



# STAFF REPORT – CITY COUNCIL MEETING

July 07, 2021

**TO:** Honorable Mayor and City Council Members

**FROM:** David Loya, Director of Community Development

**PREPARER:** David Loya, Director of Community Development

**DATE:** June 30, 2021

**TITLE:** **Adopt Resolution No. 212-06, A Resolution of the City Council of the City of Arcata Amending Regulations Governing Commercial Cannabis Activity Permits.**

## RECOMMENDATION:

Staff recommends the City Council adopt Resolution No. 212-06, A Resolution of the City Council of the City of Arcata Amending Regulations Governing Commercial Cannabis Activity Permits.

## INTRODUCTION:

The City adopted a permitting framework for commercial cannabis activities immediately after the adult use law was adopted by the voters of the State. The City was attempting to position the industry to rapidly come into compliance with the new laws to stimulate economic development and provide for the safe and orderly transition to legal, non-medical commercial activities. As a result of the City's early entry, the City established a very robust regulatory program to meet the state law in the absence of a State regulatory framework. After five years, the State has well-established programs to regulate cannabis activities, which the City may rely on for its local program. This action will streamline the City's cannabis regulations and bring the City's program in line with the State's.

## DISCUSSION:

The City's regulatory program includes Zoning Codes, in Title IX of the Arcata Municipal Code, the Cannabis Use and Regulations in Title V, Chapter 10, and the CCAP Resolution. The City's CCAP Resolution has been amended several times, but is currently out of sync with several important State regulations. For example, the State list of felonies that preclude a permit is different from the City's. The City adopted, verbatim, the list of felonies in 2016. Since that time, the State law has been amended. Currently, there is an applicant for a CCAP that would be excluded by the City's regulation, but is able to obtain a state permit. There are other inconsistencies between the regulations that Resolution No. 212-06 (Attachment A) resolves.

The underlying Council priorities for allowable cannabis activities does not change with this resolution. For example, the Council did not allow several types of cultivation activities in the

original regulation. The reasoning was that these uses should occur on allowable properties the County, reserving the City's limited zoning area to manufacturing and other value added industries. These prohibitions and stricter regulation on various larger-scale cultivation activities are retained in this amendment.

**POLICY IMPLICATIONS:**

This action will streamline the City's cannabis permit program, allowing the State regulations to supplement local regulation.

**COMMITTEE/COMMISSION REVIEW:**

No Committees or Commissions reviewed the proposed regulation.

**ENVIRONMENTAL REVIEW (CEQA):**

The amendment is exempt from the California Environmental Quality Act based on the common sense exemption provided in CEQA Guidelines Section 15061(b)(3). The amended regulation represents minor amendments to an existing program. As such, the action reflects baseline conditions, and has no impacts that haven't already been analyzed in the original program adoption.

**BUDGET/FISCAL IMPACT:**

The program is funded by fees, which are adopted annually in the Master Fee Resolution. Currently, the program has approximately \$300,000 in revenue annually related to new applications and renewals.

**ATTACHMENTS:**

A. Resolution No. 212-06 (PDF)

**RESOLUTION NO. 212-06****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING REGULATIONS GOVERNING COMMERCIAL CANNABIS ACTIVITY PERMITS**

**WHEREAS**, the Title V, Chapter 10, of the Arcata Municipal Code establishes the Commercial Cannabis Activity Permit, Section 5952 of which requires the City Manager to develop the framework for compliance monitoring, renewal, and enforcement of Commercial Cannabis Activities, subject to City Council adoption by resolution; and

**WHEREAS**, and the City Council adopted regulations by Resolution No. 156-40 on March 2, 2016, which were subsequently amended by Resolutions 167-29 and 189-19; and

**WHEREAS**, the City's implemented its Commercial Cannabis quickly to support local business development and to encourage transition to legal cannabis activities. As a result, Arcata's regulatory framework preceded the State's and attempted to establish a regulatory program without the benefit of the State framework; and

**WHEREAS**, the State now has a well-established regulatory program that the City may rely on. Specifically, the City's activity types, track-and-trace program, and the live-scan thresholds are better supported by the State's regulation; and

**WHEREAS**, the amendments to the regulations enacted by Resolution 201-54 will maintain local regulatory authority as authorized by the State of California; and

**WHEREAS**, the new regulation implements minor amendments to an existing program. Therefore, the action on the regulation represents environmental baseline, and, as a result, it is clear that the action will not have a significant effect on the environment.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Arcata:

1. Adopts Resolution No. 212-06, including Exhibit A, Commercial Cannabis Activity Permit Regulations, attached hereto and incorporated herein;
2. Rescinds Resolution No. 189-19; and
3. Adopts a common sense exemption pursuant to CEQA Guidelines Section 15061(b)(3) since it can be seen with certainty that the action will not have a significant impact on the environment.

**BE IT FURTHER RESOLVED** that this Resolution shall go into effect on adoption.

Dated: \_\_\_\_\_, 2021

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk, City of Arcata

\_\_\_\_\_  
Mayor, City of Arcata

**CLERK'S CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of Resolution No. 212-06, passed and adopted at a regular meeting of the City Council of the City of Arcata, County of Humboldt, State of California, held on the \_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

---

City Clerk, City of Arcata

**EXHIBIT A  
TO RESOLUTION NO. 201-54**

**CITY OF ARCATA  
COMMERCIAL CANNABIS ACTIVITY PERMIT REGULATIONS**

1. **Applicability.** These regulations implement Chapter 10 of Title V of the Arcata Municipal Code and are intended to define the process for the issuance, renewal, and compliance monitoring of Commercial Cannabis Activity Permits.
2. **Definitions.** Terms not defined herein or in the Arcata Municipal Code shall have the meaning as set out in the “Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), Division 10 of the California Business and Professions Code, Sections 26000 et seq.; the California Code of Regulations, Title 16, Division 42, Sections 5300 – 5700; California Code of Regulations, Title 3, Division 8, Chapter 1; and the California Code of Regulations, Title 17, Division 1, Chapter 3.
3. **General Permit Procedure.**
  - a. Permit Requirement. Each Commercial Cannabis Activity Business seeking to operate within the City must first apply for an appropriate Commercial Cannabis Activity Permit (Permit). Permits are issued for a specific location where the Business will be operating. Multiple operating locations for the same business activity require separate Permits.
  - b. Permit Application. Applications shall be made to the City’s Community Development Department on City forms. The City Manager, or its designee, shall consider and act upon complete applications, and shall deny any application that is not in full compliance with these regulations, the Arcata Municipal Code at Title 5, Chapters 10, and the Land Use Code. Consistent with the Medicinal and Adult-Use Cannabis Act, Division 10 of the California Business and Professions Code, Section 2650(b), a Permit applicant shall specify whether the Commercial Cannabis Activity is for medical use, adult-use, or both.
  - c. Permit Review. Complete applications are reviewed by the Community Development Department. Application information may be provided to other City departments for review and approval.
4. **Types of Permits.** Applications may be made for Commercial Cannabis Activity Permits for State license activity types as described in:
  - a. The California Code of Regulations, Title 17, Division 1, Chapter 3;
  - b. The California Code of Regulations Title 16, Division 42, Sections 5300 through 5700; and
  - c. The California Code of Regulations, Title 3, Division 8, Chapter 1, limited to Nursery, Specialty Cottage Outdoor, Specialty Cottage Indoor, Specialty Cottage Mixed-Light, Specialty Indoor, Small Outdoor, Small Indoor, Small Mixed-Light, Medium Indoor, Medium Mixed-Light, and Processor.

**5. Permit Applications Contents.** Applicants for a Commercial Cannabis Activity Permit shall provide all information specified by the application, with the application fee and annual operation fee payment as specified in the Master Fee Schedule in effect at the time of application. Required application information shall include:

- a. Property Information. Property Address and Assessor's Parcel Number and proposed improvements or equipment.
- b. Activity. Type of proposed cannabis activity and State license to be obtained.
- c. Description of Operations. Proposed cannabis activity Description of Operations which meets State requirements at a minimum, and includes an estimate of the number of employees, odor control measures, non-visibility of cannabis from the street, and operational information specific to the activity.
- d. Property Owner Authorization. Signature of Property Owner authorizing the property use as cannabis facility.
- e. Business Owner Information and Live Scans. Cannabis business owner information and Live Scans for all individuals having 20% or greater share in the business.
- f. Manager and Key Employee Information and Live Scans. Manager and Key Employee contact information and Live Scans.
- g. Security Plan. Security Plan which meets State requirements at the minimum, and includes a complete description of the security system for premises and vehicles, and action to be taken in the event of security breaches.
- h. Business Verifications. Verification of active City of Arcata Business Tax Certificate, and a State Certificate of Status. Retail activities shall provide a California Seller's Permit.
- i. Environmental Information. Description of odor controls, energy efficiency measures, expected water usage information, waste disposal and recycling information, and hazardous materials information as necessary per operations plan.
- j. Applicant Certification. Business Owner acknowledgements and certification.

**6. General Requirements of Operation.**

- a. State License. In addition to a local permit, a valid State license must be obtained before operations may commence.
- b. Odors. Odors shall be actively managed through physical or mechanical controls. Unresolved or repeated odor complaints may be the basis for suspension, revocation, or nonrenewal of the Permit.
- c. Visibility. No cultivation, production, distribution, storage, display, or wholesale cannabis or cannabis products shall be visible from the exterior of the building where the cannabis activity is being conducted.

- d. Security Breach Measures. A Permit holder shall notify the Arcata Police Department of any breaches as outlined in the Security Plan.
- e. Labeling. State and Federal labeling requirements shall be met.
- f. Inspections and Records. Inspections and requests for records may be made. If necessary, inspections shall take place at a reasonable time with prior notice to the Permit holder. Upon request, the Permit holder shall timely provide records relating to the business to the City, including and not limited to inventory records.
- g. Energy Efficiency Measures. The Permit holder shall demonstrate a combination of energy efficiency measures and sourcing renewable energy to offset emissions associated with energy use. Offsets shall be 100% or greater than 'business as usual', or unmodified, operations. The Environmental Services Director may approve a lower offset if the Permit holder demonstrates, based on the specifics of their operation, it is infeasible to meet a 100% offset.
- h. Inventory Tracking. All Permit holders shall track inventory using the State Metrc system, or other system required by the State. Permit holder shall provide inventory tracking records on request.

**7. Requirements Precedent to Permit Issuance.** Before a Permit is issued, the City Manager or its designee shall determine that the following requirements have been met:

- a. Complete application and payment of all necessary fees.
- b. The Arcata Police Department has reviewed the security plan and Live Scan results, and confirmed that no disqualifying felonies pursuant to State regulations are reported for any owner, manager, or key employee.
- c. A City business tax certificate has been issued, and all City taxes and fees are paid.
- d. The Planning Division has issued a Zoning Clearance or Use Permit.

**8. Provisional, Non-Operating Permit Issuance.** At its sole discretion, the City may issue a provisional, non-operational Commercial Cannabis Activity Permit to allow applications to initiate a State license application. A provisional permit may be issued upon submission and review of the application. Property use concerns may result in denial of the provisional permit until all property zoning use requirements are met. The following items will be reviewed prior to issuance of a non-operating permit:

- a. Complete application and payment of all necessary fees.
- b. Applicant site control is verified.
- c. The proposed property use is allowable pursuant to zoning and other local regulations.
- d. The Arcata Police Department has determined that no owner, manager, or key employee has a disqualifying felony under then-current State definitions.

**9. Permit Duration.** A permit is valid for one year from the date of issuance.

- a. Permit Renewal. A complete permit renewal application, with renewal fee and annual operating fee published in the Master Fee Schedule in effect at the time of application, and supporting documentation, shall be submitted on City forms a minimum of 20 days prior to Permit expiration. Permit renewal is subject to laws and regulations in effect at the time of renewal. Failure to renew shall result in automatic expiration of the permit on the expiration date. A permit may not be renewed for non-compliance or violations of these regulations, the Arcata Municipal Code at Title 5, Chapters 10 and 10.1, the Land Use Code, or State regulations.

**10. Changes to Permit.** A Commercial Cannabis Activity Permit is non-transferable to another location. No transfer to another owner, modifications to a permitted facility, or change in activity may be made without application on City forms and approval. The applicant is responsible for determining in coordination with the Building Division whether proposed changes to a facility or installed equipment require a building permit. An administrative fee is required for changes based on the Master Fee Schedule in effect at the time of application. Applications for changes may be made with the following forms, payment, and required information for each change type:

- a. Change to Permit Type
- b. Modification to Facility or Equipment
- c. Transfer of Ownership
- d. Change to Ownership or Management Structure
- e. Change of Trade Name
- f. Change to Contact Information
- g. Change of Mailing Address

**11. Fees.** Permit fees shall be charged pursuant to the Master Fee Schedule, adopted annually. The Annual Operating Fee may be refunded if the City denies the application. All other fees are non-refundable.