000 feet of a school, recreation center, or youth center.

H. **Existing medical marijuana operations.** Any existing medical marijuana business that does not comply with the requirements of this Section must immediately cease

operation until such time, if any, when it complies fully with the requirements of this Article.

- I. **Legalization of Recreational Marijuana.** In the event marijuana is legalized for recreational use in California, all medical marijuana business in the City shall still be required to obtain all necessary City permits to sell, distribute, manufacture, cultivate, and test marijuana or marijuana products or cultivate marijuana and under the same conditions and restrictions as set forth in this section. Wherever the term “medical” is used, such term shall be stricken when it no longer applies to marijuana businesses.
- J. **Liability and Indemnification.**
1. To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this Section shall not become a personal liability of any public officer or employee of the City.
 2. To the maximum extent permitted by law, the permittees under this Section shall defend (with counsel acceptable to the City), indemnify and hold harmless the City, the City Council, and its respective officials, officers, employees, representatives, agents and volunteers (hereafter collectively called "City") from any liability, damages, actions, claims, demands, litigation, loss (direct or indirect), causes of action, proceedings, or judgment (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "action") against the City to attack, set aside, void or annul, any medical cannabis-related approvals and actions and strictly comply with the conditions under which such permit is granted, if any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.
 3. Within ten calendar days of the service of the pleadings upon the City of any action as specified in Subsection (H)(2) above, the permittee shall execute a letter of agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the letter of agreement shall survive termination, extinguishment or invalidation of the medical cannabis-related approval. Failure to timely execute the letter of agreement does not relieve the applicant of any of the obligations contained in this section or any other requirements or performance or operating standards that may be imposed by the City.
- K. **Violations and Enforcement.** In addition to Article 15.04.815, Enforcement Provisions:
1. Any person violating any provision of this Section, including engaging in a medical marijuana business without a conditional use permit or knowingly or intentionally misrepresenting any material fact in procuring a conditional use permit, shall be deemed guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 for each day or portion thereof of the violation or by

- imprisonment for not more than 12 months, or by both such fine and imprisonment;
2. Any violation of this Section shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity; and
 3. Any violation of any condition of a conditional use permit for a medical marijuana business, including failure to remit any fees required to maintain the permit and/or failure to remit the quarterly gross receipt taxes, shall be grounds for permit suspension or revocation.

Related Amendments

Other proposed changes in redline and ~~strike through~~ format are intended to clarify regulations and standards related to medical marijuana uses.

TABLE 15.04.203.020: LAND USE REGULATIONS – COMMERCIAL DISTRICTS				
Uses	CG	CR	CC	Additional Regulations
...				
COMMERCIAL				
...				
Medical Marijuana Collectives and Dispensaries	x	C	x	See § 15.04.610. 250-260 Medical Marijuana Uses
...				
INDUSTRIAL				
...				
Marijuana Cultivation Facility	<u>C</u>	<u>x</u>	<u>x</u>	See § 15.04.610.260 Medical Marijuana Uses
Marijuana Product Manufacturer	<u>C</u>	<u>x</u>	<u>x</u>	
Marijuana Testing Laboratory	<u>C</u>	<u>x</u>	<u>x</u>	
...				

TABLE 15.04.204.020: LAND USE REGULATIONS – INDUSTRIAL DISTRICTS						
Uses	ILL	IB	IL	IG	IW	Additional Regulations
...						
INDUSTRIAL						
...						
Marijuana Cultivation Facility	C	x	C	C	L12	See § 15.04.610.260 Medical Marijuana Uses
Marijuana Distributor	<u>C</u>	<u>x</u>	<u>C</u>	<u>C</u>	<u>L12</u>	
Marijuana Product Manufacturer	C	x	C	C	L12	

TABLE 15.04.204.020: LAND USE REGULATIONS – INDUSTRIAL DISTRICTS						
<i>Uses</i>	<i>ILL</i>	<i>IB</i>	<i>IL</i>	<i>IG</i>	<i>IW</i>	<i>Additional Regulations</i>
<u>Marijuana Testing Laboratory</u>	<u>C</u>	<u>x</u>	<u>C</u>	<u>C</u>	<u>L12</u>	
<u>Marijuana Transporter</u>	<u>C</u>	<u>x</u>	<u>C</u>	<u>C</u>	<u>L12</u>	
...						

15.04.610.260 Home Occupations

Home occupations must be located, developed, and operated in compliance with the following standards, where allowed by the 200 Series, Base Zoning Districts:

...

H. Prohibited Occupations and Activities. The business of distributing, transporting, or delivery of medical cannabis or medical cannabis products from the home is not an allowable home occupation. For the regulations and standards for medical marijuana uses, see Section 15.04.610.260.

15.04.815.040 (D) Remedies

The remedies provided for in this Section are cumulative ... in Chapter 9.22 and Chapter 2.62 of the Municipal Code. ...