



MEDICAL CANNABIS SUPPORT USES MANUFACTURING (TYPE 6), TESTING (TYPE 8), DISTRIBUTOR (TYPE 11) AND TRANSPORTER (TYPE 12)

Updated – July 21, 2016

***DRAFT* OFFICIAL ZONING CODE INTERPRETATION (No. 11) (Zoning Code Sections 20-24.030 and 20-70.020)**

ZONING CODE PROVISIONS INTERPRETED:

Section 20-24.030, Table 2-6, Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Districts, and Section 20-70.020, Definitions of Specialized Terms and Phrases

On October 9, 2015, Governor Brown approved the Medical Marijuana Regulation and Safety Act ("MMRSA"), which went into effect on January 1, 2016. MMRSA established a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, testing, storage, distribution, and sale of medical marijuana through Assembly Bills 243 and 266 and Senate Bill 643.

The City of Santa Rosa's City Code provides for use classifications and permit regulations for medical cannabis cultivation and dispensaries (City Code Sections 20-46 and 10-40, respectively).

At issue is whether existing land use classifications and permit regulations can apply to allow other license types that are permissible under MMRSA and support and connect a licensed medical cannabis cultivation use with licensed medical cannabis dispensary use, in accordance with the MMRSA.

MMRSA USE AND LICENSE CLASSIFICATIONS:

The medical cannabis uses and license types under consideration include and are described as follows:

Manufacturing/Processing (Non-volatile) – Type 6

Per MMRSA, a “Manufacturing site” means a location that produces, prepares, propagates, or compounds medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities. A Type 6 license is for manufacturing sites that produce medical cannabis products using nonvolatile solvents.

“Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. “Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined under Health and Safety Code.

Manufacturing/Processing (Volatile) – Type 7

A Type 7 license is for manufacturing sites that produce medical cannabis products using volatile solvents. This use and license type is not allowed in the City of Santa Rosa. This Interpretation does not negate that fact. Consideration of this use and license type will be included in the City’s comprehensive policy effort to address medical cannabis.

Testing/Labs – Type 8

A testing licensee tests all medical cannabis or medical cannabis products prior to their delivery to a dispensary, testing for levels and presence of compounds such as THC, THCA, CBG, CBDA, chemicals, and contaminants as required by the Department of Health. Per MMRSA, a “Licensed testing laboratory” means a facility, entity, or site that offers or performs tests of medical cannabis or medical cannabis products, and that is accredited as operating to ISO standard 17025 by an accrediting body, and registered with the State Department of Public Health.

Distributor/Warehouse – Type 11

Distributors coordinate quality assurance in a tracked and orderly fashion to ensure the delivery of safe cannabis for patients. Per MMRSA, “Distribution” means the procurement, sale, and transport of medical cannabis and medical cannabis products purchased and sold between licensed entities. A “Distributor” means a person engaged in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer for sale to a licensed dispensary.

Transporter – Type 12

A third party, is required to move cannabis from one license type holder to another license type holder. For example, a transporter moves cannabis from a cultivator to a distributor, and from a distributor to a dispensary. Per MMRSA, “Transport” means the transfer of medical cannabis or medical 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. Approval as a “Transporter” is required for each physical location where the transporter conducts business while not in transport, or where any equipment used for the transfer of medical cannabis or medical cannabis requirements that is not currently in use permanently resides.

Note: MMRSA provides that a local jurisdiction shall not prevent carriage of medical cannabis or medical cannabis products on public roads by a licensee acting in compliance with MMRSA, unless there is a local ordinance that explicitly prohibits delivery.

RELATIONSHIP TO CITY OF SANTA ROSA LAND USE CLASSIFICATIONS:

Land use classifications identified in the Santa Rosa City Code Section 20-70.020 (Definitions) were evaluated for consideration as the most relatable and/or relevant to the MMRSA use/license types in terms of their associated impacts and use characteristics. Santa Rosa City Code Chapter 10-40 was also reviewed for consideration of the City’s health and safety standards specific to medical cannabis services.

Definitions of City land use classifications are listed below, followed by a chart depicting the associated relationship between these classifications and the MMRSA use and license types:

“Laboratory-Medical, Analytical. A facility for testing, analysis, and/or research. Examples of this use include medical labs, soils and materials testing labs, and forensic labs.”

“Manufacturing/Processing – Light. A facility accommodating manufacturing processes involving and/or producing: apparel; food and beverage products; electronic, optical, and instrumentation products; ice; jewelry; and musical instruments. Light manufacturing also includes other establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community.”

“Warehouse, Wholesaling and Distribution. These facilities include:

- 1. Warehouses.** Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include: warehouse, storage or mini-storage facilities offered for rent or lease to the general public (see “Storage—Personal Storage Facilities”); warehouse facilities in which the primary purpose of storage is for wholesaling and distribution (see “Wholesaling and Distribution”); or terminal facilities for handling freight (see “Truck or Freight Terminals”).
- 2. Wholesaling and Distribution.** Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or

professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.”

“Truck or Freight Terminal. A transportation facility furnishing services incidental to air, motor freight and rail transportation. Examples of these facilities include:

- Freight forwarding facilities
- Freight terminal facilities
- Joint terminal and service facilities
- Overnight mail processing facilities
- Packing, crating, inspection and weighing services
- Postal service bulk mailing distribution centers
- Transportation arrangement services
- Trucking facilities, including transfer and storage”

ALLOWED LAND USES AND PERMIT REQUIREMENTS BY ZONING DISTRICT:

MMRSA		CITY OF SANTA ROSA Zoning Code				
<i>Use Type</i>	<i>License Type</i>	<i>Related Land Use Classification</i>	<i>Permit Required by Zone</i>			
			CO	BP	IL	IG
Testing/lab	Type 8	Laboratory – Medical, Analytical	MUP	P	P	--
Manufacturer (non-volatile)	Type 6	Manufacturing/Processing – Light	--	P (3)	P (3)	P (3)
Manufacturer (volatile)	Type 7	<i>To be determined</i>	--	--	--	--
Distributor	Type 11	Warehouse, Wholesaling and Distribution	--	MUP (4)	P (3)	P (3)
Transporter	Type 12	Truck or Freight Terminal	--	--	MUP	MUP (3)

Key:

CO – Office Commercial

IL – Light Industrial

IG – General Industrial

BP – Business Park

MUP – Minor Conditional Use Permit required

P – Permitted Use; Zoning Clearance required

-- Use not allowed

- (3) MUP required if the use, specific suite, or its associated operations abuts a residential zoning district or parcel with a residential use.
- (4) Use only allowed ancillary to another primary use.

SUMMARY INTERPRETATION:

It is determined that the medical cannabis support uses identified above by their corresponding state license types, and that involve medical cannabis in compliance with the Santa Rosa City Code and in compliance with state law, and do not involve dispensing, client, patient or member services, shall be evaluated and regulated under City Code Title 20 (Zoning) as set forth herein.

These corresponding land uses shall therefore be allowed pursuant to the land use tables in Chapter 20, Section 20-24.030, Table 2-6, Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, and Table 2-10, Allowed Land Uses and Permit Requirements for Industrial Districts, provided that the uses also comply with applicable health and safety regulations established in state law and the Santa Rosa City Code, as set forth below.

Permitted uses shall secure a ministerial Zoning Clearance from the Planning and Economic Development Department, followed by all necessary permits and procedures including but not limited to building, fire, and environmental compliance permits, and the filing of a business tax certificate. Zoning Clearances are not issued for vacant, undeveloped properties.

Uses subject to a Minor Conditional Use Permit shall file the discretionary application prior to proceeding with a building occupancy permit. Discretionary applications are subject to public review and compliance with the California Environmental Quality Act (CEQA).

Uses that are not allowed are prohibited.

Note: MMRSA establishes a dual licensing framework for medical cannabis operators, meaning if a local license is available then the operator must secure both a state license as well as a local license to operate. State licensure is not required, however, until such time as state licenses become available.

STANDARDS FOR MEDICAL CANNABIS SUPPORT USES:

It is further determined that consistent with the specific regulatory framework established for medical cannabis through MMRSA and the City of Santa Rosa, and due to specific operational elements unique to medical cannabis, the following standard conditions shall apply, regardless of whether the use is permitted by right or subject to a use permit:

1. Compliance with State and local licensing requirements

- a. Medical Cannabis operators shall be required to obtain a state license once they become available, and shall comply with any applicable state licensing requirements, such background checks, criminal history limitations, as well as operational standards and locational criteria.
- b. Multiple medical cannabis uses and licenses proposed on any one site shall occur only if authorized by MMRSA and the City of Santa Rosa and only if all uses proposed are allowed pursuant to the City's Zoning Code.

2. Obtaining of all necessary building and fire permits prior to occupancy

- a. A building permit is required to confirm appropriate occupancy shall be required, even if no tenant improvements are planned.
- b. An annual operating fire permit with inspection shall be required.
- c. Fire sprinklers may be required based on local ordinance and scope of work.
- d. Hazardous materials disclosure/inventory statement shall be provided and kept current with the Fire Department.
- e. A fire alarm system shall be provided (as possible based on operation/activities in the building).
- f. Access with a Fire Department lock box for keys to gates and doors shall be provided.

3. Compliance with operational security and safety measures

- a. Management Information. The name or names and addresses of the person or persons having the management or supervision of applicant's business shall be provided to the Police Department.
- b. Minors. (1) It is unlawful for any permittee, operator, or other person in charge of a medical cannabis operation to employ any person who is not at least 18 years of age. (2) Persons under the age of 18 shall not be allowed on the premises of a medical cannabis operation unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian. (3) The entrance to a medical cannabis operation shall be clearly and legibly posted with a notice indicating that person under the age of 18 are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.
- c. Odors Control. A medical cannabis operation shall have an air treatment system that ensures off-site odors of cannabis shall not result to the maximum extent practicable.
- d. Security Plans. A medical cannabis operation shall provide adequate security on the premises, as approved by the Police Department, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. These plans shall remain updated and secured on file in the Police Department.

- e. Security Cameras. Security surveillance cameras shall be installed to monitor the main entrance and exterior of the premises to discourage loitering, crime, illegal or nuisance activities. Cameras shall remain in active, operable condition.
- f. Security Video Retention. Security video shall be maintained for 90 days.
- g. Alarm System. A professionally monitored robbery alarm system shall be installed and maintained in good working condition. Santa Rosa City Code Section 6-68.130 requires that an alarm permit be obtained prior to installing an alarm system.

4. Transfer of ownership or operator

- c. A permittee shall not transfer ownership or control of a medical cannabis operation or transfer a medical cannabis operation permit to another person unless and until the transferee obtains an amendment to the permit from the Planning and Economic Development Department stating that the transferee is now the permittee. Such an amendment is obtained through the issuance of a Zoning Clearance that documents the transfer and commits the transferee to compliance with each of the conditions of the original permit.

This determination shall remain in effect until such time as it is superseded by Council Ordinance.

This determination is consistent with the General Plan.

Date: _____

Zoning Administrator