

**ORDINANCE NO. 819**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CRESCENT CITY  
ADDING CHAPTER 17.95, COMMERCIAL CANNABIS REGULATIONS, AND  
AMENDING CHAPTER 17.20, C-1 DOWNTOWN BUSINESS DISTRICT, CHAPTER  
17.22, C-2 GENERAL COMMERCIAL DISTRICT, CHAPTER 17.23, CW  
WATERFRONT COMMERCIAL DISTRICT, CHAPTER 17.24, HS HIGHWAY  
SERVICE DISTRICT, AND CHAPTER 17.93, STANDARDS FOR MARIJUANA, OF  
TITLE 17, ZONING, OF THE CRESCENT CITY MUNICIPAL CODE**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as California Health and Safety Code section 11362.5, and entitled “The Compassionate Use Act of 1996”; and

WHEREAS, the intent of Proposition 215 was to enable persons who are in need of cannabis for medical purposes to legally obtain and use it under limited, specified circumstances without fear of criminal prosecution. Proposition 215 further provides that “[n]othing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes” (Health & Safety Code, § 11362.5(b)(2)); and

WHEREAS, in 2003, the California Legislature passed Senate Bill 420 (codified as California Health and Safety Code § 11362.7, *et seq.*) to clarify the scope of Proposition 215 and expressly allow cities and counties to adopt and enforce ordinances that are consistent with SB 420; and

WHEREAS, in November 2016, California voters approved Proposition 64, which enacted the Control, Regulate, and Tax Adult Use of Marijuana Act. Proposition 64 makes it legal under state law for anyone 21 years of age or older to possess, plant, cultivate, harvest, dry, and process up to six cannabis plants per private residence for personal use. (Health & Safety Code, §§ 11362.2 and 11362.3). Proposition 64 also explicitly provides for local control over personal use cultivation, enabling cities and counties to “enact and enforce reasonable regulations to regulate” indoor cultivation or cannabis for personal use and to prohibit all outdoor cultivation of cannabis for personal use on the grounds of a private residence. (Health & Safety Code, § 11362.2(b)(1) and (b)(3)); and

WHEREAS, in June 27, 2017, the Governor approved Senate Bill 94, which repealed the Medical Marijuana Regulation and Safety Act (MMRSA) and includes certain provisions of MMRSA in the licensing provisions of the Control, Regulate, and Tax Adult Use of Marijuana Act. Senate Bill 94, which seeks to align the regulatory frameworks for medical and nonmedical cannabis, amended, repealed, or added code sections in the following California Codes: Business and Professions, Fish and Game, Food and Agriculture, Health and Safety, Revenue and Taxation, and Water. Senate Bill 94 also consistently replaced the term “marijuana” with “cannabis” in state law, although the definition remains the same. For consistency with state law as revised by SB 94, the City adopted the term “cannabis” in place of “marijuana” in this Ordinance. The adoption of the term “cannabis” herein, however, shall not invalidate references

to “marijuana” in any City ordinance, policy, or regulation. The two terms share the same meaning and are used interchangeably; and

WHEREAS, the Federal Controlled Substances Act (21 U.S.C. § 801, *et seq.*) make it unlawful, under federal law, for any person to cultivate, manufacture, distribute, dispense, or possess with the intent to manufacture, distribute, or dispense, cannabis. The Federal Controlled Substances Act contains no exemption for the cultivation, manufacture, distribution, dispensation, or possession of cannabis for medical purposes or for personal use permitted by state law; and

WHEREAS, on January 19, 2016, the City Council adopted Ordinance No. 793, adding Chapter 17.93 to Title 17 of the Crescent City Municipal Code, prohibiting all commercial marijuana cultivation, processing, delivery, and retail sales; and

WHEREAS, on July 2, 2018, the City Council adopted Ordinance No. 803, adding Chapter 17.94 to Title 17 of the Crescent City Municipal Code, regulating the cultivation of cannabis for personal use permitted under Proposition 64; and

WHEREAS, the City intends to amend the Crescent City Municipal Code to regulate certain commercial cannabis activities permitted under Senate Bill 94, including storefront retail, non-storefront retail (delivery only), cultivation (indoor only), non-volatile manufacturing, processing facilities, distribution, microbusinesses, and testing laboratories. Other commercial cannabis uses allowed under state law shall remain prohibited in City limits.

NOW, THEREFORE, the City Council of the City of Crescent City, State of California, hereby ordains:

**SECTION 1. RECITALS.** The City Council finds the above recitals to be true and correct and are incorporated herein as if set forth in full.

**SECTION 2. CODE AMENDMENT – CHAPTER 17.20.** The City Council hereby amends Section 17.20.025, Uses subject to a use permit, of Chapter 17.20, C-1 Downtown Business District, of Title 17, Zoning, of the Crescent City Municipal Code, to read as follows:

[Deletions are in ~~strikeout~~ and additions are in ***bold italics.***]

The following uses may be permitted subject to the granting of a conditional use permit:

- A. Amusement and recreational establishments;
- B. Mortuaries;
- C. Second hand or surplus stores;
- D. New residential units up to forty-five units per acre density that are mixed with commercial or business use;
- E. New residential-only development or the expansion of existing residential-only development up to thirty units per acre density;
- F. Bed and breakfast establishments subject to the provisions of Chapter 17.59;
- G. Rooming houses;
- H. Residential care facilities;

- I. Veterinarians;
- J. Food product processing which includes on-site retail sales or light manufacturing which includes on-site retail sales and does not result in exterior air, noise, dust, odor, vibration or glare impacts, and where no animals are kept or stored on-site, such as a cheese factory, fish market or candy factory;
- K. Drive-thru windows for any office or retail services such as a bank or pharmacy;
- L. Communication towers; ~~and~~
- M. Government corporation yards;
- N. Structural heights exceeding forty feet but not exceeding sixty feet: (Ord. No. 739, § 2, 3-2-2009; Ord. No. 725, § 2, 7-16-2007; Ord. 715 § 2, 2006; Ord. 695 § 2, 2003); **and**
- O. Cannabis uses conducted pursuant to Chapter 17.95 (Commercial Cannabis Regulations), including: storefront retail, non-storefront retail (delivery only), cultivation (indoor only), non-volatile manufacturing, processing facilities, distribution, microbusinesses, and testing laboratories.***

**SECTION 3. CODE AMENDMENT – CHAPTER 17.22.** The City Council hereby amends Section 17.22.020, Uses, of Chapter 17.22, C-2 General Commercial District, of Title 17, Zoning, of the Crescent City Municipal Code, to read as follows:

[Deletions are in ~~strikeout~~ and additions are in ***bold italics.***]

- A. The principal permitted general commercial use in the C-2 district includes:
  - 1. Retail and wholesale sales located inside a building, such as: large or small shops, stores, centers, and outlets.
  - 2. Services located inside a building, such as: offices, financial institutions and personal service shops, including Laundromats, small item repairs and printing services.
  - 3. Indoor and outdoor recreational or travel activities and services, such as: all eating and drinking places (including drive-thru services), hotels and motels, theaters, entertainment centers, and bus stations.
  - 4. Medical centers and services including convalescent homes.
  - 5. Accessory structures, such as: parking lots and secondary storage buildings.
  - 6. Improvements to existing residential uses which can be demonstrated to have been legally established before the year 2001.
- B. Other C-2 uses for which a use permit must first be secured:
  - 1. Outdoor service or accessory storage areas, such as: auto sales, communications facilities, automobile service storage, and uncovered lumber yard or nursery areas.
  - 2. Medical facilities for animals such as veterinary clinics and animal hospitals.
  - 3. One residential unit for occupancy by the manager/caretaker of an existing commercial facility.
  - 4. Residential units up to thirty units per acre density, as either a mixed-use activity which is secondary to an existing or proposed commercial use, or as a residential-only development.
  - 5. Assisted care residential facilities.
  - 6. Non-profit organization offices.
  - 7. Stores in which more than fifty percent of the merchandise is second-hand.
  - 8. Mortuaries.

9. Car, boat or other vehicle washing facilities.
10. Local and regional public utility and community service facilities.
11. Gas stations and light-commercial automobile service uses. (Ord. 715 § 2, 2006; Ord. 700 § 5 (Exh. A (part)), 2003)
12. ***Cannabis uses conducted pursuant to Chapter 17.95 (Commercial Cannabis Regulations), including: storefront retail, non-storefront retail (delivery only), cultivation (indoor only), non-volatile manufacturing, processing facilities, distribution, microbusinesses, and testing laboratories.***

**SECTION 4. CODE AMENDMENT – CHAPTER 17.23.** The City Council hereby amends Section 17.23.030, Uses permitted subject to a use permit, of Chapter 17.23, CW Waterfront Commercial District, of Title 17, Zoning, of the Crescent City Municipal Code, to read as follows:

[Deletions are in ~~strikeout~~ and additions are in ***bold italics.***]

The following uses may be permitted subject to the granting of a conditional use permit:

- A. Outdoor accessory uses and structures located on the same site as a permitted use such as storage and communication devices, but not including typical hotel or motel recreation facilities such as swimming pools;
- B. Business, professional and trade schools and colleges;
- C. Churches and religious institutions not including private or parochial schools;
- D. Conference centers or meeting halls when separate from a hotel or restaurant facility;
- E. Parking facilities, including fee parking facilities which are not required by code for another use;
- F. Bed and breakfast establishments subject to the provisions of Chapter 17.59;
- G. Residential uses located above the ground floor of commercial structures not to exceed sixty units per acre density, or new residential-only development or the expansion of existing residential-only development up to thirty units per acre density;
- H. Service stations and oil storage facilities;
- I. New timeshare resort hotels which provide at least one recreational facility (pool, courts, etc);
- J. Food product processing which includes on-site retail sales or light manufacturing which includes on-site retail sales and does not result in exterior air, noise, dust, odor, vibration or glare impacts, and where no animals or bulk flammables are kept or stored on-site, such as a cheese factory, fish market or candy factory;
- K. Theaters and auditoriums within buildings;
- L. Public utility service pumping stations, power stations, equipment buildings and installations, drainage ways, storage tanks and transmission lines found by the planning commission to be necessary for the public health, safety or welfare; ~~and~~
- M. ***Cannabis uses conducted pursuant to Chapter 17.95 (Commercial Cannabis Regulations), including: storefront retail, non-storefront retail (delivery only), cultivation (indoor only), non-volatile manufacturing, processing facilities, distribution, microbusinesses, and testing laboratories; and***
- M.N. Any other use which is determined by the planning commission to be similar to the listed conditional uses and which conforms to the policies of the waterfront land use and

general plan. In making such a determination in addition to the usual findings, the planning commission must find:

1. That upon review of all determinable characteristics of the use that the use has the same essential characteristics as a permitted or conditional use. (Ord. No. 762, § 2, 4-18-2011; Ord. 715 § 2, 2006; Ord. 695 § 2, 2003)

**SECTION 5. CODE AMENDMENT – CHAPTER 17.24.** The City Council hereby amends Section 17.24.020, Principal permitted uses, of Chapter 17.24, HS Highway Service District, of Title 17, Zoning, of the Crescent City Municipal Code, to read as follows:

[Deletions are in ~~strikeout~~ and additions are in ***bold italics.***]

- A. The principal permitted uses in the HS highway service district include:
  1. Visitor-serving facilities such as: hotels and motels, indoor and outdoor eating and drinking places (including drive-thru services), grocery shops, liquor stores, or indoor specialty shops such as gifts, art, antiques, pawn or collectibles;
  2. Transportation services such as public transportation stops;
  3. Indoor recreation and entertainment facilities such as specialty attractions, theatres, and sports activities including equipment rentals and sales;
  4. One residential unit for the owner or manager of an existing on-site permitted use;  
~~and~~
  5. Visitor oriented public recreation facilities such as public parks, trails, rest areas and parking lots; ***and***
  6. Visitor and local-serving commercial uses such as real estate offices.
- B. Other HS uses for which a use permit must first be secured:
  1. Gas stations and light-commercial automobile service uses. (Ord. 715 § 2, 2006; Ord. 695 § 2, 2003)
  2. ***Cannabis uses conducted pursuant to Chapter 17.95 (Commercial Cannabis Regulations), including: storefront retail, non-storefront retail (delivery only), cultivation (indoor only), non-volatile manufacturing, processing facilities, distribution, microbusinesses, and testing laboratories.***

**SECTION 6. CODE AMENDMENT – CHAPTER 17.93.** The City Council hereby amends Section 17.93.040, Prohibited Activities, of Chapter 17.93, Standards for Marijuana, of Title 17, Zoning, of the Crescent City Municipal Code, to read as follows:

[Deletions are in ~~strikeout~~ and additions are in ***bold italics.***]

- A. Marijuana processing, marijuana delivery, and marijuana dispensaries are prohibited activities in all zones and specific plan areas in the City, except ***in compliance with Chapter 17.95*** and where the City is preempted by federal or state law from enacting a prohibition on any such activity.
- B. Cultivation of marijuana for any commercial ***purpose*** is expressly prohibited in all areas, zones and specific plan areas in the City. No person or entity, including a qualified patient or primary caregiver, may cultivate any marijuana in the City, except in compliance with Chapter 17.94.

- C. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, will be approved or issued for the activities of commercial marijuana cultivation, or marijuana processing, marijuana delivery, or the establishment or operation of a marijuana dispensary in the City, *except in compliance with Chapter 17.95.*
- D. No person or entity may conduct, cause, allow, permit, or maintain a marijuana dispensary, commercial marijuana cultivation, marijuana processing or marijuana delivery within the City, *except in compliance with Chapter 17.95 and* where the City is preempted by federal or state law from enacting a prohibition on any such activity for which the use permit, variance, building permit, or any other entitlement, license, or permit is sought.
- E. Nothing in this chapter may be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

**SECTION 7. CODE AMENDMENT – CHAPTER 17.95.** The City Council hereby amends the Crescent City Municipal Code by adding Chapter 17.95, Commercial Cannabis Regulations, to Title 17, Zoning, to read as follows:

[All new text.]

**17.95.010 Purpose and Findings.**

A. Purpose. The purpose and intent of this chapter is to protect the public health, safety, and welfare through strong and effective regulatory and enforcement controls, to protect neighborhood character, and to minimize the potential negative impacts of commercial cannabis activity on people, communities, and the environment by establishing minimum land use controls. Within the Downtown Business (C-1) District, General Commercial (C-2) District, Waterfront Commercial (CW) District, and Highway Services (HS) District, commercial cannabis activity, as defined under Division 10 of the Business and Professions Code, may be permitted with a use permit, subject to the regulations governing the underlying zoning district, and the requirements set forth in this chapter.

B. Findings. The city council makes the following findings:

1. While cannabis is now legal in California for adult use (age 21 and older), it is still illegal for minors (under age 21) to use and possess non-medicinal cannabis. The potential negative impacts on the health of minors and the intoxicating effects of cannabis justify regulations that help to (1) keep cannabis out of the hands of minors and (2) minimize the promotion of cannabis use in a manner that is directed or appealing to minors.

2. Commercial cannabis businesses are attractive targets for burglaries and robberies. Therefore, it is prudent to impose security requirements and other regulations on businesses that are aimed to provide a base level of protection against such thefts. Burglaries and robberies not only impact the business owner but also employees, patrons, the public, and law enforcement.

#### **17.95.020 Interpretation and Applicability.**

- A. No part of this chapter is to be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. Section 800 et seq., nor to otherwise permit any activity that is prohibited under that Act or any other local, state, or federal law, statute, rule or regulation. Commercial cannabis activity in the city is controlled by the provisions of this chapter of the Crescent City Municipal Code.
- B. Nothing in this chapter is intended, nor is it to be construed, to burden any defense to criminal prosecution otherwise afforded by California law.
- C. Nothing in this chapter is intended, nor is it to be construed, to preclude a landlord from limiting or prohibiting commercial cannabis activities by tenants.
- D. Nothing in this chapter is intended, nor is it to be construed, to exempt any cannabis-related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.
- E. Nothing in this chapter is intended, nor is it to be construed, to make legal any cannabis-related activity that is otherwise prohibited under California law.
- F. All commercial cannabis activity within city limits is subject to the provisions of this chapter, regardless if the activity existed or occurred prior to adoption of this chapter or at the time of subsequent amendments to this chapter.

#### **17.95.030 Definitions.**

As used in this chapter, the following terms and phrases 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. Cannabis also means the separated resin, whether crude or purified, obtained from marijuana. Cannabis also means marijuana as defined by § 11018 of the Cal. Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. 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. For the purpose of this chapter, cannabis does not mean "industrial hemp" as defined by § 81000 of the Cal. Food and Agricultural Code or § 11018.5 of the Cal. Health and Safety Code.
- B. "Cannabis Activity" means the commercial cultivation, possession, manufacture, processing, storing, laboratory testing, research and development, labeling, transportation, distribution, delivery, or sale of cannabis or a cannabis product.
- C. "Cannabis goods" means cannabis, including dried flower, and products containing cannabis.

- D. "Cannabis processing" means, but is not limited to, the following activities: manicuring, drying, curing, pressing, cooking, baking, infusing, grinding, bagging, packaging, and rolling.
- E. "Cannabis manufacturer" means a person required to be licensed as a manufacturer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
- F. "Cannabis microbusiness or microbusiness" means a person licensed to conduct multiple commercial cannabis activities, as described in Business and Professions Code Section 26070.
- G. "Cannabis retailer" means a person required to be licensed as a retailer pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code.
- H. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale of cannabis and cannabis products.
- I. "Consumption" means the smoking, vaping, ingestion, or other method of use or consumption of cannabis goods.
- J. "Cultivation" means any activity involving the indoor planting, growing, harvesting, drying, curing, grading, or trimming of commercial cannabis, including a nursery that produces only clones, immature plants, or seeds. This definition does not include outdoor cultivation or the processing (e.g., trimming) of commercial cannabis produced offsite."
- K. "Cultivation area" means the cumulative gross floor area of the room or rooms where cannabis plants are grown.
- L. "Delivery employee" means an individual employed by a permitted retailer or permitted microbusiness authorized to engage in retail sales who delivers cannabis goods from the permitted retailer or permitted microbusiness premises to a customer at a physical address.
- M. "Distribution" means the procurement, sales, and transport of cannabis goods between licensed entities. Distribution also includes the inspection, storage, including during quality assurance and batch testing processes, labeling, packaging, and other processes required prior to transport to a licensed cannabis retailer or cannabis manufacturing facility.
- N. "Facility or facilities" means a facility, premise, tenant space, site or location where one or more types of cannabis activity are undertaken.
- O. "Manufacturing facility" means a facility for the production, preparation, propagation, or compounding of cannabis or cannabis products, either directly or indirectly, or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes a location that packages or repackages cannabis or cannabis products, or labels or relabels its container.
- P. "Non-storefront retail" means the commercial transfer of cannabis goods by delivery to a customer at a physical address. This definition does not include the mobile sales of cannabis goods.
- Q. "Non-volatile manufacturing" means a manufacturing process that does not involve the manufacturing, processing, generation, or storage of materials that constitute a physical or health hazard, as listed in Tables 307.1(1) and 307.1(2) of the California Building Code (CBC).



- R. "Nursery" means a facility that produces only clones, immature plants, seeds, and other agricultural products used specifically for the propagation and cultivation of cannabis.
- S. "Off-site advertising sign" means any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of cannabis or cannabis products which are not cultivated, manufactured, distributed or sold on the same lot.
- T. "Person" means and includes any individual, firm, partnership, joint venture, limited liability company, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, assignee for the benefit of creditors, trustee, trustee in bankruptcy, or syndicate.
- U. "Processing facility" means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, at a location separate from the cultivation site where the cannabis is grown and harvested.
- V. "Storefront retail" means a physical storefront location that is open to the public and where cannabis goods are sold to customers. This definition includes the delivery of cannabis goods to a customer at a physical address.
- W. "Testing laboratories" means a facility that offers or performs testing of cannabis or cannabis products where no commercial cultivation, processing, manufacturing, distribution, or sale of cannabis or cannabis products occurs.
- X. "Volatile solvents" 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. For the purposes of this section, carbon dioxide and ethanol are non-volatile solvents, however, a use permit for manufacturing shall specify whether carbon dioxide or ethanol will be permitted.

**17.95.040 Commercial Cannabis Uses Allowed.**

The following commercial cannabis uses are allowed in city limits:

- A. Storefront retail.
- B. Non-storefront retail (delivery only).
- C. Cultivation (indoor only).
- C. Non-volatile manufacturing.
- D. Processing facilities.
- E. Distribution.
- F. Microbusinesses.
- G. Testing laboratories.

**17.95.050 Commercial Cannabis Uses Prohibited.**

The following commercial cannabis uses are prohibited in city limits:

- A. On-site consumption of cannabis.

- B. Outdoor cultivation.
- C. Volatile manufacturing or manufacturing facilities using volatile solvents.
- D. Mobile or drive-thru retail sales.

**17.95.060 Use Permit Required.**

- A. Commercial cannabis activity is not be allowed in the corporate limits of the City of Crescent City without a use permit. Use permits to conduct commercial cannabis activity are governed primarily by this chapter. The procedures for use permits set forth in Chapter 17.54 of this title apply as well.
- B. The use permit will be reviewed annually subject to the following requirements:
  - 1. City staff will conduct an annual review of the use permit around the date of issuance of the state license.
  - 2. An onsite compliance inspection may be conducted, with at least 24 hours prior notice, by appropriate city officials during regular business hours (Monday – Friday, 9:00 a.m. – 5:00 p.m.). Appropriate city officials include those officials identified in section 17.95.150 of this chapter.
  - 3. At the discretion of city staff, annual review of the use permit may be conducted by the Planning Commission at a public hearing. The criteria for requiring annual review by the Planning Commission may include, but is not limited to:
    - i. Any violation of any provision of this chapter during the prior year of operation of the commercial cannabis facility.
    - ii. Receipt of one or more complaints by city staff concerning operation of the commercial cannabis facility during the prior year. City staff shall investigate all complaints received prior to determining whether review by the Planning Commission is warranted.
  - 4. During annual review, the Planning Commission may revoke the use permit, recommend administrative penalties, amend the use permit to include conditions necessary to ensure compliance with the provisions of this chapter, or take no action.
  - 5. As part of the annual review, the holder of the use permit must remit an annual review fee as set by resolution of the City Council. The annual review fee is to be no more than the reasonable estimated amount to recover all costs of the City associated with conducting the review and monitoring compliance with the terms of the use permit for the next year.
- C. All commercial cannabis activity will be subject to the following:
  - 1. Before commencing operation of a commercial cannabis activity, the permittee must secure a license from the appropriate state licensing authority, pursuant to Division 10 of the Business and Professions Code. A copy of the license must be provided to the Planning Department.
  - 2. The permittee must be in compliance with all conditions of the state license and all state laws, any violation of which will also constitute a violation of the Crescent City Municipal Code.
  - 3. The permittee may operate only in accordance with the operating plans reviewed and approved by the city.

4. The permittee must timely remit all taxes required by state or local law to the appropriate agency and maintain all records necessary to determine the amount of tax owed, which records the city will have the right to inspect at all reasonable times.
5. The permittee must post or cause to be posted onsite the use permit and all required city and state permits and licenses required to operate. Such posting must be in a central location, visible to patrons, at the operating site, and in all vehicles that deliver or transport cannabis or cannabis products.
6. The permittee must maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from and are provided to other permitted and licensed cannabis operations. The city will have the right to examine, monitor, and audit such records and documentation at all reasonable times.
7. Signs. See Chapter 17.38 for sign requirements, unless specified otherwise in this chapter. Pursuant to Section 17.38.170 (Architecturally-controlled signs), all signage for cannabis uses shall be subject to architectural review by the Planning Commission as part of the use permit process.
8. The permittee is not allowed to advertise or market cannabis or cannabis products on an off-site advertising sign in a publicly visible location within 1,000 feet of the perimeter of any school providing instruction in kindergarten or any grades 1 through 12, public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds, or basketball courts), day care center (as defined in Health and Safety Code § 1596.76), youth center (as defined in Health and Safety Code § 11353.1(e)(2)), community-use center, or public library.
9. The permittee must not market, license, distribute, sell, or cause to be marketed, licensed, distributed, or sold, any item or service to a person under 21 years of age, which bears the brand name, alone or in conjunction with, any other word, logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical with, or similar to, or identifiable with, those used for any brand of cannabis product.
10. The operation of a commercial cannabis facility must not adversely affect the health or safety of the facility occupants or employees, or nearby properties through creation of mold, mildew, dust, glare, heat, noise, noxious gases, smoke, traffic, vibration, surface runoff, or other impacts, or be hazardous because of the use or storage of materials, process, products, or wastes.
11. All retail cannabis uses (storefront and non-storefront) in the City must comply with the following setback requirements:
  - i. A retail cannabis use may not be located within a 600-foot radius of the perimeter of a public or private school providing instruction in kindergarten or grades 1 through 12 (“K-12 school”) or a day care center (as defined in Health and Safety Code § 1596.76). This does not include any private school in which education is primarily conducted in private homes nor does it include family child care homes.
  - ii. The distance specified in this section shall be defined as the horizontal distance measured in a straight line from the property line of the sensitive land use (i.e.,

- K-12 school or day care center) to the closest property line of the lot on which the retail cannabis use is located.
- iii. No setbacks are required between retail cannabis uses and the property containing the Del Norte County Fairgrounds (currently identified as APN 118-020-033).
  - iv. Exceptions to the setback requirements in this section may be granted by the Planning Commission as specified in Section 17.95.060(C)(12) of this chapter.
12. An exception to the setback requirements in Section 17.95.060(C)(11) of this chapter may be granted by the Planning Commission when requested as part of a use permit application. To grant an exception, the Planning Commission must make one or more of the following findings:
- i. The distance between the area on the property containing the sensitive land use (i.e., K-12 school or day care center) is a minimum of 600 feet from the area on the property containing the retail cannabis use.
  - ii. There is enough development or other buffering between the sensitive land use (i.e., K-12 school or day care center) and the retail cannabis use to minimize potential harmful impacts.
  - iii. The location and design of the retail cannabis use is not likely to cause harmful impacts to minors at the sensitive land use (i.e., K-12 school or day care center) that is within the 600-foot radius.
13. Odor from cannabis activities must not be detectable from beyond the property boundaries. To achieve this, the area where cannabis activities capable of generating odors are conducted (e.g., cultivation, processing, manufacturing, testing, etc.), must be, at a minimum, mechanically ventilated with a carbon filter or other method to prevent the odor of cannabis from escaping the building and negatively impacting neighbors and the surrounding community. The ventilation and filtration system must be approved by the building official and installed prior to commencing cannabis activities within the structure. Failure to adequately control odors constitutes a public nuisance and subject to nuisance abatement procedures found in Title 8 of the Crescent City Municipal Code. Odor control issues may also be grounds for revocation of the use permit allowing commercial cannabis activity.
14. All waste cannabis material generated by cannabis activity must be stored in a secure location in the facility and disposed of at a permitted disposal facility.
15. All cannabis uses that propose to discharge effluent to the City's wastewater treatment system, including but not limited to waste products, chemical fertilizers or pesticides, are required to first obtain an Industrial Wastewater Discharge Permit from the Public Works Department. No such effluent may be discharged into septic systems, water systems, or other drainage systems including those that lead to rivers and streams.
16. The permittee must implement and maintain sufficient security measures to both deter and prevent unauthorized entrance into areas containing cannabis goods in compliance with Section 26070 of the California Business and Professions Code and any rules promulgated by the licensing authority. Security measures must include, but are not limited to, the following:
- i. Prevent individuals from loitering on the premises of the retailer if they are not engaging in activity expressly related to the operations of the retailer;

- ii. Establish limited access areas accessible only to authorized dispensary personnel;
  - iii. All cannabis facilities containing cultivation, processing, non-volatile manufacturing, and distribution are required to have a mantrap at the public entrance to the building. A mantrap is a small room with an entry door on one wall and an exit door on the opposite wall. Mantraps are used to separate non-secure areas from secure areas to prevent unauthorized access;
  - iv. Store all cannabis goods in a secured and locked safe room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis goods used for display purposes, samples, or immediate sale; and
  - v. Install security cameras on site.
17. The permittee is required to notify the Crescent City Police Department and the licensing authority within twenty-four (24) hours after discovering any of the following:
- i. Significant discrepancies identified during inventory;
  - ii. Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the retailer;
  - iii. The loss or unauthorized alteration of records related to cannabis, patients, or retailer's employees or agents; or
  - iv. Any other breach of security.
18. Operators of cannabis facilities are required to maintain active enrollment and participation in the state's track and trace program. The city may require participation in a track and trace program separate from the state's track and trace program. Any separate program will be in addition to the state's track and trace program.
19. To ensure compliance with the provisions of this chapter, an onsite compliance inspection may be conducted, with at least 24 hours prior notice, by appropriate city officials during regular business hours (Monday – Friday, 9:00 a.m. – 5:00 p.m.). Appropriate city officials include those officials identified in section 17.95.150 of this chapter.
- D. Before the Planning Commission approves any use permit for commercial cannabis activity, the Planning Commission must hold a public hearing, noticed pursuant to Government Code § 65091, make the following findings, and set forth the facts supporting its determination in writing:
- 1. The applicant has demonstrated that it can and will comply with all requirements of the state and city to operate the proposed commercial cannabis activity.
  - 2. The proposed activity, as conditioned, will not result in significant unavoidable impacts on the environment.
  - 3. The operation plan includes adequate measures to minimize nuisances to the neighborhood and community, including minimizing odor, noise, light, traffic, and loitering.
  - 4. The operation plan includes adequate security measures.
  - 5. The proposed activity either (i) meets the setback requirements in paragraph C (11) or (ii) makes the findings required by paragraph C (12).
- E. All applications for a use permit for a commercial cannabis activity shall be filed with the Planning Department. In all cases the application must contain, without limitation, the following documentation:

1. Notarized, written authorization from all persons and entities having a right, title, or interest in the property that is the subject of the application consenting to the application and the operation of the proposed commercial cannabis activity on the subject property.
2. The name and address of all persons and entities responsible for the operation of the commercial cannabis activity, including managers, corporate officers, any individual with an ownership interest, any member of a board of directors, any general or limited partner, and/or any member of a decision-making body for the commercial cannabis activity, and a complete list of all the valid licenses, including license type and license number which has been issued to each person by the state or any other city or county.
3. An application fee as prescribed by resolution of the City Council. The application fee is to be no more than the reasonable estimated amount to recover all costs of the City associated with processing applications and monitoring compliance with the terms of the use permit for the next year. If the application is denied, then that portion of the fee attributed to monitoring activities will be refunded to the applicant.
4. An indemnification agreement on a form provided by the City.
5. Proof of having obtained a surety bond in an amount not less than \$15,000, payable to the City, issued by a corporate surety approved by the City, which is licensed to transact surety business in the State of California.
6. A detailed operation plan, which includes:
  - i. Site plans, floor plans, conceptual improvement plans, and a general description of the nature, size, and type of commercial cannabis activity(ies) being requested;
  - ii. Onsite security measures both physical and operational;
  - iii. Standard operating procedures manual detailing how operations will comply with state and local regulations; how safety and quality of products will be ensured; recordkeeping procedures for financing, testing, and adverse effect recording; and product recall procedures;
  - iv. Proposed hours of operation;
  - v. Waste disposal information;
  - vi. Product supply chain information including where cultivation occurs, where the product is processed or manufactured, any required testing of cannabis or cannabis products, transportation, and packaging and labeling criteria;
  - vii. A recordkeeping policy;
  - viii. Track and trace measures;
  - ix. Sustainability measures including water efficiency measures, energy efficiency measures, high efficiency mechanical systems, and alternative fuel transportation methods;
  - x. Odor prevention devices;
  - xi. Size, height, colors, and design of any proposed signage at the site;
  - xii. A parking plan, if applicable;
  - xiii. A storage protocol and hazardous response plan;
  - xiv. Information on products used during operation, including liquids, solvents, agents, and processes; and
  - xv. A quality control plan.

7. An application that includes a request for an exception from the setback standards specified in Section 17.95.060(C)(11) of this chapter, must also contain the following information:
  - i. A map drawn to scale illustrating the requested setback reduction. The map must clearly identify the distance between the proposed retail cannabis use and the sensitive land use from which the setback reduction is being requested.
  - ii. A justification for making one or more of the findings specified in Section 17.95.060(C)(12) of this chapter.
8. Such other information as city staff may reasonably require.

### **17.95.070 Storefront Retail**

Cannabis retailers conducting storefront retail, which can include deliveries, must meet the following minimum requirements:

- A. The use permit must specify whether the permittee may sell adult-use cannabis or medicinal cannabis, as those terms are used in Division 10 of the Business and Professions Code.
- B. The city shall limit the hours of operation for a retail facility to begin no earlier than 6:00 a.m. and to end no later than 10:00 p.m.
- C. Retailers which have a retail/public floor area must have glass or transparent glazing in the windows and doors. No more than ten percent of any window or door area may be visually obstructed by signs, banners, or opaque coverings of any kind so that law enforcement personnel will have clear view of the entire public area in the premises from the public sidewalk.
- D. Retailers must not distribute any cannabis or cannabis product unless the cannabis goods are labeled, and in a tamper-evident package, in compliance with Section 26120 of the California Business and Professions Code and any additional rules promulgated by the licensing authority.
- E. Cannabis deliveries that are associated with a permitted retail facility located within city limits, and for which delivery originates from the retail facility, are only allowed when the delivery activity is specifically authorized under the use permit for the retail facility.
- F. Cannabis deliveries that are associated with a permitted retail facility located within city limits must comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5415 through § 5421.
- G. A vehicle used in the delivery of cannabis goods must not have any marking or other indications on the exterior of the vehicle that may indicate that the delivery employee is carrying cannabis goods for delivery.
- H. While carrying cannabis goods for delivery, a permitted retailer's delivery employee must ensure the cannabis goods are not visible to the public. Cannabis goods are required to be locked in a fully enclosed box, container, or cage that is secured on the inside of the vehicle.
- I. The retailer must not permit the smoking, vaping, ingestion, or consumption of cannabis onsite.
- J. Sale or consumption of alcohol or tobacco is not allowed onsite.

**17.95.080 Non-storefront Retail (Delivery Only).**

Cannabis retailers conducting non-storefront retail (delivery only) activities must meet the following minimum requirements:

- A. Cannabis deliveries originating from non-storefront retail facilities within city limits must comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5414 through § 5421.
- B. Cannabis deliveries originating from outside city limits, and delivering cannabis goods within city limits, are only allowed upon the granting of a business license.
- C. A vehicle used in the delivery of cannabis goods must not have any marking or other indications on the exterior of the vehicle that may indicate that the delivery employee is carrying cannabis goods for delivery.
- D. While carrying cannabis goods for delivery, a permitted retailer's delivery employee must ensure the cannabis goods are not visible to the public. Cannabis goods are required to be locked in a fully enclosed box, container, or cage that is secured on the inside of the vehicle.

**17.95.090 Cultivation (Indoor Only)**

Cannabis cultivators must meet the following minimum requirements:

- A. The indoor cultivation of cannabis must comply with all applicable state, county, and local regulations, including fire and building codes. Outdoor cultivation is prohibited.
- C. Only one use permit for commercial cannabis cultivation may be possessed or used by a person or entity, including the representatives, agents, parent entities, or subsidiary entities of that person or entity.
- D. Only one use permit will be issued per legal parcel for commercial cannabis cultivation.
- E. The maximum cultivation area allowed is 2,000 square feet.
- F. All cannabis cultivation activity must occur exclusively within a fully enclosed and secure structure.
- G. Entrance to any cultivation area, and any cannabis storage areas, must be locked at all times, and under the control of the facility's staff.
- H. Cannabis cultivation must be concealed from public view at all stages of growth and there may be no visual or auditory evidence of cultivation occurring at the premises from a public right-of-way or from an adjacent parcel. Indoor lighting used for the cultivation process must not be visible from outside the building.
- I. Cannabis cultivation areas must be adequately secured to prevent unauthorized entry and must not be accessible to persons under 21 years of age.
- J. Areas of the licensed premises for cultivation must be separated from the distribution and retail areas by a wall and all doors between the areas are to remain closed when not in use.
- K. All areas recorded by the security cameras must have adequate lighting at all times to allow the surveillance cameras to effectively record images, except when lighting would interfere with the indoor cultivation cycle.



- L. Applications for a use permit for cannabis cultivation are required to contain an energy calculator quantifying the expected electricity usage and greenhouse gas emissions, a list of energy efficiency measures, best practices, and proposed greenhouse gas emission offsets. A minimum of 50% emissions offset or equivalent in efficiency measures is encouraged for indoor cannabis cultivation.

**17.95.100 Non-volatile Manufacturing.**

Cannabis manufacturers must meet the following minimum requirements:

- A. Cannabis manufacturing shall be conducted using only non-volatile solvents, or no solvents.
- B. All employees of a cannabis manufacturing facility operating potentially hazardous equipment are required to be trained on the proper use of equipment and on the proper hazard response protocols in the event of equipment failure. In addition, employees handling edible cannabis goods or ingredients are required to be trained on proper food safety practices.

**17.95.110 Processing Facilities**

Cannabis processors must meet the following minimum requirements:

- A. Cannabis processing facilities are facilities that process cannabis material that is produced off-site.
- B. Processing facilities must be maintained in a clean and sanitary condition including all work surfaces and equipment.
- C. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
- D. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
- E. Employees must wash hands before and after handling cannabis or use gloves.
- F. Processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
  - 1. Employee accident reporting and investigation policies;
  - 2. Hazard communication policies, including maintenance of material safety data sheets (MSDS);
  - 3. Materials handling practices;
  - 4. Job hazard analyses; and
  - 5. Personal protective equipment policies, including respiratory protection.

**17.95.120 Distribution.**

Cannabis distributors must meet the following minimum requirements:

- A. The distribution of cannabis goods within city limits must comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5300 through § 5315.
- B. Cannabis distribution conducted by a permitted cannabis use within city limits is only allowed when the distribution activity is specifically authorized through a use permit.
- C. Cannabis distribution that is not conducted by a permitted cannabis use within city limits will only be allowed upon the granting of a business license.

**17.95.130 Microbusinesses.**

Cannabis microbusinesses must meet the following minimum requirements:

- A. Microbusinesses operating within city limits must comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5500 through § 5507.
- B. A microbusiness may only conduct the commercial cannabis uses identified in section 17.95.040 of this chapter.
- C. All retail, non-volatile manufacturing, and distribution activities conducted by a permittee under a microbusiness must occur on the same premises.
- D. Areas of the licensed premises for manufacturing and cultivation must be separated from the distribution and retail areas by a wall, and all doors between the areas are to remain closed.

**17.95.140 Testing Laboratories.**

Testing laboratories operating within city limits must comply with all state regulations, including those implemented by the Bureau of Cannabis Control. This includes, but is not limited to, Cal. Code Regs. Tit.16 § 5700 through § 5739.

**17.95.150 Enforcement.**

This chapter may be enforced in any lawful manner by any peace officer, or by any employee, agent, or officer of any of the following City department or agencies:

- A. Police Department
- B. Community Development Department
- C. City Attorney
- D. Fire Department

**17.95.160 Public Nuisance.**

Any violation of this chapter is hereby declared a public nuisance and may be abated by the City pursuant to Title 8 of this Code.

**17.95.170 Separate offense for each day.**

Any person who violated any provision of this chapter will be guilty of a separate offense for each and every day during which any person commits, continues to permit, or causes a violation thereof.

**17.95.180 Criminal penalties.**

Any violation of any provision of this chapter may be prosecuted as a misdemeanor.

**17.95.190 Administrative remedies.**

In addition to the civil remedies and criminal penalties set forth above, any violation of this chapter may be subject to administrative remedies, as set forth by Chapter 1.24.

**17.95.200 Other ordinance code provisions.**

Notwithstanding this chapter, the City, its employees, agents, and officers have the authority to pursue any and all applicable remedies for any other violations of any local, state, or federal laws.

**SECTION 8. CEQA.** This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA Guidelines, and has been found to be exempt pursuant to Section 15061(b)(3) (general rule) of the CEQA Guidelines, because the City Council hereby finds with certainty that there is no possibility the passage of this Ordinance will have a significant effect on the environment.

All proposed commercial cannabis uses will require discretionary review (i.e., use permit) by the City of Crescent City Planning Commission. As part of the discretionary review process a CEQA determination must be adopted. It is anticipated that many of the future projects that would be allowed under the provisions of this Ordinance will be determined to be categorically exempt under Class 1 (Existing Facilities), Class 3 (New Construction or Conversion of Small Structure), or Class 32 (In-Fill Development Projects) of the CEQA Guidelines. For projects that do not meet the criteria for a categorical exemption, an Initial Study will be prepared pursuant to the CEQA Guidelines.


**SECTION 9. SEVERABILITY.** If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 10. EFFECTIVE DATE & PUBLICATION.** This Ordinance will become effective 30 days after the date of its adoption. The City Clerk shall cause this Ordinance to be published in a newspaper of general circulation in Del Norte County once within 15 days of its adoption in accordance with the requirements of Government Code Section 36933.

**INTRODUCED** on the 16<sup>th</sup> day of March, 2020.

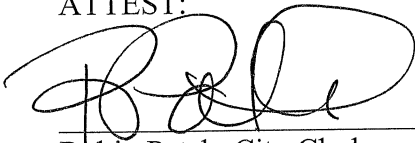
**PASSED AND ADOPTED** by the City Council of the City of Crescent City at a regular meeting of the City Council held this 6th day of April, 2020, by the following vote:

AYES: Council Members Fallman, Greenough, Kime, Wright, and Mayor Inscore  
NOES: None  
ABSENT: None  
ABSTAIN: None



\_\_\_\_\_  
Blake Inscore, Mayor

ATTEST:



\_\_\_\_\_  
Robbin Patch, City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Martha D. Rice, City Attorney