

ORDINANCE CC-558

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUNSMUIR AMENDING TITLE 5 OF THE DUNSMUIR MUNICIPAL CODE BY ADDING CHAPTER 5.05 TO REGULATE THE ESTABLISHMENT, OPERATION, CULTIVATION, MANUFACTURING, SALE, TESTING AND DISTRIBUTION OF COMMERCIAL CANNABIS

WHEREAS, in 1996, the California electorate approved Proposition 215, the Compassionate Use Act of 1996, which allows a patient, with a doctor's recommendation, to use cannabis for medical purposes without the fear of prosecution or arrest; and

WHEREAS, in 2003, the California legislature passed Senate Bill 420 (Medical Marijuana Program Act) which amended the Health and Safety Code to permit the establishment of medical cannabis retailers for the distribution of cannabis for medical purposes; and

WHEREAS, in 2005 the California Board of Equalization began issuing seller's permits for sales consisting only of medical cannabis; and

WHEREAS, in 2008 the California Attorney General issued guidelines for the security and non-diversion of cannabis grown for medical use; and

WHEREAS, on October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA") further amended on June 27, 2016 as the Medical Cannabis Regulation and Safety Act ("MCRSA"), which established regulations and a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing; and

WHEREAS, the voters of the State of California approved and passed Proposition 64 also known as the Adult Use of Marijuana Act ("AUMA"); and

WHEREAS, Health & Safety Code Section 11362.83 provides that cities are free to adopt and enforce local ordinances that regulate the location, operation, or establishment of medical cannabis retailers and cultivation; and

WHEREAS, the City Council of the City of Dunsmuir intends that nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, nor to otherwise permit any activity that is prohibited under that Act or other applicable law; and

WHEREAS, after studying various alternatives for the regulation of cannabis retailers, considering input from stakeholders and a public hearing, and reviewing the legal status of cannabis under applicable law, the City Council finds that the regulation of cannabis retailers, cultivation facilities is necessary to protect the public health, safety, and welfare by mitigating the adverse secondary effects from the operations of these uses; and

WHEREAS, the City of Dunsmuir has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these uses may operate, and in providing access to cannabis to residents.

WHEREAS, the adoption of an ordinance, rule, or regulation by the City Council that requires discretionary review and approval of permits, licenses, or other authorization to engage in commercial cannabis activity is exempt from Division 13 of the Public Resources Code pursuant to the provisions of Business and Profession Code 26055(h) and requires no further environmental review.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DUNSMUIR DOES ORDAIN AS FOLLOWS:

SECTION 1 - The City of Dunsmuir Municipal Code shall be amended to add chapter 5.05 to read as follows.

Chapter 5.05 – REGULATION OF COMMERCIAL CANNABIS ACTIVITIES

5.05.010 – Purpose and Intent

It is the purpose and intent of this section to regulate the cultivation, and sale of cannabis in order to ensure the health, safety and welfare of the residents of the City of Dunsmuir. The regulations in this article, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, the Medical Cannabis Regulations and Safety Act, Proposition 64, and the California Health and Safety Code (collectively referred to as "State Law") do not interfere with the right to use cannabis or medical cannabis as authorized under State Law, nor do they criminalize the possession or cultivation of cannabis or medical cannabis as authorized under State Law. All commercial cannabis business shall at all times be in compliance with current State Law at a minimum.

5.05.020 – Scope of Article

The operating standards established in this article apply to any site, facility, location, use, or business currently operating in the City of Dunsmuir, or which commences operations after the effective date of this Section, that cultivates, dispenses, stores, sells, cannabis for medical or recreational purposes. Any Retailer or cultivation facility, shall operate in conformance with the operating standards set forth in this Section of the Municipal Code to assure that the operations of the Retailer or cultivation facility, are in compliance with California law and to mitigate the adverse secondary effects from its operations.

Persons who cultivate cannabis for their sole personal use at their residences (up to six plants per residence) may do so without submitting any application or permit. It is hereby declared to be unlawful and a public nuisance may also be deemed to exist if such activity is determined to be related to the cultivation of cannabis and produces:

1. Odors which are disturbing to people residing or present on adjacent or nearby property or areas open to the public.

2. Repeated responses to the property from law enforcement or other code enforcement officers (more than three times in a one-year period).
3. Repeated disruption to the free passage of persons or vehicles in the neighborhood (more than three times in a one-year period) as reported to law enforcement officers or the City Code Enforcement Officer.
4. Any other impact which adversely impacts the health, safety or general welfare of people on adjacent or nearby property or areas open to the public.

Nothing in this Chapter shall be construed as a limitation on the City's authority to abate any nuisance which may exist from the planting, growing, harvesting, drying, processing or storage of cannabis plants or any part thereof from any location.

5.05.030 – Definitions

- A. **Accessory Building** means a detached building subordinate to and located on the same parcel as a residence, the use of which is incidental to that of the residence. Accessory building does not include any tent, trailer, recreational vehicle, or other vehicle, or any building designed or used for human habitation.
- B. **Applicant** shall mean a person who is required to file an application for a permit or license under this chapter.
- C. **Cannabis** "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. For purposes of this Section the terms Cannabis and Marijuana shall have the same meaning.
- D. **Cannabis Retailer** – means a premise where cannabis, cannabis products, or devices for the use of non-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 Health and Safety Code, cannabis and cannabis products as part of a retail sale.
- E. **Cannabis Manufacturing Site** – means the premises that produces, prepares, propagates, or compounds manufactured cannabis or cannabis products, directly or indirectly, by non-volatile any extraction methods, and is owned and operated by a licensee for these activities.
- F. **Cannabis Testing Facility** means a public or private laboratory licensed and certified, or approved by the Bureau of Cannabis Regulation or any other regulatory body controlling testing facilities, to conduct research and analyze cannabis, cannabis products, and cannabis concentrate for contaminants and potency.
- G. **Canopy** means the total combined canopy area for all locations on a property where cannabis is being cultivated, including indoor areas, outdoor areas, or a combination of both, as measured by the horizontal extent of the plant or combination of plants at the widest point and measured in a straight line.

- H. **Commercial Cannabis Business** includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, delivery, or sale of cannabis, medical cannabis or a cannabis or medical cannabis product, except as related Business and Professions Code Section 19319, and as it may be amended or Health and Safety Code Sections 11362.1 through 11362.45 and as they may be amended.
- I. **Cultivation and/or Cultivate** shall mean the planting, growing, harvesting, drying, processing, or storage of one or more cannabis plants or any part thereof.
- J. **Delivery** means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of cannabis or cannabis products.
- K. **Distribution** means the procurement, sale, and transport of cannabis and cannabis products between licensed entities.
- L. **Distributor** means a person licensed to engage in the business of purchasing cannabis from a licensed cultivator, or cannabis products from a licensed manufacturer, for sale to a licensed Retailer.
- M. **Employee** shall mean any person (whether paid or unpaid) who provides regular labor or regular services for a cannabis business, including but not limited to the location of a cannabis Retailer business.
- N. **Greenhouse** shall mean an accessory structure to a residence located on the same premises, legally established with all required permits approved, constructed primarily of translucent glass or glass-like material (or other similar material approved by the County Building Official), completely enclosed with one or more secure locking doors as the only means of ingress and egress, where plants are grown.
- O. **Indoor Cultivation Facility** shall mean a facility which is licensed by the City of Dunsmuir and the State of California for the growing of cannabis within an enclosed building for the purposes of wholesale of cannabis to cannabis manufacturing facilities or cannabis retailers.
- P. **Manager** shall mean an employee responsible for management and/or supervision of a cannabis retailer business.
- Q. **Mixed Light Cultivation Facility** cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold in a permanent facility in compliance with the State Building Code as determined by the State licensing authority.
- R. **Non-climbable Fence** means a fence with a smooth exterior surface that is not equipped with steps or other provisions for climbing.
- S. **Nursery** "Nursery" means a commercial cannabis licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

- T. **Primary Caregiver** shall have the same meaning as set forth in Health and Safety Code section 11362.7(f).
- U. **Qualified Patient** shall have the same meaning as set forth in the Health and Safety Code section 11362.7(f).
- V. **School** means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.
- W. **Transporter** means a person who holds a license by the Bureau of Cannabis Regulation to transport cannabis or cannabis products in an amount above a threshold determined by the bureau between licensees that have been issued a license pursuant to this chapter.

5.05.040 – Separation Requirements

- a. No cannabis Retailer, cultivation facility, manufacturing facility, testing facility or any other commercial cannabis business facility may be located within a 600-foot linear footage (from property line to property line) from a school, day care home, recreational center, youth center, or public park as required by Section 11362.768 of the Health and Safety Code.
- b. With the exception of retail facilities operating at the time of the enactment of this ordinance, no cannabis retailer, cultivation facility, manufacturing facility, or testing facility or any other cannabis business facility may be located within a 100 feet linear footage (from property line to property line) from the Library, Children’s Park, Football Field, Community Building or Parks And Recreation area (pool) as permitted by section 11362.768 of the health and Safety Code.

5.05.050 – Maximum Number of Retailers Permitted Citywide

- a. The City of Dunsmuir may permit up to three (3) retailers to operate within City limits, regardless of the location’s compliance with any other Section specified in this Title.
- b. The total number of retailers in operation shall be determined based on the number of locations which have been issued a Cannabis Retailer Permit by the City or are eligible to submit for a Cannabis Retailer Permit.
- c. If the number of applications exceeds the number of permits allowed, a lottery system will be used. City staff will create a lottery process in the event as required
- d. Retailers already operating with the City’s permission in the City of Dunsmuir are deemed permitted to dispense cannabis and cannabis products provided they pay all regulatory fees and taxes and all other requirements and standards of the City of Dunsmuir’s regulatory ordinance, zoning ordinance and tax ordinance and as they may be amended.

5.05.060 – Commercial Cannabis Cultivation.

- a. Outdoor Commercial cannabis cultivation shall not be allowed in the Dunsmuir Historic District and buffer zone.
- b. Outdoor commercial cultivation of cannabis outside of the historic district and buffer zone with a conditional use permit issued by the planning commission shall be allowed.
- c. Cannabis shall not be grown in a residence by anyone other than the resident.
- d. Cannabis cultivation shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.
- e. Cannabis cultivation, and retail facilities shall be required to provide an air treatment system that ensures off-site odors shall not result from its operations. This requirement at a minimum means that the facility shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the facility, if the use occupies only a portion of a building.
- f. Indoor commercial cannabis cultivation is allowed in all districts with a conditional use permit issued by the planning commission.

5.05.070 – Commercial Cannabis Business Permit Required

- a. It shall be unlawful for any person, association, partnership or corporation to engage in, conduct or carry on, in or upon any premises within the City cannabis business without a Commercial Cannabis Business Permit. A cannabis business shall register and obtain a Commercial Cannabis Business Permit from the City of Dunsmuir prior to operation. The Applicant shall pay a non-refundable fee in an amount established by the City Council.
- b. A copy of the Commercial Cannabis Business Permit shall be displayed at all times in a place visible to the public.
- c. A Commercial Cannabis Business Permit shall be valid for one (1) year, unless sooner revoked. No permit granted herein shall confer any vested right to any person or business for more than the above-referenced period.
- d. All owners shall comply with California residency requirements as defined in Business and Professions code 26054.1(a)(b).

5.05.080 – Commercial Cannabis Business Permit

- a. A Commercial Cannabis Business Permit shall not be issued to an individual or a business entity associated with an individual, who has violated California Health & Safety Code Section 11590 and its provisions.
- b. The Commercial Cannabis Business Permit shall be issued to the specific person or persons listed on the Cannabis Permit Application.

- c. A Commercial Cannabis Business Permit does not transfer with the land and does not transfer with the transfer of the property.

5.05.090 – Commercial Cannabis Business Permit Application Submission Process

- a. The City Manager or his/her designee will prepare cannabis application forms and a related administrative policy. Each Applicant interested in operating pursuant to this Section may submit an application together with a non-refundable processing fee in an amount established by the City Council.
- b. The initial application period shall be 30 calendar days from the date the applications are released. Should the thirtieth day fall on a day when City Hall is closed, the application period shall be extended to the next open day at 4:00 p.m. Following the application period, the City Manager or his/her designee shall stop accepting applications and review all applications received.
- c. The City Manager or his/her designee shall determine whether each application received demonstrates compliance with the minimum requirements to be eligible to be entered into the selection process. These requirements include:
 - 1. Application was submitted during the application period
 - 2. Application is filled out completely.
 - 3. Application fee is paid
 - 4. The location indicated on the application meets the zoning criteria.
 - 5. The location indicated on the application meets the separation criteria established in 5.05.040.
 - 6. A planning and/or building permit with a receipt proving payment for processing from the City of Dunsmuir Planning Department for the property location the commercial cannabis business will occupy.
 - 7. A notarized signature from the property owner authorizing the location to be used for commercial cannabis business activity.
 - 8. Authorization from the Management Association / CC&R's that a cannabis business use is allowed on that parcel (if applicable)
 - 9. Business Owner(s) / Applicant(s) referenced on the application completes Live Scan background check.
 - 10. There may be no change in applicant/business owner from the one(s) listed on the Commercial Cannabis Business Permit Application. The application must identify individual owner(s) as defined in the MCRSA 19320(b)(1) et. seq.) as may be amended.
 - 11. All other application documents required in the City's application package instructions, the MCRSA, Proposition 64 and any other applicable regulations as they may be amended.
 - 12. Photographs of the exterior of the building including the entrance(s), exit(s), street frontage(s) and parking area;
 - 13. If the property is being rented, leased or purchased under contract, the lease agreement term, name of lessor or equivalent, shall be provided by a notarized signed affidavit of the property owner.
 - 14. The name and address of the applicant's current Agent for Service of Process;
 - 15. A copy of the applicant's Board of Equalization Seller's Permit;

16. A copy of the commercial cannabis business Operating Standards, listed in Section 5.05.130 and Section 05.05.140 if applicable containing a statement dated and signed by the Business Owner stating that under penalty of perjury that they read, understand and shall ensure compliance with the aforementioned operating standards.
17. Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.
18. Release of the City of Dunsmuir from all liability associated with the commercial cannabis business. Such a release includes indemnifying the City of Dunsmuir for claims, damages and injuries that may arise as a result of the commercial cannabis business.

5.05.100 – Commercial Cannabis Business Permit Application Selection Process

- a. The City Manager or his/her designee will evaluate the applications received and make a determination on the eligibility of each application. The City Manager shall confer with law enforcement on the background checks of the listed managers, employees and volunteers. Each application that is complete and in compliance with chapter shall be placed on the “Qualified Commercial Cannabis Business Application List” and shall be notified in writing that they are a “Qualified Commercial Cannabis Business Applicant”.
- b. Qualified Applicants will appear on the “Qualified Applicant List” in the order that they are selected during the independent selection process. The City Manager shall maintain the “Qualified Application List”.
- c. A Qualified Commercial Cannabis Business applicant must submit a written request each year to maintain its status on the “Qualified Application List”.
- d. All Cannabis applications received after the initial application period will be reviewed for completeness and compliance with this Chapter. If the application qualifies, it will be placed on a “Waitlist” in the order it is received. Applicants placed on the “Waitlist” shall be notified in writing of their “Waitlist” status.
- e. Cannabis applications placed on the “Waitlist” will be moved to the “Qualified Applicant List” when the number of applicants on the “Qualified Applicant List” falls below 20 (twenty) and will be notified of the change in writing.
- f. The City Manager or his/her designee, after receiving the application and aforementioned information, will grant the permit if they find:
 1. The required fee has been paid.
 2. The application conforms in all respects to the provisions of this Chapter.
 3. The applicant has not knowingly made a material misrepresentation in the application.
 4. The applicant has fully cooperated in the investigation and background checks required by this Section.

5. The applicant has not had a commercial cannabis business license or other similar license or permit denied or revoked for cause by this City or any other city in the state within the last five (5) years prior to the date of the application.
 6. The commercial cannabis business, as proposed by the applicant would comply with all applicable laws including, but not limited to, health, zoning, fire and safety requirements.
 7. The applicant has demonstrated compliance with all aspects of the Medical Marijuana Regulation and Safety Act (MCRSA) and any other applicable requirements contained in the California Health and Safety Code.
- g. After all tenant improvements have been finalized by the commercial cannabis business owner, the City Manager or his/her designee shall perform an inspection of the cannabis business location to confirm compliance with this Section and issue a report to the City Manager to ensure compliance with the submitted application.
- h. If any of the items listed in the application process are not met, the City Manager shall notify the applicant of the deficiency within 10 days, after which the applicant will have 10 days from receipt of notice to correct the deficiency. If the deficiency is not corrected within 10 days, the City Manager may deny the permit and notify the applicant of this determination in writing within 10 calendar days following the City Manager's decision after which the applicant can appeal the decision in accordance with 5.05.120 (Appeal of Denial of Permit Reference).

5.05.110 – Cannabis Permit Annual Renewal

- a. Applications for the renewal of a permit shall be filed with the City Manager at least sixty (60) calendar days before the expiration of the current permit. Any permittee allowing their permit to lapse or which permit expired during a suspension shall be required to submit a new application, pay the corresponding original application fees and be subject to all aspects of the selection process.
- b. Any person desiring to obtain a renewal of their respective permit shall file a written application under penalty of perjury on the required form with the City Manager who will conduct a review. The application shall be accompanied by a nonrefundable filing fee established by the City Council to defray the cost of the review required by this Section. An applicant shall be required to update the information contained in their original permit application and provide any new and/or additional information as may be reasonably required by the City Manager in order to determine whether said permit should be renewed.

5.05.120 – Appeal of Denial of Permit

- a. The City Manager, in consultation with law enforcement, Building Official and Dunsmuir Fire Protection District, will review all Commercial Cannabis Business applications, and all other relevant information, and determine if a permit should be granted. If the City Manager determines that the permit shall not be granted, the reasons for denial shall be provided in writing to the applicant. The applicant shall have fourteen (14) calendar days from the date of the receipt of the written denial to correct the reasons for denial and request in writing reconsideration of permit issuance. Following review of the amended

permit application, the City Manager will approve or deny the permit by providing written notice to the applicant.

- b. An applicant who disagrees with the City Manager's decision may appeal such decision to the Dunsmuir Planning Commission by submitting a written appeal within five (5) calendar days from receipt of the written denial. A decision of the Planning Commission may be appealed to the City Council if the appeal is submitted in writing to the City Clerk within five (5) calendar days following the Planning Commission's action.

5.05.130 – Operational Standards for All Commercial Cannabis Business Activities

- a. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on location premises. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas must have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered in a secure onsite location for a period of not less than fourteen (14) days, and be available for inspection at any time.
- b. Recordings shall be maintained, unaltered, for a period of not less than fourteen (14) days and shall be stored digitally. The City of Dunsmuir or law enforcement may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the City or law enforcement may seek a warrant or court order for the recordings.
- c. A commercial cannabis business entity that remains inoperative for more than ninety (90) days shall be deemed "abandoned" and the permit shall be forfeited. A business may temporarily suspend operations for a period of time as may be reasonably required to affect upgrades, modifications, repairs, or other property issue mitigations as approved by the City Manager or his or her designee.
- d. Establish and participate in a track and trace system for reporting the movement of commercial cannabis throughout the distribution chain.
- e. Register with the Department of Pesticide Regulation if using any pesticides.
- f. Comply with all State regulations regarding ~~testing~~, labeling and storage of all cannabis products.
- g. Meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of cannabis.
- h. Conform to all State regulations requiring the use of appropriate weighing devices.
- i. Conform to all State and local regulations regarding water usage.
- j. All electrical and plumbing must comply with State and local regulations.

- k. Comply with all State insurance and security bond regulations.
- l. The commercial cannabis business shall have a centrally-monitored fire and burglar alarm system which shall include all perimeter entry points and perimeter windows.
- m. Meet all State deadlines for applying for a State license and receive a State license within six (6) months after the date the State begins issuing licenses. This may be waived if the State has longer delays in issuing licenses of the type the commercial cannabis business seeks.

5.05.140 – Additional Operational Standards for Retailers

- a. If required by the State, at all times the cannabis retailer is open, the retailer shall provide at least one security guard who is licensed, possesses a valid Department of Consumer Affairs “security guard card”, and has a valid City of Dunsmuir Business License.
- b. The security guard and cannabis retail personnel shall monitor the site and the immediate vicinity of the site to assure that patrons immediately leave the site and do not consume cannabis in the vicinity of the Retailer or on the property or in the parking lot.
- c. Signage
 - 1. All exterior signage shall conform with existing zoning requirements. The existing retailer signage is ‘grandfathered’ in as of April 1, 2017. Any additional signage modifications shall comply with existing zoning.
 - 2. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis retailer:
 - a. Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited.
 - b. No one under the age of 21 shall be allowed to enter this facility unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.
 - c. The City of Dunsmuir has not tested or inspected any cannabis product for pesticides, or other regulated contaminants, distributed at this location.
- d. No recommendations from a doctor for medical cannabis shall be issued on-site.
- e. Each Retailer owner shall establish minimum training standards for all employees.
- f. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of food, alcohol, tobacco or cannabis by patrons without prior written approval from the City.
- g. Drive through sales must be approved in writing by the City prior to implementing.

- h. The Retailer shall comply with State Department of Health requirements pertaining to use of commercial kitchen facilities for the cannabis operations.
- i. Hours of operation shall be limited to: Monday -- Sunday 8 a.m. – 10 p.m.
- j. No one under 18 years of age shall be permitted to enter a retailer unless such person is a qualified patient and is accompanied by his or her Primary Caregiver, licensed Attending Physician, parent(s) or documented legal guardian.
- k. Any commercial cannabis retailer already in compliance and permitted by the City of Dunsmuir will be considered selected and continue to operate under the regulations of this ordinance, provided however, that in order to continue operating such commercial cannabis business must apply for a Commercial Cannabis Business Permit pursuant to this Chapter and otherwise meet all other conditions and requirements of this Chapter imposed on newly established commercial cannabis businesses.

5.05.150 – Deliveries

- a. Deliveries may be made from a licensed retailer or retail outlet.
- b. All employees who deliver cannabis must have a valid identification card at all times while the delivery is being made.
- c. Deliveries may only take place during normal business hours of the retailer or retail outlet.
- d. A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.
- e. A Retailer or retail outlet shall maintain a list of all deliveries, including the address delivered to, the amount and type of product delivered and any other information required by the State.
- f. A cannabis business shall only maintain and deliver cannabis in aggregate amounts tied to its client's order. A cannabis business shall ensure compliance with State law limits as they regard cannabis and cannabis products.
- g. A manifest with all information required in this section must accompany any delivery person or delivery method at all times during the delivery process and delivery hours.

5.05.160 – Maintenance of Records

- a. A Cannabis Retailer shall maintain records at the location accurately and truthfully documenting:
 - 1. The full name, address, and telephone number(s) of the owner, landlord, and/or lease of the location;

2. The full name, address, and telephone number(s) of all members who are engaged in the management of the retailer.
 3. Medical Cannabis Retailers shall maintain the full name, address and telephone number(s) of all patient members to whom the business provides medical cannabis and a copy of a physician-issued recommendation card for all patient members.
 4. All receipts of the retailer, including but not limited to: all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the retailer.
- b. These records shall be maintained for a period of seven (7) years and shall be made available by the retailer to the law enforcement and/or Code Enforcement Officials upon request.

5.05.170 – Inspection and Enforcement Responsibilities

City Code Enforcement Officials may enter and inspect the location of any commercial cannabis business between the normal business hours to ensure compliance with this Section. In addition, law enforcement may enter and inspect the location of any cannabis business and the recordings and records maintained as required by this Section, except that the inspection and copying of private medical records shall be made available to law enforcement only pursuant to a properly executed search warrant, subpoena, or court order. A person engaging in commercial cannabis business without a permit and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the permit fee for each violation, and the department, state or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with his or her violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this section.

5.05.180 - Fees.

All Cannabis Operations shall pay applicable fees and taxes, which may include one or more of the following.

- a. Application Fee. The Business Applicant shall submit a non-refundable fee to cover the cost of processing an application for the commercial cannabis business.
- b. Business License Fee. The Business Owner shall at all times maintain a current and valid business certificate and pay all business taxes required by the Dunsmuir Municipal Code.
- c. Regulatory License Fee. The Business Owner shall pay an annual regulatory license fee ("Regulatory Fee") to cover the costs of anticipated enforcement relating to the Cannabis Operation. The amount of the fee shall be set by Resolution of the City Council and be supported by the estimated additional costs of enforcement and monitoring associated with the Cannabis Operation. The Regulatory Fee shall be due and payable prior to opening for business and thereafter on or before the anniversary date. The Regulatory Fee may be amended from time to time based upon actual costs.

5.05.190 – Violation and Enforcement

Each and every violation of this Section shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Municipal Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the business's Commercial Cannabis Business Permit, 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. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the cannabis business and persons related or associated with the cannabis business.

5.05.200 – Variances

Where practical difficulties, unnecessary hardships and effects inconsistent with the general purpose of this title may result from the strict application of certain provisions thereof, variances may be granted in the manner specified in Municipal Code Chapter 17.20.

SECTION 2 - SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3 – PROHIBITION

Cannabis Activities Prohibited:

Unless expressly permitted by the City Municipal Code or the California Health and Safety Code section 11362.1(a), all cultivation, manufacture, distribution, possession, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of cannabis or cannabis products is prohibited within the City of Dunsmuir.

SECTION 4 - EFFECTIVE DATE

After its adoption, this ordinance shall be in full force and effect as provided by law.

I HEREBY CERTIFY that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Dunsmuir held on the 16th day of November, 2017 and was passed upon second reading at a regular meeting of the City Council held on the 7th day of December, 2017.

PASSED, APPROVED, AND ADOPTED THIS 7th day of December, 2017 by the following vote:


AYES: Keisler, Shanta, Craig, Deutsch

NAYS: None

ABSENT: Spurlock


Bruce Deutsch, Mayor

Attest:


Julie Iskra, Deputy City Clerk