

ORDINANCE NO. 2018-23

COMMERCIAL CANNABIS HEALTH PERMITS

The Contra Costa County Board of Supervisors ordains as follows (omitting the parenthetical footnotes from the official text of the enacted or amended provisions of the County Ordinance Code):

**SECTION I. SUMMARY.** This ordinance adds Chapter 413-4 to the County Ordinance Code to require all persons engaged in commercial cannabis activities or engaged in cannabis deliveries to any location in the unincorporated area of the county to obtain a county health permit in addition to all other licenses and permits required by the County and the State.

**SECTION II.** Chapter 413-4 is added to the County Ordinance Code, to read:

**Chapter 413-4**

**COMMERCIAL CANNABIS HEALTH PERMITS**

**Article 413-4.2**

**General Provisions**

**413-4.202 Purpose.** The purpose of this chapter is to regulate commercial cannabis activities, as authorized by the Control, Regulate, and Tax Adult Use of Marijuana Act, and by the Medicinal and Adult Use Cannabis Regulation and Safety Act, by requiring all persons engaged in commercial cannabis activities or engaged in cannabis deliveries to obtain a county health permit in addition to all other licenses and permits required by the County and the State. The requirements of this chapter are in addition to all other applicable requirements of this code and all applicable State laws and regulations. (Ord. 2018-23 § 2).

**413-4.204 Applicability.** This chapter applies in the unincorporated area of Contra Costa County. (Ord. 2018-23 § 2).

**413-4.206 Definitions.**

- (a) Except as otherwise provided in subdivision (b), the definitions set forth in Division 10 of the Business and Professions Code, and the definitions set forth in Health and Safety Code section 11362.7, apply to this chapter.
- (b) The following terms have the following meanings for purposes of this chapter:

- (1) “Characterizing flavor” means a distinguishable taste or aroma imparted by a cannabis product or any byproduct produced by the cannabis product that is perceivable by an ordinary consumer by either the sense of taste or smell, other than the taste or aroma of cannabis. A “characterizing flavor” includes, but is not limited to, a taste or aroma relating to a fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice.
- (2) “Commercial cannabis activity” means any of the following: the retail sale of cannabis or cannabis products under Section 88-28.412; the commercial cultivation of cannabis under Section 88-28.414; the manufacturing of cannabis or cannabis products under Section 88-28.416; cannabis testing under Section 88-28.418; and the distribution of cannabis or cannabis products under Section 88-28.420. “Commercial cannabis activity” includes the delivery of cannabis or cannabis products from a retail location in the unincorporated area of the county to any location in the unincorporated area of the county, but does not include deliveries from a location outside the unincorporated area of the county to any location in the unincorporated area of the county.
- (3) “Constituent” means any ingredient, substance, chemical, or compound, other than cannabis or water, that is added by the manufacturer to a cannabis product during the processing, manufacture, or packaging of the cannabis product.
- (4) “Deliver” or “delivery” means the commercial transfer of cannabis or cannabis product from a retailer to a customer, whether the delivery is a commercial cannabis activity or a delivery from a location outside the unincorporated area of the county to any location in the unincorporated area of the county.
- (5) “Director” means the director of environmental health.
- (6) “Flavored cannabis product” means any cannabis product that contains a constituent that imparts a characterizing flavor. A cannabis product whose labeling or packaging contains text or an image indicating that the product imparts a characterizing flavor is presumed to be a flavored cannabis product.
- (7) "Self-service display" means the open display or storage of cannabis or cannabis products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of self-service display.
- (8) “State license” or “license” means a license issued pursuant to Division 10 of the Business and Professions Code, sections 26000 through 26231.2.

- (9) “Volatile solvent” means any solvent that is or produces a flammable gas or vapor that, when present in sufficient quantities, will create explosive or ignitable mixtures, including, but not limited to, butane, hexane, and propane. (Ord. 2018-23 § 2).

#### **Article 413-4.4**

#### **Commercial Cannabis Health Permit Requirements**

**413-4.402 Permit requirement.** It is unlawful for any person to conduct any commercial cannabis activity in the unincorporated area of the county or to deliver cannabis or cannabis products to any location in the unincorporated area of the county without obtaining and maintaining a commercial cannabis health permit. (Ord. 2018-23 § 2).

**413-4.404 Permit applications.** An application for a commercial cannabis health permit shall be submitted to the director on a form available from the director and shall contain the following information:

- (a) Identifying information for applicant. The name, date of birth, social security number, address, and telephone number for the applicant. If the applicant is an entity and not an individual, the term “applicant” means each person participating in the direction, control, or management of the entity, and each person having a financial interest of 20 percent or more in the entity.
- (b) State license type. A description of the specific State license(s) that the applicant either has obtained or will obtain.
- (c) Description of operations. A description of the proposed commercial cannabis activity or delivery.
- (d) Certification. Certification, under penalty of perjury, that all the information contained in the application is true and correct.
- (e) An application for a commercial cannabis health permit for a proposed commercial cannabis activity shall contain the following additional information:
  - (1) Land use permit. A copy of the land use permit issued pursuant to Chapter 88-28 of this code authorizing the proposed commercial cannabis activity, and all applications and materials submitted in support of issuance of the land use permit.
  - (2) Description of premises. The address and assessor’s parcel number(s) of the property upon which the proposed commercial cannabis activity will be located.

- (3) Proof of ownership of premises. Proof of the applicant's ownership of the premises on which the commercial cannabis activity is to occur, or if the premises is rented or leased, written permission from the property owner containing the property owner's notarized signature that authorizes the tenant or lessee to engage in commercial cannabis activity at the site.
- (4) Diagram. A diagram drawn to scale of the premises, showing a site plan, building layout, all entryways and exits to the facility, loading zones, and all areas in which cannabis and cannabis products will be stored, grown, or dispensed. (Ord. 2018-23 § 2).

**413-4.406 Application Fee.** An application for a commercial cannabis health permit, or an application for renewal of a commercial cannabis health permit, will not be accepted unless it is accompanied by the payment of a non-refundable application fee in the amount established by the board of supervisors in the health services department's fee schedule. (Ord. 2018-23 § 2).

**413-4.408 Review of application.**

- (a) The director will review each application for a commercial cannabis health permit. The director will deem the application incomplete if it does not contain all required information and documents, or if all required application fees have not been paid.
- (b) After reviewing a complete application for a commercial cannabis health permit, the director will approve the application unless any of the following grounds for denial exist:
  - (1) The applicant has knowingly made a false statement of material fact or has knowingly omitted a material fact from the application.
  - (2) The proposed commercial cannabis activity or delivery will not comply with the provisions of this chapter.
  - (3) The proposed commercial cannabis activity or delivery will not comply with all State and local laws and regulations.
  - (4) The applicant has not obtained all required State licenses and local permits.
  - (5) The applicant has not paid all required fees in accordance with the fee schedule adopted by the board of supervisors.
- (c) The decision of the director to approve or deny a permit application is final. If the director denies the application, the director will specify in writing the reasons for denial

of the application and notify the applicant of the decision. (Ord. 2018-23 § 2).

**413-4.410 Permit renewal.**

- (a) Each commercial cannabis health permit will expire on June 30th following the date of its issuance.
- (b) An application for renewal must be filed with the director at least 30 calendar days before the permit expires. If any of the documentation or information supplied by the applicant pursuant to Section 413-4.404 has changed since the permit was issued, the applicant must submit updated information and documentation with the application for renewal. The director will deem the application incomplete if it does not contain all required information and documents, or if all required application fees have not been paid.
- (c) Upon review of a renewal application, the director will approve the renewal application unless any of the following grounds for denial exist:
  - (1) Any of the grounds for denial under Section 413-4.408.
  - (2) The application is filed fewer than 30 calendar days before the permit expires.
  - (3) The applicant is delinquent in payment of County taxes.
  - (4) The permit is revoked at the time of application.
- (d) The decision of the director to approve or deny a permit renewal application is final. If the director denies the application for renewal, the director will specify in writing the reasons for denial of the application for renewal and notify the applicant of the decision.
- (e) If a renewal application is denied, an applicant may file a new permit application pursuant to Section 413-4.404. (Ord. 2018-23 § 2).

**413-4.412 Permit fee.** A commercial cannabis health permit, or a renewed commercial cannabis health permit, will not be issued until the applicant has paid a non-refundable permit fee in the amount established by the board of supervisors in the Contra Costa County health services department's fee schedule. (Ord. 2018-23 § 2).

**413-4.414 Permit nontransferable.**

- (a) A commercial cannabis health permit is not transferable and automatically terminates upon transfer of ownership.

- (b) Whenever any permittee sells or transfers a financial interest of 20 percent or more in the permittee's business, the acquiring party must obtain a new commercial cannabis health permit pursuant to Section 413-4.402.
- (c) A commercial cannabis health permit is issued to only the permittee identified on the permit. A commercial cannabis health permit does not run with the land.

#### **Article 413-4.6**

#### **Commercial Cannabis Activity Health Standards**

**413-4.602 Standards for all permittees.** A permittee shall comply with all of the following standards.

- (a) Compliance with State and local laws. A permittee shall comply with all State and local laws and regulations.
- (b) State license. A permittee shall maintain a valid State license. A permittee shall notify the director within three days after receiving any notices of violations or other corrective action ordered by a State or other local licensing authority.
- (c) Business license. A permittee shall maintain a valid county business license.
- (d) Hours of operation. All permitted facilities shall be closed to the general public, and deliveries are prohibited, between the hours of 9:00 p.m. and 8:00 a.m. the following day. (Ord. 2018-23 § 2).

**413-4.604 Commercial cannabis activity standards.** A permittee engaged in a commercial cannabis activity shall comply with all of the following standards in addition to the standards specified in Section 413-4.602.

- (a) Land use entitlements. A permittee shall maintain a valid land use permit issued pursuant to Chapter 88-28 of this code authorizing the commercial cannabis activity.
- (b) Odor control. A permittee shall prevent odors generated from the permitted commercial cannabis activity from impacting neighboring parcels or creating a public nuisance. Unresolved or repeated odor complaints may be a basis for revocation of the permit or denial of permit renewal.
- (c) No consumption on premises. No cannabis or cannabis product may be smoked, ingested, or otherwise consumed on the premises.

- (d) Security breach. A permittee shall notify the Contra Costa County Sheriff's Office within 24 hours after discovering any diversion, theft, loss, or any criminal activity involving cannabis, cannabis product, or any agent or employee of the permittee. (Ord. 2018-23 § 2).

**413-4.606 Processing and manufacturing standards.** A permittee that processes or manufactures cannabis or cannabis products shall comply with all of the following standards in addition to the standards specified in Sections 413-4.602 and 413-4.604.

- (a) No volatile solvent may be used to process or manufacture cannabis or cannabis products.
- (b) All processing and manufacturing operations must occur at the fixed location listed on the permit. (Ord. 2018-23 § 2).

**413-4.608 Retail sale standards.** A permittee that sells cannabis or cannabis products shall comply with all of the following standards in addition to the standards specified in Sections 413-4.602 and 413-4.604.

- (a) Within each building in which cannabis or cannabis products are sold, the permittee shall prominently display a sign including the following statement in bold print:  
"GOVERNMENT WARNING: CANNABIS IS A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
- (b) Within each building in which cannabis or cannabis products are sold, the permittee shall establish a waiting area that persons must enter prior to entering the retail area. No person may be admitted to the waiting area without first verifying through examination of a government-issued identification card that he or she is at least the minimum age under state law to enter the premises. The waiting area must be physically separated from the retail area. No cannabis or cannabis product may be accessible to customers in the waiting area.
- (c) The permittee or at least one employee shall be physically present in the retail area at all times when any non-employee is in the retail area. Within the retail area, the number of non-employees may not exceed twice the number of employees at any time.
- (d) The sale of any non-cannabis food or beverage, alcohol or alcohol product, or tobacco or

tobacco product from the permitted premises is prohibited.

- (e) The sale of more than 800 milligrams of tetrahydrocannabinol in the form of edible cannabis products to a single cannabis customer in a single day is prohibited.
- (f) The sale of any cannabis product listed in Section 40300 of Division 1 of Title 17 of the California Code of Regulations is prohibited.
- (g) The sale of any flavored cannabis product for which the primary use is human inhalation of the gases, particles, vapors, or byproducts released as a result of combustion, electrical ignition, or vaporization of the flavored cannabis product, is prohibited.
- (h) A permittee shall not sell, permit to be sold, offer for sale, or display for sale any cannabis or cannabis product by means of self-service display, vending machine, rack, counter-top, or shelf that allows self-service sales for any cannabis or cannabis product. All cannabis and cannabis products must be offered for sale only by means of permittee or employee assistance. (Ord. 2018-23 § 2).

**413-4.610 Retail delivery standards.** A permittee that delivers cannabis or cannabis products from a retail location in the unincorporated area of the county to any location in the unincorporated area of the county shall comply with all of the following standards in addition to the standards specified in Sections 413-4.602 and 413-4.604. A permittee that delivers cannabis or cannabis products from a location outside the unincorporated area of the county to any location in the unincorporated area of the county shall comply with all of the following standards in addition to the standards specified in Section 413-4.602.

- (a) The delivery of more than 800 milligrams of tetrahydrocannabinol in the form of edible cannabis products to a single cannabis customer in a single day is prohibited.
- (b) The delivery of any cannabis product listed in Title 17, California Code of Regulations, section 40300, is prohibited.
- (c) The delivery of any flavored cannabis product for which the primary use is human inhalation of the gases, particles, vapors, or byproducts released as a result of combustion, electrical ignition, or vaporization of the flavored cannabis product, is prohibited.
- (d) A permittee may not display any advertisement upon any vehicle that is used for the delivery of cannabis or cannabis products that promotes any activity related to cannabis or that identifies the permittee or the business conducting the delivery.
- (e) A delivery employee who delivers cannabis or cannabis products to a customer shall have in his or her possession a copy of the permit issued under this chapter authorizing the



delivery, which shall be made available upon request to law enforcement.

- (f) No delivery employee may deliver cannabis or cannabis products to a customer without first examining a government-issued identification card of the recipient to confirm that the recipient is the customer who requested the delivery and that the recipient is at least the minimum age under state law to purchase the cannabis or cannabis product.
- (g) A delivery employee who delivers cannabis or cannabis products to a customer shall at the time of delivery provide the customer with a written warning that includes the following statement in bold print: “GOVERNMENT WARNING: CANNABIS IS A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.” (Ord. 2018-23 § 2).

#### **Article 413-4.8**

#### **Commercial Cannabis Health Permit Enforcement**

##### **413-4.802 Permit revocation.**

- (a) Grounds for revocation. A commercial cannabis health permit may be revoked on any of the following grounds:
  - (1) One or more of the grounds for denial of a commercial cannabis health permit under Section 413-4.408 existed either when the permit application was made or before the commercial cannabis health permit was issued.
  - (2) Any violation of this chapter.
  - (3) Any violation of State or local laws or regulations.
  - (4) The permittee is delinquent in payment of County taxes.
  - (5) The commercial cannabis health permit was transferred in violation of Section 413-4.414.
- (b) Notice of revocation hearing. If any grounds for revocation exist, the director may issue a

notice of revocation hearing. A written notice of revocation hearing will be served to the permittee by either personal service or regular United States mail and will include all of the following information:

- (1) The date of the violation.
  - (2) The address or other description of the location where the violation occurred.
  - (3) The grounds for revocation.
  - (4) The date of the revocation hearing before the director.
- (c) Revocation hearing. A commercial cannabis health permit may be revoked by the director after a revocation hearing. At the hearing, the permittee will be given the opportunity to testify and to present evidence concerning the notice of revocation hearing. After considering the testimony and evidence submitted at the hearing, the director will issue a written decision to revoke or not revoke the commercial cannabis health permit and will list in the decision the reason or reasons for the decision. The written decision will be served by either personal service or regular United States mail.
- (d) Revocation appeal. The decision of the director to revoke a commercial cannabis health permit is appealable to the board of supervisors under Chapter 14-4.
- (e) Final order. The commercial cannabis health permit revocation becomes a final administrative order at one of the following times:
- (1) On the date of the revocation hearing, if the permittee fails to appear at a scheduled revocation hearing.
  - (2) On the date the director's decision is served, if the permittee fails to file a written appeal to the board of supervisors within the time specified.
  - (3) On the date of the appeal hearing, if the permittee fails to appear at a scheduled appeal hearing before the board of supervisors.
  - (4) On the date of the decision by the board of supervisors, if the permittee appears at a scheduled appeal hearing before the board of supervisors.
- (f) If a permit is revoked under this section, the permittee may file a new permit application pursuant to Section 413-4.404, after remedying the grounds upon which the permit was revoked. (Ord. 2018-23 § 2).

