

ORDINANCE NO. 1-16 N.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND AMENDING
PORTIONS OF CHAPTER 7.102 OF THE RICHMOND MUNICIPAL CODE
RELATING TO MEDICAL MARIJUANA COLLECTIVES, CULTIVATION,
MANUFACTURING AND DISTRIBUTION OF EDIBLE MEDICAL MARIJUANA-
INFUSED PRODUCTS; AND BAN ON MOBILE MARIJUANA DISPENSARIES AND
MOBILE DELIVERIES

The City Council of the City of Richmond does ordain as follows:

SECTION 1: Chapter 7.102 of the Richmond Municipal Code is amended to read in its entirety as follows:

Sections:

7.102.010 Purpose and intent.

7.102.020 Definitions.

7.102.030 Permit required; Mandatory permit fee; Failure to commence operations

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7.102.010 Purpose and intent.

It is the purpose and intent of this chapter to regulate the collective cultivation, dispensing and distribution of medical marijuana, the collective manufacturing, packaging and distribution of edible medical marijuana infused products and mobile dispensaries and mobile distribution of marijuana and edible marijuana products, including the land use and zoning thereof, in order to ensure the health, safety and welfare of the residents of the City of Richmond. The regulations in this chapter, in compliance with the State Compassionate Use Act and the State Medical Marijuana Program Act and the Medical Marijuana Regulation and Safety Act ("State Law"), do not interfere with a patient's right to use medical marijuana as authorized under State Law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined

classifications of persons, as authorized under State Law. Under State Law, only qualified patients, persons with identification cards, and primary caregivers may legally cultivate medical marijuana collectively. Medical marijuana collectives and edible medical marijuana infused product manufacturers shall comply with all provisions of the Richmond Municipal Code ("RMC"), State Law, and all other applicable local and state laws. Nothing in this section purports to permit activities that are otherwise illegal under federal, state, or local law.

7.102.020 Definitions.

Unless the particular provision or the context otherwise requires the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases as used in this chapter:

- a. "Attending physician" shall have the same definition as given such term in California Health and Safety Code Section 11362.7, as may be amended, and which defines "attending physician" as an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate.
- b. "Chief of Police" means the City of Richmond Chief of Police, or her/his designee.
- c. "Commercial cannabis activity" shall have the same meaning as that set forth in Business and Professions Code section 19300.5(k) as the same may be amended from time to time.
- d. "Concentrated cannabis" shall have the same definition as given such term in California Health and Safety Code Section 11006.5, as may be amended, and which defines "concentrated cannabis" as the separated resin, whether crude or purified, obtained from marijuana.
- e. "Cultivation" means the same as that set forth in Business and Professions Code section 19300.5(l) as the same may be amended from time to time.
- f. "Edible medical marijuana" as used in this chapter means any article used for food, drink, confectionery, condiment or chewing gum by human beings whether such article is simple, mixed or compound, which contains physician recommended quantities of medical marijuana, and is produced on-site at a collective permitted pursuant to this chapter within the City of Richmond.
- g. "Identification card" shall have the same definition as given such term in California Health and Safety Code Section 11362.7, as may be amended, and which defines "identification card" as a document issued by the State Department of Health Services which identifies a person authorized to engage in the medical use of marijuana, and identifies the person's designated primary caregiver, if any.
- h. "Management member" means a medical marijuana collective member with responsibility for the establishment, organization, registration, supervision, or oversight

of the operation of a collective, including but not limited to members who perform the functions of president, vice president, director, operating officer, financial officer, secretary, treasurer, or manager of the collective.

- i. "Marijuana" shall have the same definition as given such term in California Health and Safety Code Section 11018, as may be amended, and which defines "marijuana" as all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- j. "Medical marijuana" means marijuana used for medical purposes in accordance with California Health and Safety Code Sections 11362.5, et seq.
- k. "Medical marijuana collective" ("collective") means an incorporated or unincorporated association, composed of four (4) or more qualified patients and their designated primary caregivers who associate at a particular location or property to collectively or cooperatively cultivate marijuana for medical purposes and distribute said medical marijuana to collective members and management members, in accordance with California Health and Safety Code Sections 11362.5, et seq. For purposes of this chapter, the term medical marijuana "cooperative" shall have the same meaning as medical marijuana collective.
- h. "Medical marijuana collective permit" as used in this chapter means the conditional permit issued by the Chief of Police following a public hearing to allow a medical marijuana collective operation. The permit is deemed "issued" after the approval by the appropriate City Council and Chief of Police and after expiration of the appeals period regarding the written decision stating whether the applicant is eligible to receive a permit. For purposes of this chapter, "granted" and "issued" have the same meaning.
- i. "Medical marijuana product manufacturer" means an incorporated or unincorporated association, composed of four (4) or more qualified patients and their designated primary caregivers who associate at a particular location or property to collectively or cooperatively run a manufacturing operation, located in a M-1 or M-2 zoning district and pursuant to a medical marijuana manufacturing permit where food products are manufactured and infused with marijuana then packaged, labeled and distributed to medical marijuana dispensaries.
- l "Medical marijuana product manufacturer permit" means the conditional use permit issued by the Chief of Police after approval of the permit applications and inspections and following a public hearing to allow a medical marijuana product manufacturer operation in a permitted zoning district. The permit is deemed issued after approval by the Chief of Police and the City Council, and after expiration of the appeals period regarding the written decision stating whether an application is eligible to receive a medical marijuana product manufacturer permit.

- m. "Medical Marijuana Regulation and Safety Act" means the 3 bills (AB 243, AB 266, and SB 643) signed into law by Governor Brown on October 9, 2015, which collectively are known as the Medical Marijuana Regulation and Safety Act (hereinafter "MMRSA"). Under MMRSA all medical marijuana business must have both a local license or permit to operate in addition to a State license. MMRSA expressly allows the City to maintain local control and even to completely prohibit commercial medical marijuana activities.
- o. "Mobile Dispensary" and "Mobile Delivery" means the transfer, delivery and/or distribution of marijuana or marijuana infused edible or ingestible products by any means other than from the fixed location of medical marijuana dispensary collective that is operating under a valid marijuana dispensary permit issued by the City of Richmond. "Delivery" also includes the use by a dispensary or any technology platform owned by and controlled by a dispensary or independently licensed under State law whereby qualified patients or primary caregivers arrange for or facilitate the commercial transfer by a licensed dispensary or medical cannabis or medical cannabis products. "Delivery" is defined in both section 11362.7 of the Health and Safety Code and Business and Professions Code section 19300.5(m). Mobile Delivery and Mobile Dispensaries are prohibited within the City of Richmond.
- p. "Primary caregiver" shall have the same definition as given such term in California Health and Safety Code Sections 11362.5 and 11362.7 (as set forth in Appendix A of this chapter), as may be amended, and which define "primary caregiver" as an individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that qualified patient.
- q. "Property" as used in this chapter means the location at which the medical marijuana product manufacturer operates its collective's manufacturing facility or the medical marijuana collective members and management members associate to collectively or cooperatively cultivate and distribute medical marijuana exclusively for the collective members and management members.
- r. "Qualified patient" means a person who is entitled to the protections of Health and Safety Code Section 11362.5 for patients who obtain and use marijuana for medical purposes upon the recommendation of an attending physician, whether or not that person applied for and received a valid identification card issued pursuant to State Law.
- s. "Reasonable compensation" means compensation commensurate with reasonable wages and benefits paid to employees of IRS-qualified non-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked. The payment of a bonus shall not be considered "reasonable compensation."
- t. "State Law" means the state regulations set forth in the Compassionate Use Act and the Medical Marijuana Program Act, codified in California Health and Safety Code Sections 11362.5, et seq. and the MMRSA and as they may be amended from time to time.

7.102.030 Permit required; Mandatory permit fee; Failure to commence operations; Mobile Delivery banned

A. No medical marijuana product manufacturer or medical marijuana collective, management member or member shall carry on, maintain or conduct any medical marijuana collective related operations, including cultivation of marijuana or preparing, manufacturing, giving away or distributing edible marijuana products, in the City without first obtaining either a medical marijuana collective permit or a medical marijuana product manufacturer permit from the Chief of Police.

B. Mandatory Payment of Fees to Maintain Permit.

Once a collective or manufacturer has been granted/issued either a medical marijuana collective permit or a medical marijuana product manufacturer permit under this Chapter, it shall remit to the City the annual permit fee that has been set by the Master Fee Schedule, and as amended by resolution. The collective or manufacturing permit fee shall be made in quarterly installments and is due and payable no later than 10-days from the due date. In order to maintain a permit issued under this Chapter, the collective or manufacturer must timely pay every quarterly payment. Failure to remit the quarterly permit fees shall result in Revocation of the permit. The City shall send written notice to the permittee of the revocation for failure to pay the mandatory permit fees. Any appeal of such notice shall be made pursuant to subsection 7.102.130B. No appeal of the revocation for non-payment of permit fees shall be granted until the appellant remits the full amount of the delinquent permit fees, including any late penalties or interest imposed by ordinance or law.

C. Permit Expiration.

If a medical marijuana collective or medical marijuana product manufacturer has not opened at the approved location and begun operations within six (6) months of being issued/granted a permit under this Chapter, the permit shall be deemed expired and void. The City shall provide written notice to the collective or manufacturer that the permit has expired and is void. A collective or manufacturer may appeal the permit expiration as set forth in the appeal section of this Chapter. Upon a factual showing of good cause by the collective or manufacturer for its failure to commence operations within the required time, the hearing body may grant a one-time only 60-day maximum extension based upon its factual finding of good cause for the extension. That determination shall be final. Good cause” includes, but is not limited to, termination of the manufacturer’s lease or collective’s lease by the property owner; a change in federal, state or local law that now prohibits use of the previously approved location as a medical marijuana collective or medical marijuana product manufacturer; foreclosure or sale of the approved location resulting in the manufacturer’s or collective’s inability to enter into a new lease; damage to or deterioration to the building that prevents the safe use and/or occupation of the structure until all required repairs are made in conformity with a Notice and Order to Repair issued to the property owner by the City’s Building Official pursuant to the California Code of Regulations and the Uniform Code for Abatement of Dangerous Buildings. However, if the manufacturer or collective was responsible for the condition, including any non-permitted construction or alteration of the structure, or non-permitted electrical, mechanical or plumbing, “good cause” shall not be found.

D. Delivery of Medical Marijuana Is Not Permitted.

Deliveries of medical marijuana and marijuana infused products designed to be consumed or ingested in any manner is prohibited in all zoning districts and anywhere within the City limits. The sole exception is for delivery to the fixed location of a medical marijuana dispensary that is lawfully permitted to operate pursuant to a valid City of Richmond medical marijuana dispensary permit issued for a fixed location. All other delivery service is banned. This ban includes deliveries by State licensed dispensaries.

E. Pursuant to section 11362.777(b)(3), the Department of Food and Agriculture shall not issue a State license to cultivate medical marijuana within Richmond since such cultivation is prohibited under principals of permissive zoning. This subsection reaffirms that the City's Zoning Code is adopted and operates und the principals of permissive zoning and cultivation of marijuana is not expressly permitted in any district under the Zoning Code, and is expressly prohibited in this Chapter, which regulates zoning for medical marijuana. Therefore the State is not allowed to issue a license for the cultivation of medical marijuana within the City of Richmond.

7.102.040 Location and number

- A. All medical marijuana product manufacturers shall be located in either an Industrial/Office Flex (M-1) or Light Industrial (M-2) Zoning District and shall be required to obtain a Conditional Use Permit and such permit may require more restrictive requirements than other permitted uses in those zoning districts as required by the Chief of Police. Any such determination that more restrictive requirements are necessary for the medical marijuana product manufacturer shall be final.
- B. All medical marijuana collectives shall be located in the Regional Commercial (C-3) Zoning District unless, following a public hearing, the City Council makes the following findings to authorize a collective to locate in the General Commercial (C-2) Zoning District:
 - 1. The collective has demonstrated that it considered locations within the Regional Commercial (C-3) Zoning District and found no location meeting the requirements of this chapter that serves the needs of its members.
 - 2. The proposed location within the General Commercial (C-2) Zoning District would complement the surrounding community while providing necessary services to its members.
 - 3. The proposed location is not abutting a residential use.
- C. All medical marijuana collectives and medical marijuana product manufactures shall be a minimum of one thousand five hundred feet (1,500') from any public or private high school and a minimum of six hundred feet (600') from any, kindergarten, elementary, middle or junior high school, pursuant to State law. All medical marijuana product manufacturers shall be a minimum of five-hundred feet (500') from any park, community center, youth center, public or private child-care center or nursery school, without exception. All medical marijuana collectives shall be a minimum of five-hundred feet (500') from any park, community center, youth center, public or private child-care center or nursery school unless,

following a public hearing, the City Council makes all of the following findings based on specific facts, stated in writing:

1. The location, design and proposed operating characteristics of the collective are such that it is highly improbable persons on, in or travelling to or from nearby - parks, community centers, youth centers, or child-care centers would be able to view persons in, entering, or leaving the collective.
 2. Allowing the collective to locate within one thousand five hundred feet (1,500') of a public or private high school or within five hundred feet (500') of a park, community center, youth center, public or private child-care center or nursery school, will not grant the collective a special privilege not available to other medical marijuana collectives within the City of Richmond.
 3. The collective has demonstrated that it considered other locations and selected the location that would have the minimum negative impact on the surrounding community while providing necessary services to its members.
- D. No more than three (3) medical marijuana collectives shall be located within any square mile within the City limits.
- E. No more than three (3) medical marijuana collective dispensaries and no more than three (3) medical marijuana product manufacturers shall be permitted or allowed to operate in the City of Richmond. When there are fewer than three (3) permitted collectives or fewer than three (3) permitted medical marijuana product manufacturers operating within the City, the Chief of Police shall publish an Invitation for Applications on the City's website, stating the period during which applications will be accepted.
- F. No collective dispensary shall be permitted or allowed to also operate as a medical marijuana product manufacturer. No medical marijuana product manufacturers shall be permitted or allowed to operate as a collective dispensary. No management member of a collective dispensary in the City of Richmond shall be allowed to manage, control, operate, or be employed by, work at or volunteer at, a medical marijuana product manufacturer. No management member, owner, operator, partner, member, employee or person exercising any control of a medical marijuana product manufacturer shall be allowed to be a management member or employee or volunteer of a collective's dispensary located in the City of Richmond. It is the intent of the City Council that a collective dispensary and a medical marijuana product manufacturer be totally separate and unrelated to each other. Any breach of this subsection shall result in the permanent revocation of the permits of both the collective and the medical marijuana product manufacturer violating this provision.

7.102.050 Permit application process

Any medical marijuana collective or medical marijuana product manufacturers desiring a permit required by this chapter shall complete and file an application on a form supplied by the Chief of Police, and shall submit with the completed application payment of a nonrefundable processing and notification fee, as established by the City Council by resolution. The medical marijuana collective and medical marijuana product manufacturer permit application is

established to provide a review process for each proposed medical marijuana collective operation and each medical marijuana product manufacturing operation within the City.

A. Filing. The medical marijuana collective shall provide the following information:

1. The address of the property where the proposed medical marijuana collective will operate.
2. A site plan describing the property with fully dimensioned interior and exterior floor plans including electrical, mechanical, plumbing, and disabled access compliance pursuant to Title 24 of the State of California Code of Regulations and the federally mandated Americans with Disabilities Act. The site plan shall demonstrate that there are separate rooms or partitioned areas within the collective for the receipt of supplies and for the distribution of medical marijuana to qualified patients and/or primary caregivers.
3. Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front, rear and side(s) of the proposed property.
4. Photographs depicting the entire interior of the proposed property.
5. A security plan including procedures for verifying identification of qualified patients and primary caregivers both before entering the collective and again before receiving medical marijuana; the number, location and hours of security guards; and a theft prevention plan.
6. If the property is being rented or leased or is being purchased under contract, a copy of such lease or contract. If the property is not being rented or leased, written proof that the property owner has been notified that the property will be used as a medical marijuana collective.
7. If the property is being rented or leased, written proof that the property owner, and landlord if applicable, were given notice that the property will be used as a medical marijuana collective, and that the property owner, and landlord if applicable, agree(s) to said operations. If the collective is to be a subtenant, then "landlord" shall mean the primary tenant.
8. The name, address, telephone number, title and function(s) of each management member.
9. For each management member, a fully legible copy of one (1) valid government-issued form of photo identification, such as a driver's license.
10. For each management member, a summary criminal history ("LiveScan") prepared by the Richmond Police Department not more than two weeks prior to the date of application and demonstrating that there are no pending charges nor convictions for crimes of moral turpitude (such as theft, fraud, or assault) within the previous ten years, and that the subject is not currently on parole or probation for the sale or distribution of a controlled substance.
11. Written confirmation as to whether the medical marijuana collective, or a collective with one or more management members in common with the applicant, previously operated in this or any other county, city or state under a similar license/permit, and

whether the collective applicant ever had such a license/permit revoked or suspended and the reason(s) therefore.

12. Either (a) if the collective is incorporated, a certified copy of the collective's Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information and a copy of the collective's bylaws demonstrating that the collective is organized as a non-profit entity; or (b) if the collective is unincorporated, a copy of the collective's notarized creating document demonstrating that the collective is organized as a non-profit entity. A creating document may include articles of association, bylaws, constitution, or other documents that set forth how the collective will operate.
 13. A seller's permit from the California Board of Equalization.
 14. The name and address of the applicant's current Agent for Service of Process.
 15. A copy of the medical marijuana collective operating conditions, containing a statement dated and signed by each management member, under penalty of perjury, that they read, understand and shall ensure compliance with all operating conditions.
 16. A copy of the Prohibited Activity Checklist, available from the Richmond Police Department, containing a statement dated and signed by each management member, under penalty of perjury, that they read, understand and shall ensure that neither the collective nor its members and management members shall engage in the aforementioned prohibited activity.
 17. A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the application, that the information contained therein is true and correct, and that the application has been completed under the supervision of the management member(s).
 18. A statement of whether Edible Medical Marijuana will be prepared at the proposed property and, if so, a certificate from the Contra Costa County Department of Health Services demonstrating compliance with the Food Services Facilities Inspection Program.
 19. Evidence of a computerized or telephonic system for communicating with all other permitted collectives within the City of Richmond in order to ensure that a qualified patient, directly or through his or her primary caregiver(s), does not purchase, obtain, or otherwise receive a total of more than one ounce of medical marijuana per day.
 20. Whether it is anticipated that cultivation may occur onsite and if so, documentation and evidence showing such cultivation operation will be in full conformity and compliance with this Chapter, the Richmond Municipal Code, and State law.
- B. Filing- The medical marijuana product manufacturer shall provide the following information:
1. The address of the property where the proposed medical marijuana product manufacturer will operate.

2. A site plan describing the property with fully dimensioned interior and exterior floor plans including electrical, mechanical, plumbing installations and any further information required by the Police Chief and Planning Director to approve the plans and for issuance of the required Conditional Use Permit.
 3. A seller's permit from the California Board of Equalization.
 4. A valid City Business license.
 5. The name and address of the applicant's current Agent for Service of Process.
 6. If the property is being rented or leased, written proof that the property owner, and landlord if applicable, were given notice that the property will be used for medical marijuana edible product manufacturing, and that the property owner, and landlord if applicable, agree(s) to said operations. If the manufacturer is to be a subtenant, then "landlord" shall mean the primary tenant.
- C. After the closing of the application period, the Chief of Police will evaluate all applications for completeness. The Chief of Police shall ensure that applications are complete as follows:
1. Within twenty (20) business days of the close of the application period, except where circumstances beyond the control of the City justifiably delay such response, the Chief of Police shall determine whether the applications are complete. If it is determined an application is incomplete, the applicant shall be notified in writing that the application is not complete and the reasons therefore, including any additional information necessary to render the application complete.
 2. The applicant shall have thirty (30) calendar days from the date of a notice of incomplete application to complete the application. Failure to do so within the thirty (30) day period shall render the application null and void. The determination that an application is null and void is not an appealable decision.
 3. Within ten (10) business days following the receipt of an amended application or supplemental information, except where circumstances beyond the control of the City justifiably delay such response, the Chief of Police shall again determine whether the application is complete and shall inform the applicant whether additional materials are required to complete the application. Evaluation and notification shall occur as provided above up to three times until such time as the application is found to be complete or in the alternative null and void. If, after three opportunities to complete an application, the applicant fails to provide all necessary information, the application shall be null and void. The determination that an application is null and void is not an appealable decision.
 4. All notices required by this chapter shall be deemed issued upon the date they are either deposited in the United States Postal Service mail or the date upon which personal service of such notice is provided.
- D. All complete applications for a collective dispensary permit will be circulated to the Planning and Building Services, Fire and Code Enforcement Departments with a rating matrix and directions for evaluating and scoring applications based on criteria to be

adopted by separate Resolution of the Council. All complete applications for a collective dispensary permit will be circulated to the Planning and Building Services, Regulatory Unit and Fire Department for the necessary inspections and approvals.

- E. Except where circumstances justify delay, not later than sixty (60) days from the date the completed permit applications are circulated for staff review, all complete applications will be considered at a noticed public hearing. If the Council does not choose to have the hearing(s) conducted by the Council then the Chief of Police shall cause the public hearing(s) on an application for a collective permit to be conducted before a panel consisting of the Chief of Police and representatives of the Planning and Building Services and Fire Departments. In reviewing and scoring collective permit applications, the rating body or City Council, shall consider those criteria to be adopted by separate Resolution of the Council.
- F. The Chief of Police shall cause the applicants and the owners of property located within seven-hundred-and-fifty-feet (750') of every proposed collective location to be sent notice of the date, time, and place of the hearing(s) at least ten (10) business days in advance of the opening of such hearing(s). The Planning and Building Services Director shall cause the applicants and the owners of property located within seven-hundred-and-fifty-feet (750') of every proposed manufacturer's location to be sent notice of the date, time, and place of the hearing(s) at least ten (10) business days in advance of the opening of such hearing(s).
- G. The Chief of Police or City Council shall open the public hearing(s) at the date, time, and place specified in the notice, but may continue the hearing(s), and may change the place of any or all hearing(s), as necessary to accommodate all interested parties.
- H. The Chief of Police or City Council shall issue a written report of the decision on all collective or manufacturer permit applications not later than fifteen (15) business days after the hearing or series of hearings is closed. The report shall be in writing and shall include findings of fact, a summary of the relevant evidence, a statement of the issues, and a decision regarding whether each applicant is eligible to receive a permit. The report will also include any conditions to be imposed on a permit in addition to the conditions established in Section 7.102.060 and the facts supporting imposition of those conditions. The Planning and Building Services Director shall provide a supplemental written report regarding the conditions imposed by the Conditional Use Permit for manufacturer permit applications. A copy of the reports shall be mailed or delivered to every applicant, and to any person who has requested notice of the decision and has paid the required fees for copying and mailing.

7.102.060 Permit approval and operating conditions.

Any permit issued, or modified to allow relocation, pursuant to this chapter shall include, and each permittee shall continually comply with, all of the following conditions of operation, provided that additional conditions may be imposed as necessary to preserve the public health, safety, and welfare.

- A. The property satisfies all locational and zoning criteria.

- B. Exterior building and parking area lighting at the property are in compliance with all applicable provisions of this Code, as determined by the Planning Division.
- C. Windows and roof hatches at the property shall be secured so as to prevent unauthorized entry; equipped with latches that may be released quickly from the inside to allow exit in the event of emergency; and comply with all applicable Building and Fire Code provisions.
- D. The property provides a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the property is not detected outside the property, anywhere on adjacent property or public rights-of-way, or within any other unit located within the same building as the medical marijuana collective.
- E. The property is monitored at all times by closed-circuit television for security purposes. The camera and recording system must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the property. The recordings shall be maintained at the property for a period of not less than thirty (30) days.
- F. The property has a centrally-monitored fire and burglar alarm system.
- G. A sign is posted in a conspicuous location inside the property advising:
 - 1. The diversion of marijuana for non-medical purposes is a violation of State law.
 - 2. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery.
 - 3. Loitering at the location of a medical marijuana collective for an illegal purpose is prohibited by California Penal Code Section 647(h).
 - 4. This medical marijuana collective is permitted in accordance with the laws of the City of Richmond and the State of California, including the MMRSA.
- H. Each collective distributing edible medical marijuana or other manufactured infused products for the sole consumption by qualified patient members and qualified patient management members of the collective shall ensure that the products are manufactured, packaged and labeled in compliance with all applicable state and local laws. No collective shall manufacture or process edible medical marijuana products. No collective shall obtain or distribute edible medical marijuana products or other manufactured marijuana infused edible products from any manufacturer located within the City of Richmond unless such manufacturer has a valid medical marijuana product manufacture's permit issued pursuant to this chapter.
- I. The medical marijuana collective meets all applicable state and local laws to ensure that the operations of the collective are consistent with the protection of the health, safety and welfare of the community, qualified patients and their primary caregivers, and will not adversely affect surrounding uses.
- J. No collective shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by management members and members towards the collective's actual expenses of the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance with state law.

All such cash and in-kind amounts and items shall be fully documented. The site of cultivation for all in-kind contributions shall be noted and addresses shall be made available to Fire and Building Inspectors upon request.

- K. Prior to distributing any crop, batch or bundle of medical marijuana that it cultivates or acquires for distribution or any edible medical marijuana or other manufactured infused products, a collective shall submit samples of that crop, batch or bundle to an independent laboratory to be tested using standard analytical methodology for the presence of mold, pesticides, and other additives or adulterants that could be harmful if ingested or applied topically. The medical marijuana or manufactured infused product shall not be distributed or consumed before laboratory results demonstrate that it is safe for consumption.
- L. Prior to hiring any prospective employee or management member, the Richmond Police Department shall prepare a summary criminal history ("LiveScan") demonstrating that there are no pending charges nor convictions for crimes of moral turpitude (such as theft, fraud, or assault) within the previous ten years, and that the subject is not currently on parole or probation for the sale or distribution of a controlled substance.
- M. All marijuana businesses shall maintain all State licenses required under the MMRSA. Any new marijuana business issued a permit must, within 10-days of obtaining a medical marijuana permit, apply for the State license and must notify the Police Department of the date of the license application. All marijuana businesses must notify the Police Department when the State license is approved and issued. Upon verbal or written notification that the State has denied a license application, the marijuana business must notify the Police Department of that determination within 3 business days of the date of rejection.
- N. All currently permitted marijuana businesses must immediately apply for the State licenses within 10-days of the MMRSA's effective date. Any medical marijuana dispensary, manufacturer or any other permitted medical marijuana operation or permitted marijuana business that fails to obtain or qualify for the required State license, or is refused such license, shall immediately cease all operations in the City. The MMRSA establishes a dual licensing structure requiring both a State license and a local permit., therefore any marijuana business that does not meet both State licensing and local permit requirements is not permitted to operate within the City limits.

7.102.070 Permit non-transferable.

A medical marijuana collective permit or medical marijuana product manufacturer permit issued pursuant to this chapter shall become null and void upon the cessation of the collective, or manufacturer, or upon a major management change to such an extent that the original applicant is no longer a management member, or 50 percent or more of the board of directors has been replaced, and/or the unauthorized relocation of the collective or manufacturer to a different property.

- A. The following shall be deemed an unauthorized change in location if undertaken without approval of a permit modification in accordance with Section 7.102.075.

1. Any relocation or expansion that includes a separate piece of property or parcel of land from the initially permitted property or property that requires a separate lease, or separate utilities from the initially permitted property.
 2. Any expansion of the initially permitted property which represents a greater than fifty percent (50%) increase in the square footage of occupancy or in the square footage that is open to the public.
- B. The lawful conduct of activity regulated by this chapter by a permittee shall be limited to those activities expressly indicated on the medical marijuana collective permit or medical marijuana product manufacturer permit and in the application materials.
- C. The holder of a medical marijuana collective or medical marijuana product manufacturer permit, or any marijuana business permit shall not allow others to use or rent the permitted property, and the holder of the permit shall not allow the holder of the permit to be replaced by anyone who was not named as a management member in the original permit application. For medical marijuana collectives only, an exception shall be made for persons who are not collective members or management members and who possess a valid City issued business license which authorizes the "place to place" sale of materials (other than seed stock) for the collective cultivation of medical marijuana by members and/or management members of the collective.

7.102.075 Modification of permit conditions.

Section 7.102.075 - Modification of permit conditions.

- A. A medical marijuana collective or medical marijuana product manufacturer may request a modification of permit condition(s) by submitting a written request to the Chief of Police stating the condition(s) to be modified and the reason(s) for the request. A request must be accompanied by the fee for an appeal as set forth in the City Council resolution establishing fees for medical marijuana collective and medical marijuana product manufacturer permits. The request should be accompanied by all supporting documents.
- B. Upon receipt of a request to modify permit condition(s) and payment of the required fee, the Chief of Police, or his or her designee, shall schedule a public hearing before the City Council at a regular meeting within forty-five (45) days after receipt of the request and payment of the required fee.
- C. Notice of the hearing shall be published and mailed in accordance with Section 7.102.050.E.
- D. Prior to approval of a permit modification seeking to relocate the collective from the initially permitted property to a new property, the proposed new property shall be inspected and the property shall meet all requirements set forth in this chapter, including sections 7.102.050 and 7.102.060. A temporary conditional permit modification approval may be granted in the sole discretion of the hearing body except that such conditional approval shall not exceed thirty (30) days and the temporary conditional approval shall become null and void if the proposed property does not fully comply with all requirements of this chapter

within the 30-day period. If the proposed property complies with all requirements of this chapter prior to the end of the 30-day period, and upon written confirmation of compliance by the Chief of Police to the hearing body and the applicant, the temporary conditional approval shall terminate and the permit modification shall be deemed granted as of the date of the Chief's written confirmation of compliance.

E. Upon commencement of collective operations at the new approved location, or ninety (90) days after a permit modification for relocation has been granted, whichever occurs first, the collective's initially permitted property shall no longer be permitted or authorized for use by the collective. It shall be unlawful for any collective to continue to operate, including cultivation or dispensing marijuana, at the initially permitted property after the ninety (90) day period from the date the permit modification for relocation was granted and shall constitute a violation of section 7.102.070.F A decision of the City Council regarding permit modifications, including but not limited to a decision to grant or deny a request to relocate in the General Commercial (C-2) Zoning District, shall be final.

7.102.080 Maintenance of records.

- A. A medical marijuana collective shall maintain the following accurate and truthful records on the property:
1. The full name, address, and telephone number(s) of the owner, landlord and/or lessee of the property.
 2. The full name, address, and telephone number(s) of each collective member engaged in the management of the collective and the exact nature of the participation in the management of the collective.
 3. The full name, address, and telephone number(s) of each collective member and management member who participates in the collective cultivation of medical marijuana.
 4. The current address of all sites at which marijuana is cultivated on behalf of the collective.
 5. The full name, date of birth, residential address, and telephone number(s) of each collective member and management member; the date each member and management member joined the collective; the exact nature of each member's and management member's participation in the collective; and the status of each member and management member as a qualified patient or primary caregiver.
 6. A written accounting of all cash and in-kind contributions, reimbursements, and reasonable compensation provided by the collective management members and members to the collective, and all expenditures and costs incurred by the collective.
 7. An inventory record documenting the dates and amounts of medical marijuana cultivated at the property, and the daily amounts of marijuana stored on the property.
 8. Proof of a valid medical marijuana collective permit issued by the Chief of Police in conformance with this chapter.

9. Copies of the prohibited activity checklist, available from the Richmond Police Department, containing a statement dated and signed by each collective member and management member, under penalty of perjury, that they read, understand and shall not engage in the aforementioned prohibited activity.
 10. Evidence of: (a) verification that all edible medical marijuana and other manufactured infused products are manufactured, packaged, and labeled in compliance with all applicable state and local laws; and (b) laboratory testing as required by Section 7.102.060
- B. A medical marijuana product manufacturer shall maintain the following accurate and truthful records on the property:
1. Proof of a valid medical marijuana product manufacturer's permit issued by the Chief of Police in conformance with this chapter.
 2. Evidence of: (a) verification that all edible medical marijuana and other manufactured infused products manufactured and packaged at the location are manufactured, packaged, and labeled in compliance with all applicable state and local laws; and (b) laboratory testing as required by Section 7.102.060
 3. A list of any medical marijuana dispensary located in the City of Richmond that the manufacturer has provided, or intends to provide its product to. The list shall include the name of the dispensary, its address, the date the medical marijuana product was distributed to the dispensary, and the type and amount of the product that was distributed.
 4. Proof of inspection and all required approvals required by the Contra Costa County Health Department for food manufacturers, packagers and/or distributors. The manufacturing and processing operation shall, at all times, be maintained in a clean and sanitary condition.
- C. These records shall be maintained by the medical marijuana collective and medical marijuana product manufacturer for a period of not less than five (5) years and shall be made available by the collective or manufacturer to the City upon request, subject to the authority set forth in Section 7.102.090. Failure to provide such records upon request shall result in suspension of the permit and immediate cessation of all collective or manufacturing operations until such complete and legible records are provided, or in revocation of the permit if such complete and legible records are not provided within 15-days of the request for inspection.

7.102.090 Inspection authority.

City representatives may enter and inspect the property of every medical marijuana collective or medical marijuana product manufacturer between the hours of ten o'clock (10:00) a.m. and eight o'clock (8:00) p.m., or at any reasonable time to ensure compliance and enforcement of the provisions of this chapter, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful for any property owner,

landlord, lessee, medical marijuana product manufacturer, ~~or~~ medical marijuana collective member or management member or any other person having any responsibility over the operation of the medical marijuana collective or medical marijuana product manufacturer to refuse to allow, impede, obstruct or interfere with an inspection.

7.102.100 Existing medical marijuana operations.

Any existing medical marijuana collective, dispensary, operator, establishment, provider, or medical marijuana product manufacturer or marijuana business that does not comply with the requirements of this chapter must immediately cease operation until such time, if any, when it complies fully with the requirements of this chapter. No medical marijuana collective, dispensary, operator, establishment, provider, or medical marijuana product manufacturer that existed prior to the enactment of this chapter shall be deemed to be a legally established use or a legal non-conforming use under the provisions of this chapter or the Code. Any medical marijuana collective, dispensary, operator, establishment or provider that operates without a permit after December 31, 2010 shall be ineligible to apply for a permit. Any medical marijuana product manufacturer that operates without a valid medical marijuana product manufacturer's permit after April 30, 2015, shall be ineligible to apply for a permit.

Any medical marijuana collective, dispensary, operator, establishment, provider, business or medical marijuana product manufacturer that does not comply with all State licensing requirements of the MMRSA shall be deemed in violation of this Chapter and that operation shall cease immediately and remained closed until such time as the operation complies with the State licensing requirements. If the medical marijuana operation fails to comply with MMRSA licensing or other requirements within the deadline set by the State for compliance, the local permit shall be terminated as a matter of law. If the business fails to cease operation as required, the marijuana operation's operators, managers, owners, senior officers and other legally responsible parties shall be subject to all legal remedies available under local and state law, including, but not limited to the remedies set forth in the Richmond Municipal Code, the Health and Safety Code, the Business and Professions Code and the MMRSA.

7.102.110 Prohibited activity.

- A. It is unlawful for any person to cause, permit or engage in the cultivation, possession, distribution, manufacture, exchange or giving away of marijuana or products containing marijuana in any form, for medical or non-medical purposes except as provided in this chapter, and pursuant to any and all other applicable local and state law.
- B. It is unlawful for any person to cause, permit or engage in any activity related to medical marijuana except as provided in this chapter and in Health and Safety Code Sections 11362.5 et seq., and pursuant to any and all other applicable local and state law.
- C. It is unlawful for any person knowingly to make any false, misleading or inaccurate statement or representation in any form, record, filing or documentation required to be maintained, filed or provided to the City under this chapter.
- D. No medical marijuana collective, management member or member shall cause or permit the sale, distribution or exchange of medical marijuana cultivated at the property or of any

edible medical marijuana product, prepared, or packaged at the property to any person who is not a member or a management member of the permitted collective. No medical marijuana product manufacturer, management member, employee, or member shall cause, permit or allow any sale, distribution or exchange of the manufactured product to any individual at the manufacturing location, nor shall the manufacturer permit any walk-ins or allow any persons into the site unless they are members engaged in the manufacturing process or distribution to medical collectives.

- E. No medical marijuana collective, management member or member shall allow or permit the commercial sale of any product, good or service, including but not limited to drug paraphernalia identified in Health and Safety Code Section 11364, on or at the medical marijuana collective, in the parking area of the property. An exception shall be made for persons who are not collective members or management members and who possess a valid City issued business license which authorizes the "place to place" sale of materials (other than seed stock) the collective cultivation of medical marijuana by management members and members of the collective.
- F. No cultivation of medical marijuana at the property shall be visible with the naked eye from any public or other private property, nor shall cultivated medical marijuana or dried medical marijuana be visible from the building exterior. No cultivation shall occur at the collective's location unless the area devoted to the cultivation is secured from public access by means of a locked gate, and any other security measures necessary to prevent unauthorized entry, and has been inspected and approved by the City of Richmond Fire and Building Departments.
- G. No manufacture of concentrated cannabis in violation of California Health and Safety Code Section 11379.6 is allowed.
- H. No medical marijuana collective shall be open to or provide medical marijuana, in any form, to its members or management members between the hours of eight o'clock (8:00) p.m. and ten o'clock (10:00) a.m.
- I. No person under the age of eighteen (18) shall be allowed at the property, unless that minor is a qualified patient and is accompanied by his or her licensed attending physician, parent(s) or documented legal guardian.
- J. No medical marijuana collective shall possess marijuana that was not cultivated by its management members or members either at the collective's approved dispensary location or at a location outside the City of Richmond territorial limits. Any cultivation site within the City must be fully documented, inspected by the City. No cultivation or processing operation within the City of Richmond shall be permitted unless the operation is in possession of a City business license and a medical marijuana collective permit issued in accordance with this chapter and in compliance with chapter 7.04, and all permit and inspection requirements of the California Code of Regulations and the licensing requirements of the MMRSA..
- K. No medical marijuana collective, management member or member shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the property or in the parking area of the property.
- L. No dried medical marijuana or marijuana containing products shall be stored at the property in structures that are not completely enclosed, in an unlocked vault or safe, in any other

unsecured storage structure, or in a safe or vault that is not bolted to the floor of the property.

- M. Medical marijuana may not be inhaled, smoked, eaten, ingested, or otherwise consumed on the property, in the parking areas of the property, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79, which include:
 - a. Any place where smoking is prohibited by law;
 - b. Within one thousand feet (1,000') of the grounds of a school, recreation center, or youth center;
 - c. While on a school bus;
 - d. While in a motor vehicle that is being operated; or
 - e. While operating a boat.
- N. No person who is currently charged with or has been convicted within the previous ten (10) years of a crimes of moral turpitude (such as theft, fraud, or assault), or who is currently on parole or probation for the sale or distribution of a controlled substance, shall be engaged directly or indirectly in the management of the medical marijuana collective nor, further, shall manage or handle the receipts and expenses of the collective or be permitted in any area of the marijuana business that is not open for all collective members, including , but not limited to, in the office, behind the display counter, behind the area where the cash register is maintained and shall not be permitted to remain in the marijuana business once the purchase of the marijuana has taken place.
- O. No medical marijuana cultivation operation shall operate within the City, except at the collective's approved location, with a valid medical marijuana collective permit, and in connection with a single permitted collective operation and with a State license. This includes operators of any cultivation operation that does not qualify as "primary caregiver" under State law or that is not directly operated by members of a properly permitted collective.
- P. No medical marijuana product manufacturer shall allow or permit any distribution of its product at the manufacturing location and shall not operate as a medical marijuana dispensary as such is defined in this chapter.

7.102.120 Violation and enforcement.

- A. Any person, including any corporation or other legal entity violating any provision of this chapter or knowingly or intentionally misrepresenting any material fact in procuring the permit herein provided for, shall be deemed guilty of a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than twelve (12) months, or by both such fine and imprisonment.
- B. Any person who engages in any medical marijuana collective operations or medical marijuana product manufacturer or marijuana business without first obtaining a valid medical marijuana collective or medical marijuana product manufacturer permit and a valid State license, or after a medical marijuana collective or medical marijuana product manufacturer permit application or State license application has been denied, surrendered,

relinquished, declared null and void, or has been suspended or revoked, and before a new permit or State license is issued, shall be subject to civil prosecution and fines of up to one thousand dollars (\$1,000) per day for each day, or portion thereof, of unpermitted operation.

- C. As a nuisance per se, any violation of this chapter shall be subject to injunctive relief, revocation of the certificate of occupancy for the property, 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 law for any violations committed by a medical marijuana collective or medical marijuana product manufacturer or marijuana business, its management members, members or any person related or associated with the collective or medical marijuana product manufacturer or any other person or entity that is liable for a nuisance per se violation under California law.
- D. Any violation of the terms and conditions of the medical marijuana collective permit or medical marijuana product manufacturer, or marijuana business, of this chapter, including failure to remit the quarterly annual permit fee required to maintain the permit and/or failure to remit the quarterly gross receipt taxes, or of applicable local or state regulations, including the MMRSA, and laws shall be grounds for permit suspension or revocation.

7.102.130 Appeals.

1. Appeals from decisions to grant or deny a permit:

A. If the decision on one or more permit applications is made by the City Council or a subcommittee thereof, the decision is final.

B. If the decision on one or more permit applications is made by a rating body empanelled by the Chief of Police, it may be appealed to the City Council within fourteen (14) days from the date the written notice of permit decision was mailed or delivered by personal service. The request for appeal shall be in writing, shall set forth the specific ground(s) on which it is based and shall be submitted to the Chief of Police along with an appeal fee in an amount determined by the City Council by resolution.

C. The City Council shall conduct a hearing on all appeals at a regularly scheduled meeting within thirty (30) days of the close of the appeal period, except where good cause exists to extend this period. Notice of the date, time and place of the hearing shall be given to the appellant at least ten (10) business days in advance of the hearing. The appellant and City staff shall each provide evidence supporting or refuting the decision to grant or deny the permit at the appeal hearing. At the conclusion of the taking of evidence, the City Council shall make its ruling on the appeal which shall be entered. The determination of the City Council on the appeal(s) shall be final.

D. No permits shall be issued prior to the expiration of the appeals period without the filing of an appeal or, in the event of one or more appeals, the final decision of the City Council on all appeals.

2. Appeals from Revocation or Suspension

A. If a City department determines that the permittee failed to comply with any provision of this chapter, or with any other provision or requirement of law, the Chief of Police shall revoke or suspend the medical marijuana collective permit. The City may also pursue any and all remedies and actions available and applicable under local and state law for any violations committed by the medical marijuana collective, its management members, members or any person related or associated with the collective.

B. The Chief of Police shall notify the permittee of the permit revocation or suspension by dated written notice. Said notice shall advise the permittee of the right to appeal the decision to the City Council within fourteen (14) days from the date of the notice. The request for appeal shall be in writing, shall set forth the specific ground(s) on which it is based and shall be submitted to the Chief of Police, along with the appeal fee deposit in the same amount as that determined by the City Council by resolution for appeals from decisions to grant or deny a permit.

C. The appeal shall be considered by the City Council in accordance with Section 7.102.055(C).as set forth above in subsection 1. The decision of the City Council shall be final.

D. Whenever a medical marijuana collective permit has been revoked or suspended, no permit application by any of the managing members of that collective shall be considered for a period of three (3) years from either the date that the notice of the revocation or suspension was mailed, or the date of the final decision of the City Council, or the relevant State agency, whichever is later.

E. The City of Richmond does not have jurisdiction to process or hold appeal hearings, or make finding regarding denial of a State license or violations of State law including violations of the MMSRA, the Health and Safety Code or the Business and Professions Code. If any appeal right exist relating to violations, denial or revocation of State licenses, or other actions based on state laws, such matters are the within the sole and exclusive jurisdiction of the State of California and the relevant State Agency.

SECTION 2. Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinance or the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 3. CEQA

Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), the City Council finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b) (3).

This Ordinance becomes effective 30 days after its final passage and adoption.

First read at a regular meeting of the Council of the City of Richmond held December 15, 2015, and finally passed and adopted at a regular meeting thereof held January 12, 2016, by the following vote:

AYES: Councilmembers Bates, Beckles, Martinez, McLaughlin, Pimplé,
Vice Mayor Myrick, and Mayor Butt.
NOES: None.
ABSTENTIONS: None.
ABSENT: None,

PAMELA CHRISTIAN
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

TOM BUTT

Mayor

Approved as to form:

BRUCE GOODMILLER

City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of **Ordinance No. 2-16 N.S.**, passed and adopted by the City Council of the City of Richmond at a regular meeting held on January 12, 2016.

Pamela Christian, City Clerk of the City of Richmond