

Lompoc, California Municipal Code

Title 9 PUBLIC PEACE AND WELFARE

## **Chapter 9.36 CANNABIS USES**

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### **Note**

\* Prior ordinance history: Ord. 1540(07).

### **9.36.010 Purpose.**

A. It is the primary purpose and intent of this Chapter: (i) to regulate the cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis and cannabis products, whether fixed or mobile, in a manner that is responsible and protects the health, safety, and welfare of the residents of the City; and (ii) to enforce rules and regulations consistent with State laws. In part to meet those objectives, an initial commercial cannabis use license shall be required to own and to operate a Commercial Cannabis Business (as defined in Section 9.36.020) within the City, as authorized pursuant to State laws and this Chapter and Code. Nothing in this Chapter is intended to authorize the cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery and wholesale or retail sale of cannabis or cannabis products, whether fixed or mobile, for any non-medical purpose consisting of either commercial or personal use other than as authorized within this Chapter or wherein the Adult Use of Marijuana Act otherwise preempts local agency regulations.

B. Pursuant to Section 7 of Article XI of the California Constitution, the City is authorized to adopt ordinances that establish standards, requirements, and regulations for local licenses and permits for Commercial Cannabis Activity. Any standards, requirements, and regulations regarding health and safety, testing, laboratory operations and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City to Commercial Cannabis Activity, as defined in Section 9.36.020.

C. The City Council finds and determines it expressly or impliedly does not intend to and does not create any vested right for any real property owner, tenant, commercial cannabis business owner, personal cannabis user or anyone else, by the enactment of this Chapter or any rule or regulation adopted pursuant hereto, or by any commercial cannabis use license or any permission granted pursuant to this Chapter. The City Council reserves the right, at any time, to modify, repeal, rescind and amend any provision of this Chapter and any Resolution, regulation or rule adopted hereunder. (Ord. 1640(17) § 2; Ord. 1621(16) § 2)

### **9.36.020 Definitions.**

When used in this Chapter, the following words shall have the meanings ascribed to them in this section.

“Annual certification” means a form provided by the City and signed, under penalty of perjury, by the individual to whom the City issued the use license for a cannabis commercial activity certifying that activity was, is and will be in full compliance with this code and State laws.

“Cannabis” or “Marijuana” means any or all parts of the 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 Section 11018 of the California [Health and Safety Code](#) as enacted by Proposition 64. For the purpose of this Chapter, “Cannabis” does not mean industrial hemp as that term is defined in Section 11018.5 of the California [Health and Safety Code](#) or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or another product.

“Cannabis Application” means a form provided by the City for an individual to seek a commercial cannabis use license.

“Cannabis Concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible cannabis product is not considered food, as defined by Section 109935 of the California [Health and Safety Code](#), or a drug, as defined by Section 109925 of the California [Health and Safety Code](#).

“Cannabis Cultivation” means the propagation, growing, planting, harvesting, drying, curing, grading or trimming of marijuana or any part thereof.

“Cannabis Dispensary” means any for-profit or not-for-profit facility or location, whether permanent or temporary, where the owner(s) or operator(s) intends to or does possess and distribute cannabis, or allows others to possess and distribute cannabis, to more than one person. A “cannabis dispensary” includes a “collective” or “cooperative” as described in [Health and Safety Code](#) Section 11362.775, and includes an establishment that delivers cannabis to offsite locations. A “cannabis dispensary” shall not include the following uses; provided, that the location of such uses is permitted by the Code and the uses comply with State laws, including [Health and Safety Code](#) Section 11362.5 et seq.:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the [Health and Safety Code](#);
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the [Health and Safety Code](#);
3. A facility licensed pursuant to Chapter 2 of Division 2 of the [Health and Safety Code](#);
4. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the [Health and Safety Code](#);
5. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the [Health and Safety Code](#); or
6. A residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the [Health and Safety Code](#).

“Cannabis Event” means a temporary event including on-site sale of cannabis to, and/or consumption of cannabis by, persons 21 years of age or older, as described and regulated in Section 26200(e) of the California [Business and Professions Code](#) and Chapter 5 of Division 19 of Title 4 of the [California Code of Regulations](#) (commencing at Section 15600).

“City Manager” means the City Manager of the City or designee.

“Commercial Cannabis Activity” or “Commercial Cannabis Use” includes cultivation, possession, manufacture, distribution, processing, storing, staking, laboratory testing, packaging, labeling, transportation, delivery or wholesale or retail sale of cannabis or a cannabis product, whether fixed or mobile, as part of a for-profit or non-profit business.

“Commercial Cannabis Business” means any business or operation which engages in commercial cannabis activity.

“Commercial Cannabis Use License” means a permit issued to a commercial cannabis business by the City, pursuant to this Chapter and Resolution of the City Council.

“Delivery” means the commercial transfer of one or more cannabis products from a dispensary, up to an amount determined by the State of California, or any of its departments or divisions, to any person, business or location. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed by the State of California, that enables any person to arrange for or facilitate the commercial transfer by a licensed dispensary of cannabis or cannabis products.

“Dispensary” means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale.

“Distribution” means the procurement, sale, and transport of cannabis or cannabis products between entities licensed pursuant to State Law.

“Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the California [Health and Safety Code](#) or a drug as defined by Section 109925 of the California [Health and Safety Code](#).

“Live plants” means living cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

“Operation” means any effort to locate, operate, own, lease, supply, allow to be conducted, or aid, abet or assist in the conduct of a commercial cannabis activity.

“Person” means any individual, firm, corporation, partnership, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer or salesperson.

“Personal Cannabis Cultivation” means cultivation of cannabis permitted by [Health and Safety Code](#) section 11362.1 or 11362.2.

“Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “Smoke” includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and cannabis smoke.

“Smoking” means engaging in an act that generates smoke, such as, for example: possessing a lighted pipe, a lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

“Stacking” means the practice of growing marijuana plants on platforms or tables and stacking them in multiple layers on top of each other.

“State laws” mean all applicable: (i) legislation chaptered as part of a State of California code; (ii) rules and regulations adopted by any State of California agency; and (iii) final supreme or appellate court decisions.

“Transport” or “Transportation” means the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity.

“Video monitoring” means 24-hour security surveillance cameras of at least HD quality to show all entrances and exits to and from a secure area and to show all interior spaces within the premises where a commercial cannabis activity, including each retail transaction, is conducted and are open and accessible to the public. (Ord. 1683(21) § 2; Ord. 1645(18) § 1; Ord. 1640(17) § 2; Ord. 1621(16) § 2)

### **9.36.030 General Prohibition.**

A. Except as otherwise expressly and conditionally allowed pursuant to this Chapter, no person shall conduct, establish or operate personal cannabis use, personal cannabis cultivation or commercial cannabis activity in any area or districts within the City.

B. Notwithstanding subdivision A, above, this section shall not be intended to preclude or limit personal possession or use of six living marijuana plants and possession of the marijuana consistent with State laws, including, but not limited to, [Health and Safety Code](#) sections 11362.1 and 11362.2, subject also to the reasonable, applicable regulations set forth in this Chapter. (Ord. 1640(17) § 2; Ord. 1621(16) § 2)

### **9.36.040 Regulation of Personal Cannabis Cultivation and Commercial Cannabis Activity.**

Each person conducting either or both commercial cannabis activity or personal cannabis cultivation shall be subject and adhere to the following:

A. Full compliance with the terms, spirit and intent of State laws;

B. If, pursuant to this code, any building/mechanical/electrical/plumbing permit is required for such use, then each shall be obtained prior to commencement of any work for which such permit is required;

C. If the person conducting personal cannabis cultivation or commercial cannabis activity is not the fee interest owner of the real property on which that cultivation or activity occurs, then that person must obtain written permission from that fee interest owner before conducting that cultivation or activity on that real property; and

D. Control odors in such a way as not to materially disrupt the ability of any reasonable person to enjoy the reasonable use of that person’s residence or areas open to the public. (Ord. 1640(17) § 2)

### **9.36.050 Regulation of Personal Cannabis Use.**

A. Notwithstanding any other provision of this code, no person shall conduct any smoking activity of cannabis within the following areas:

1. The common area of any duplex, triplex or other multi-family residential complex not open to the public; and
2. Any public park where tobacco smoking may otherwise be allowed, pursuant to this Code, except as part of a City-permitted cannabis event.

B. No person shall smoke cannabis in such a way that materially disrupts the ability of any reasonable person to enjoy the reasonable use of that person's residence or areas open to the public. (Ord. 1683(21) § 3; Ord. 1640(17) § 2)

### **9.36.060 Regulation of Commercial Cannabis Activity.**

Each person conducting a commercial cannabis activity shall:

- A. Obtain a commercial cannabis use license from the City for that commercial cannabis activity;
- B. Pay all required taxes, as approved by the City-electorate, and business taxes and file the application and renewal for a business tax certificate, as required by this Code;
- C. Pay all initial and annual fees to cover the City's costs for processing, reviewing and auditing the commercial cannabis use license and activity, as established by a Resolution of the City Council;
- D. Not commence a commercial cannabis activity until a final inspection of the premises where such activity will be conducted has been approved, in writing, by the Fire Chief, Police Chief, Planning Manager and Building Official, or their designees;
- E. Not continue an approved commercial cannabis activity, unless a then current annual certification has been properly filed within no less than 30 days and not more than 45 days before the end of the 12-month period immediately preceding each annual anniversary of the approval of the final inspection; and
- F. Ensure: (i) a video monitoring system is provided; (ii) the security surveillance cameras for that system are remotely accessible to the Lompoc Police Department and compatible with the Lompoc Police Department's software and hardware; and (iii) video recordings are maintained by that person for a minimum of 45 days. (Ord. 1640(17) § 2)

### **9.36.070 Cannabis Application.**

At a minimum, each cannabis application shall contain the following:

- A. The printed full name, signature, date of birth, social security number, and present address and telephone number of the individual to whom the license would be issued, if at all, as well as for all persons who would have any financial interest in that commercial cannabis business;
- B. The address to which correspondence from the City is to be sent;
- C. The names and addresses of all businesses operated by and the employment of the applicant for the five years immediately preceding the date of the cannabis application;
- D. Any litigation in which the applicant or any person with a financial interest in the proposed commercial cannabis business has been involved within the five years immediately preceding the date of the cannabis application;
- E. A statement whether, within the five years immediately preceding the date of the cannabis application, another business operated by the applicant or any person with a financial interest in the proposed commercial cannabis business has been investigated or the permit or license authorizing the operation of such business has been revoked or suspended;
- F. The address of any commercial cannabis business currently being operated by the applicant or in which any person with a financial interest in the proposed commercial cannabis business has with another commercial cannabis business within the last five years;
- G. The proposed supply sources for all cannabis and cannabis products to be sold or used at the commercial cannabis business;
- H. The proposed product supply chain, including all the sites where cultivation, processing and manufacturing of the cannabis and cannabis edible product occurs, as well as any required testing and transportation and packaging and labeling criteria;
- I. The names and telephone numbers of the persons to be regularly engaged in the operation of the proposed commercial cannabis business, including managers, supervisors, employees, volunteers and contractors;
- J. Odor control devices and techniques to prevent odors from cannabis from being detectable off-site;
- K. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess cannabis product;
- L. Procedures for inventory control to prevent diversion of cannabis and cannabis product, employee screening, storage of cannabis and cannabis product, personnel policies, and record-keeping procedures;
- M. A detail of the procedures to be utilized at the facility including a description of how chemicals and fertilizers will be stored, handled, used and disposed of, manufacturing methods, the transportation process, inventory procedures, and quality control procedures;

- N. A site plan and floor plan of the commercial cannabis business denoting the property lines and the layout of all areas of the commercial cannabis business including storage, cultivation, manufacturing, testing, distributing, reception/waiting, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses;
- O. An operations and security plan;
- P. Standard operating procedures detailing how operations will comply with State laws and local laws and regulations, how safety and quality of products will be ensured, recordkeeping procedures for financing, testing, and adverse event recording, and product recall procedures;
- Q. Proposed hours of operation;
- R. Recycling and Waste disposal information;
- S. Youth access restriction procedures;
- T. A statement in writing by the applicant, he or she certifies under penalty of perjury all the information contained in the cannabis application is true and correct. (Ord. 1640(17) § 2)

### **9.36.080 Commercial Cannabis Use Licenses.**

- A. Each individual who intends to operate any commercial cannabis activity must first file a cannabis application and obtain a separate commercial cannabis use license for each commercial cannabis business to be operated.
- B. Subject to compliance with this Chapter and State law, the City Manager is authorized to issue or deny issuance of commercial cannabis use licenses.
- C. The City Manager's decision to issue a commercial cannabis use license is not appealable.
- D. The City Manager's decision to deny issuance of a commercial cannabis use license may be appealed to the City Council by the applicant whose cannabis application was denied by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code, subject to the following:
  - 1. The only written information the City Council will consider for that meeting will be: (i) the written appeal filed by the applicant; and (ii) the staff report prepared by the City Manager;
  - 2. Oral testimony by or on behalf of the appellant and City Manager shall also be allowed; and
  - 3. At least ten days before the date of the meeting at which the appeal will be heard, the City Clerk shall give written notice to the appellant of the time and date of the appeal hearing and a copy of this Subsection D.
- E. A commercial cannabis use license shall only be issued to an individual who has:
  - 1. Not had a commercial cannabis use license terminated, denied or revoked by the City within the immediately preceding 24 months;



2. Successfully completed the background check required by and is in compliance with all State laws;
3. Completely and satisfactorily filed a complete cannabis application for the pertinent commercial cannabis activity as required by the rules and regulations described in subsection (E) (4); and
4. Complied with all the requirements of this Chapter and the rules and regulations established by Resolution of the City Council, including payment of fees and filing a complete cannabis application, which requirements and fees shall be recommended to the City Council by the City Manager after consultation with the Police Chief, Fire Chief and Economic Development Director/Assistant City Manager, Management Services Director or their designees.

F. No commercial cannabis use license shall be transferred, assigned or otherwise given to any other person by the individual issued that use license, whether by voluntary or involuntary action, bequest or probate (collectively, hereinafter referred to as transfer in Subsection G, below).

G. Any attempt to transfer a commercial cannabis use license shall immediately and automatically void and terminate that use license without any notice, hearing or further action required by the City or any of its officers, officials or employees.

H. A commercial cannabis use license for a commercial cannabis activity shall be immediately and automatically void and terminated, without any notice, hearing or further action required by the City or any of its officers, officials or employees, when the State license required for that commercial cannabis activity is terminated or revoked for any reason. (Ord. 1673(20) § 27; Ord. 1640(17) § 2)

### **9.36.090 Dispensaries.**

A. If on-site smoking of cannabis is to be conducted on the premises of a dispensary, then such shall be done in accordance with State laws and only if proper filtering is provided to handle the smoke created by that smoking. The cannabis application filed for that dispensary shall include information to show compliance with this subdivision. Such smoking shall only be allowed if the commercial cannabis use license issued for the dispensary expressly states that activity is permitted. (Ord. 1670(19) § 14; Ord. 1648(18) § 1; Ord. 1646(18) § 1; Ord. 1640(17) § 2)

### **9.36.100 Deliveries.**

Deliveries shall be permitted from dispensaries located within or outside the City. (Ord. 1640(17) § 2)

### **9.36.110 Commercial Cultivation.**

A. No person shall conduct cannabis cultivation as a commercial cannabis business unless it is within a fully enclosed structure.

B. The enclosure may be by means of a mixed-light building; provided, that filters and venting systems are designed, installed, maintained and operated specifically to prevent cannabis odors from escaping through openings of the mixed-light buildings. (Ord. 1670(19) § 14; Ord. 1640(17) § 2)

### **9.36.120 Cannabis Events.**

Cannabis events are authorized in compliance with the following requirements:

A. Cannabis events may take place only at River Park, Ken Adam Park, and Riverbend Park.

B. Cannabis event organizers shall obtain and maintain a special event permit from the City Recreation Division, a state cannabis event organizer license, and a state temporary cannabis event license.

C. Cannabis event organizers, vendors, and participants shall comply with all requirements of state law including, but not limited to, Section 26200(e) of the California [Business and Professions Code](#) and Chapter 5 of Division 19 of Title 4 of the [California Code of Regulations](#) (commencing at Section 15600).

D. All cannabis event vendors, and any other person or entity engaging in the sale of cannabis at a cannabis event, shall possess a City of Lompoc Commercial Cannabis Use License.

E. The cannabis event organizer shall hire or contract for security personnel to provide security services at the licensed temporary cannabis event. The number of required security personnel and the required times for security personnel presence at each event shall be determined by the Chief of Police. All security personnel hired or contracted for by the event organizer shall be at least 21 years of age, licensed by the Bureau of Security and Investigative Services, and comply with chapters 11.4 and 11.5 of division 3 of the California [Business and Professions Code](#). At a minimum, security personnel shall be present on the licensed event premises at all times cannabis goods are available for sale and/or cannabis goods consumption is allowed on the licensed event premises.

F. The cannabis event organizer shall hire or contract for an emergency medical technician (EMT) to be present at all times during the licensed temporary cannabis event. The EMT personnel shall possess a valid state-issued EMT certification.

G. No more than two cannabis events per calendar year may take place on City-owned property. Applications to hold a temporary cannabis event in a subsequent calendar year shall be accepted and considered on a first come, first served basis.

H. No temporary cannabis event of more than 2,000 attendees shall be held in the first 12 months after the effective date of the ordinance adopting this section.

I. Violation of any state law requirements for cannabis events, or any requirements of this Code, shall be grounds for the City Manager or designee to revoke a special event permit issued for a cannabis event and/or revoke any license issued to a cannabis event vendor. The revocation of a special event permit or vendor license under this section may be appealed in accordance with the requirements in Section [9.36.130\(B\)](#). (Ord. 1683(21) § 4)

## **9.36.125 Fee Schedule.**

A schedule of fees shall be established by resolution of the City Council for all costs incurred in the processing of any permits issued under this chapter. Such fees shall cover the full costs of review, approvals, inspections, certifications of compliance, or other determinations or actions necessitated by the permit. Fees shall be based on actual City costs incurred for time, equipment and materials. (Ord. 1683(21) § 5)

## **9.36.130 Use License Revocation and Appeal.**

A. Revocation. A commercial cannabis use license may be revoked by the Police Chief upon making any of the following findings:

1. The commercial cannabis use license was issued in error or the cannabis application contained materially incorrect or false information.
2. The commercial cannabis business has not commenced actually being open to serve the public within 45 days after the final inspection required pursuant to Subdivision 9.36.060(D).
3. The commercial cannabis business has ceased being open to serve the public for 30 consecutive workdays for any reason other than one completely outside the control of the individual to whom the commercial cannabis use license was issued, such as fire damage, water damage, order of the Police Chief or other calamity.
4. The commercial cannabis business has not been conducted in full compliance with this Chapter, this Code or State laws.
5. The commercial cannabis business has become a public nuisance or has been operated in a manner constituting a public nuisance, as defined by this Code or State Laws.

B. Appeals. Any decision to revoke a commercial cannabis use license may be appealed to the City Manager, by the person to whom the commercial cannabis use license was issued, by filing a notice of appeal in accordance with the requirements of Chapter 1.32 of this Code, and as follows:

1. The appellant shall personally appear at the hearing and may be accompanied by a representative.
2. No oral testimony, other than from the Police Chief and appellant, shall be allowed at the appeal hearing.
3. The City Manager shall: (i) review the facts of the matter, written documents submitted for review, oral testimony, if any, the basis for the decision which is under appeal; and (ii) then determine whether the Police Chief's decision should be reversed or affirmed. The determination made shall be in writing and shall set forth the reasons for the determination.

4. The City Manager's decision shall be appealable to the City Council by the individual to whom the commercial cannabis use license was issued.
5. Such appeal shall be made and be processed in accordance with Subdivision [9.36.080\(D\)](#). Ord. 1673(20) § 28; Ord. 1640(17) § 2)

## **9.36.140 Violations and Penalties—Public Nuisance.**

- A. Any violation of this Chapter, at the discretion of the City Prosecutor, is punishable as a misdemeanor or as an infraction, pursuant to Chapter [1.24](#) of this Code, except for as preempted by State law; and, any violation of this Chapter is punishable at the discretion of the City Prosecutor, and in compliance with State law, pursuant to Chapter [1.36](#) of this Code.
  - B. A violation and public nuisance shall be deemed to exist if any person conducts any activity discussed in this Chapter, that results in 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.
  - C. Public nuisance abatement.
    1. Any activity conducted in violation of any provision of this Chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with applicable laws.
    2. All costs to abate such public nuisance, including reasonable attorneys' fees and court costs, including fees from the City Attorney's Office, shall be paid by the person causing the nuisance, including the property owner where or from where the nuisance is occurring.
  - D. The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude the City from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity. (Ord. 1640(17) § 2; Ord. 1621(16) § 2)
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### **Contact:**

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