

ORDINANCE NO. 2018-05

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
ADDING CHAPTER “CANNABIS FACILITIES REGULATORY PERMIT” TO
TITLE 5 “PUBLIC HEALTH, SAFETY AND WELFARE” OF THE
SAN JUAN BAUTISTA MUNICIPAL CODE**

Section 1. EVIDENCE

The City Council has considered all of the evidence submitted into the administrative record, which includes, but is not limited to, public comments, both written and oral, received and/or submitted at, or prior to the City Council’s consideration of this Ordinance.

Section 2. ADDING CHAPTER 5.31 “CANNABIS FACILITIES REGULATORY PERMIT” TO TITLE 5 “PUBLIC HEALTH, SAFETY AND WELFARE” OF THE SAN JUAN BAUTISTA MUNICIPAL CODE

Title 5 “PUBLIC HEALTH, SAFETY AND WELFARE” of the San Juan Bautista Municipal Code shall be amended to read in its entirety as follows:

Chapter 5.31

CANNABIS FACILITIES REGULATORY PERMIT

Sections:

- 5.31.010 Purpose and Intent
- 5.31.020 Cannabis Facilities
- 5.31.030 Definitions
- 5.31.040 City Council Review and Approval
- 5.31.050 Regulatory Permit Required
- 5.31.060 Background Check
- 5.31.070 Grounds for Denial
- 5.31.080 Fees and Charges
- 5.31.090 Development Agreement
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- 5.31.120 Renewal or Revocation of Regulatory Permit
- 5.31.130 Limitations on City’s Liability
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- 5.31.270 Appeals
- 5.31.280 Violations
- 5.31.290 Implementation Procedures
- 5.31.300 Cannabis Permit Types

5.31.010 Purpose and Intent.

A. If cannabis facilities were permitted to be established or if existing business were permitted to act as cannabis facilities without appropriate regulation, such uses might be established in areas that would conflict with the requirements of the General Plan, be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare, or the operation of such facilities may be in conflict with applicable State law and regulations. The City Council desires to enact reasonable regulations pertaining to recreational and medical cannabis dispensaries, cultivation, testing, distribution and manufacturing facilities to ensure that recreational and medicinal users have regulated access, while at the same time ensuring that such uses do not conflict with the General Plan, are not inconsistent with surrounding uses, and are not detrimental to the public health, safety and welfare, and the operation of such facilities is in compliance with applicable State law and regulations.

B. Cannabis facilities shall be permitted, upon application and approval of a regulatory permit in accordance with the criteria and procedures set forth in this Code.

C. The criteria, procedures, standards, requirements, regulations, and provisions set forth in this Code shall be interpreted and applied consistent with all applicable State laws and regulations. To the extent any criteria, procedure, standard, requirement, regulation, or provision of this Code conflicts with or contradicts any applicable State law or regulation, or establishes a criteria, procedure, standard, requirement, or regulation that does not meet the minimum standards of any applicable State law or regulation, the requirements of the applicable State law or regulation shall take precedence.

5.31.020 Cannabis Facilities.

A. A “cannabis facility” is any location in the City where (or from which) cannabis products are cultivated, manufactured, processed, stored, tested, labeled, delivered, distributed, or sold for the purpose of commercial medicinal or recreational sale; however:

1. A cannabis facility shall not include a vehicle (i) originating from a cannabis dispensary licensed or permitted by a jurisdiction outside the City and (ii) engaged in the delivery of cannabis or cannabis products in compliance with the requirements contained in Section 5.31.180.

2. A cannabis facility shall not include a vehicle (i) originating from a cannabis facility permitted under this Chapter and (ii) engaged in the transportation of cannabis products to another cannabis facility permitted under this Chapter or to another cannabis facility licensed or permitted by a jurisdiction outside the City.

B. Cannabis facilities that may be permitted under this Chapter include but not limited to: “cannabis dispensaries”, “cannabis cultivation facilities”, “cannabis manufacturing facilities”, “cannabis testing facilities”, and “cannabis distribution facilities”.

C. A “cannabis dispensary” is 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, including non-storefront retail that restricts access to the general public and offers cannabis or cannabis products through delivery.

D. A “cannabis cultivation facility” is a facility where cannabis is planted, grown, harvested, cloned, dried, cured, graded, processed or trimmed (or any combination of those activities).

E. A “cannabis manufacturing facility” is a facility where cannabis products are produced, prepared, propagated, or compounded, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

F. A “cannabis distribution facility” is a facility used to facilitate the procurement, sale, and transport of cannabis or cannabis products between cannabis facilities.

G. A “cannabis testing center” is a facility that offers or performs tests of cannabis or cannabis products.

H. An “applicant” is a person or persons applying for a permit to operate a cannabis facility issued pursuant to this Chapter and includes all of the below:

1. The person seeking a permit to operate a cannabis facility under this chapter.

2. Any individual (or person) who has ownership interest greater than 10%, financial interest (including a security interest, lien, or encumbrance) in the person seeking to operate a cannabis facility or its operation under this Chapter

3. Any individual (or person) who has the power to direct, or cause to be directed, the

management or control of the person seeking to operate a cannabis facility under this Chapter.

I. A “manager” means any human individual to whom a cannabis facility has delegated discretionary powers to organize, direct, carry on, or control its operations and employed by the business.

J. An” owner” is the legal registered approved applicant defined under this chapter.

5.31.030 Definitions.

Words and phrases not specifically defined in this Code shall have the meaning ascribed to them as defined in the following sources:

A. The Compassionate Use Act of 1996 (codified as Section 11362.5 of the Health and Safety Code);

B. The Cannabis Program Act (codified as Sections 11362.7 through 11362.83 of the Health and Safety Code);

C. The California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (August 2008); and

D. The Medicinal and Adult-Use Cannabis Regulation and Safety Act as enacted by Senate Bill 94 “Trailer Bill”.

5.31.040 City Council Review and Approval.

A. The issuance and/or renewal of a regulatory permit as required by this Chapter shall be subject to the prior review and approval by the City Council.

B. In addition to the requirements set forth in this Chapter, as a condition of issuance or renewal of a regulatory permit as required by this Chapter, the City Council may impose such additional terms and conditions on the issuance or renewal of the regulatory permit and the operation of the facility as the City Council deems appropriate.

C. The development agreement and operations plan required by this Chapter and the design and layout of a cannabis facility authorized under this Chapter, shall be subject to the review and approval of the City Council prior to the issuance or renewal of a regulatory permit under this Chapter.

D. If the City Manager or designee revokes a regulatory permit as allowed by this Chapter, as soon thereafter as is reasonable under the circumstances, the City Council shall be informed of

such revocation and the City Council shall review and approve such revocation. If the City Council does not approve the revocation, the City Manager or designee shall reinstate such regulatory permit upon such additional terms and conditions as the City Council deems appropriate.

E. Any permit contemplated or required in herein Chapter, despite provisions in Section 5.31.060 to the contrary, will be entirely within jurisdiction of City Council.

5.31.050 Regulatory Permit Required.

A. Cannabis facilities are prohibited unless permitted in accordance with this chapter.

B. It shall be unlawful for any person to operate a cannabis facility without a regulatory permit from the State of California and the City Council or designee under the terms and conditions set forth in this Chapter.

C. Each regulatory permit shall expire one year from its date of issuance. The date of issuance may be effective upon an applicant obtaining a certificate of occupancy in the event of new construction for a licensee under this Chapter, at the discretion of the City. Renewal of regulatory permits shall be as provided for in Section 5.42.120.

D. Regulatory permits are not transferrable and any attempt to assign or transfer such permits shall render the permit null and void.

E. The City may only permit two cannabis retail Type 10 permits at a time. The number of the remaining types of cannabis facilities permitted in the City may be limited or restricted by resolution of the City Council.

F. If the number of each type of cannabis facility permitted in the City is limited, applications for the required regulatory permit may be submitted during those application periods as may be designated from time to time by the City Council or designee. Each application submitted and deemed complete by the City during the application period will be evaluated for priority for processing based on certain criteria set forth in a point system approved by the City Council. It is permissible for the point system to provide additional point values to City residents. All applications so evaluated and scored will be ranked from the most to the least points. Applications for any available regulatory permit will be processed based on this ranking. Once all available regulatory permits have been issued, the remaining applicants will be placed on a wait list, ranked from the most to the least points.

G. The legal representative shall file an application for a regulatory permit with the City Manager or designee upon forms provided by the City and shall pay an “application fee” and a “processing fee” as required by this Chapter and as established by resolution adopted by the City Council as amended from time to time. A separate application shall be made for each type of

cannabis facility permit, i.e., dispensary, cultivation, manufacturing, testing, and distributing facility, for each license classification specified in Sections 5.31.020; and for each location at which a cannabis facility will operate. An application for a regulatory permit for each type of cannabis facility shall include, but shall not be limited to, the following information:

1. The legal name, and any other names, under which the cannabis facility will operate.
2. The address of the location and the on-site telephone number, if known, of the cannabis facility.
3. The following information for each applicant and manager of the cannabis facility:
 - a. Complete legal name and any alias(es), address, and telephone number;
 - b. Date and place of birth;
 - c. Copy of a valid California government issued photo identification card or license;
 - d. A list of all criminal convictions, other than infractions for traffic violations, the jurisdiction of the conviction(s) and, the circumstances thereof;
 - e. One set of fingerprints;
 - f. A detailed explanation of the applicant's or the manager's involvement with any other cannabis facility (including medical or non-medical cannabis facilities located outside of the City), including, but not limited to, the name and address of the cannabis facility; the capacity in which the applicant or the manager is or was involved with the cannabis facility; whether the cannabis facility is or was the subject of any criminal investigation or prosecution, civil investigation, administrative action or civil lawsuit; whether the applicant or the manager or the cannabis facility with which the applicant or the manager is or was associated has ever been denied, or is in the process of being denied registration, a permit, a license or any other authorization required to operate a cannabis facility in any other city, county, or state; and whether the applicant or the manager or the cannabis facility with which the applicant and the manager is or was associated has ever had a registration, license, permit or any other authorization required to operate a cannabis facility in any other city, county, or state, suspended or revoked, and the reasons therefore; and
 - g. A detailed explanation of the applicant's or the manager's involvement with any other business in the City, including, but not limited to, the name and address of such business; the type of business; the capacity in which the applicant or the manager is or was involved with the business; whether the business is or was the subject of any criminal investigation or prosecution, civil investigation,

administrative action or civil lawsuit; whether an owner or manager of the business with which the applicant or the manager is or was associated has ever been denied, or is in the process of being denied registration, a permit, a license or any other authorization required to operate a business requiring licensing through the State in any other city, county, or state; and whether an applicant or a manager of the business with which the applicant or the manager is or was associated has ever had a registration, license, permit or any other authorization required to operate a business that requires a license in the State, or any other city, county, or state, suspended or revoked, and the reasons therefore.

4. An operations plan which shall be in conformance with the requirements of this chapter and shall include, at a minimum:
 - a. A list of the names, addresses, telephone numbers, and responsibilities of each applicant and manager of the cannabis facility.
 - b. The hours and days of operation for the cannabis facility.
 - c. A site plan and floor plan of the facility denoting the layout of all areas of the cannabis facility, including, as applicable, storage, cultivation, reception/waiting, dispensing, manufacturing, and all ancillary support spaces, and the relationship of the facility to adjacent properties and land uses.
 - d. A security plan, including lighting, alarms, fencing, and video cameras, to ensure the safety of persons, and to protect the premises from theft, vandalism, and fire. The security plan shall address both interior and exterior areas of the facility and its premises.
 - e. The cannabis cultivation and manufacturing procedures to be utilized at the facility, including, as applicable, a description of how chemicals and fertilizers will be stored, handled, and used; extraction and infusion methods; the transportation process; inventory procedures; track and trace program and procedures; quality control procedures; and testing procedures.
 - f. Procedures for identifying, managing, and disposing of contaminated, adulterated, deteriorated or excess cannabis or cannabis products.
 - g. An odor management plan detailing the reasonable steps that will be taken by facility to ensure that the odor of cannabis and other physical impacts on neighboring properties will be minimized.
 - h. Policies and procedures for adopting, monitoring, implementing, and enforcing all requirements of this Chapter.

5. The cannabis facility's seller's permit number or indication that the cannabis facility is currently applying for a seller's permit.
6. The name and address of the owner and lessor of the premises and a copy of the lease or other such proof of the legal right to occupy and use the premises and a statement from the owner or agent of the owner of the real property where the facility will be located demonstrating the landowner has acknowledged and consented to permit dispensary, cultivation, distribution, or manufacturing activities to be conducted on the property by the cannabis facility.
7. The name and account number of all savings accounts, checking accounts, investment accounts, and trusts associated with the operation of the cannabis facility.
8. A map with a minimum scale of 1" = 75' showing streets names, lot boundaries, sensitive uses, and uses on properties adjacent to the cannabis facility.
9. Authorization for the City Manager or designee to seek verification of the information contained within the application, including, but not limited to, a criminal history investigation with the California Department of Justice and any other law enforcement agencies.
10. Evidence that the organization, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and includes the plural as well as the singular number, all such entities agree to operate under such terms and conditions outlined in their operations plan as approved.
11. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is complete, true, and accurate.
12. Any such additional and further information as is deemed necessary by the City Manager or designee to administer this Section or to show that the cannabis facility and its ownership and operation is in compliance with the provisions of this Chapter.

5.31.060 Background Check.

Applicants for a regulatory permit for a cannabis facility, every manager of a cannabis facility, and any employee or individual who participates in the dispensing, cultivation, manufacturing, or transporting of cannabis or who participates in the daily operations of the cannabis facility shall be required to submit to a Fingerprint-Based Criminal History Records Check.

5.31.070 Grounds for Denial.

A. The City Council or designee may reject an application upon making one or more of the following findings:

1. Any applicant made one or more false or misleading statements or omissions on the registration application or during the application process;

2. The applicant fails to meet the requirements of this Chapter or any regulation adopted pursuant to this Chapter;

3. The cannabis facility or its location is in violation of any building, zoning, health, safety, or other provision of this code, or of any state or local law which substantially affects the public health, welfare, safety, or morals, or the facility or its location is not permitted in the proposed area, or the issuing or continuation of a regulatory permit would be contrary to the public health, welfare, safety, or morals;

4. Any applicant, manager, or employee of the cannabis facility is under Twenty-One (21) years of age;

5. Any applicant has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant is otherwise suitable to be issued a permit and granting the permit would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant to be issued a permit based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

a. A felony conviction for the illegal possession for sale, manufacture, or transportation of a controlled substance excluding cannabis related convictions.

b. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

c. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

d. A felony conviction involving fraud, deceit, or embezzlement.

6. Any applicant or manager has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed operation of a cannabis facility or has had a license revoked under this Chapter in the three years immediately preceding the date the application is filed with the licensing authority.

7. The applicant did not pay to the City the required application and processing fees as set forth in Section 5.31.080.

8. Failure to enter into a satisfactory Development Agreement pursuant to 5.31.090.

B. The City Council or designee may place reasonable conditions upon registration if grounds exist for denial of the registration and those grounds may be removed by the imposition of those conditions.

5.31.080 Fees and Charges.

A. Prior to operating in the City, the cannabis facility shall timely and fully pay all fees associated with the registration and operation of the facility. The fees shall be as set forth in the schedule of fees and charges established by resolution of the City Council, including, but not limited to the following:

B. “Application fee” for accepting a registration application; due and payable in full at the time a registration application is submitted;

C. “Processing fee” for the cost to the City of processing a registration application and reviewing, investigating, and scoring each application in accordance with the point system to determine eligibility for issuance of a regulatory permit; due and payable in full at the time a registration application is submitted;

D. “Permit issuance fee” for the cost to the City of preparing a development agreement, City Council review and approval of the development agreement and the regulatory permit, and preparation and issuance of the regulatory permit as authorized by the City Council, due and payable in full at the time the City issues a regulatory permit;

E. “Amended registration fee” for the cost to the City of reviewing amendments or changes to the registration form previously filed on behalf of the cannabis facility; due and payable in full at the time amendments or changes to a registration form are submitted to the City;

F. “Regulatory permit renewal fee” for the cost to the City of processing an application to renew a regulatory permit; due and payable in full at the time application is made to renew a regulatory permit; and

- G. Any fees for inspection or investigation that are not included within the other fee associated with registration; due and payable in full upon request of the City.

5.31.090 Development Agreement.

Prior to operating in the City and as a condition of issuance of a regulatory permit, each cannabis facility shall enter into a development agreement with the City setting forth the terms and conditions under which the cannabis facility will operate that are in addition to the requirements of this Chapter, including, but not limited to, public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare.

5.31.100 Cessation of Operations.

In the event a cannabis facility that receives a regulatory permit ceases to operate for any reason, the City Council or designee shall consider the next qualified applicant on the waiting list and, at the discretion of the City Council or designee, provide an opportunity for new applicants to be considered for a permit.

5.31.110 Change in Location; Updated Registration Form.

A. Any time the location specified in the regulatory permit is changed, the cannabis facility shall re-apply with the City Manager or designee. The process and the fees for re- application shall be the same as the process and fees set forth for registration in Sections 5.31.050 and 5.31.080.

B. Within fifteen calendar days of any other change in the information provided in the registration form or any change in status of compliance with the provisions of this Chapter, including any change in the cannabis facility’s ownership or management, the cannabis facility shall file an updated registration form with the City Manager or designee for review along with a registration amendment fee, as set forth in Section 5.31.080.

5.31.120 Renewal or Revocation of Regulatory Permit.

A. No regulatory permit issued under this Chapter may be renewed unless:

1. A new registration form has been filed with the City Manager or designee as set forth in Section 5.31.050 a minimum of sixty (60) days prior to the expiration date of the regulatory permit;

2. The annual renewal registration fee, as set forth in Section 5.31.080 of this Chapter, has been paid to the City; and

3. The cannabis facility and its owners and managers all meet the requirements of this Chapter for registration.
- B. The City Council or designee may elect not to renew a regulatory permit issued under this Chapter if:
1. The cannabis facility and its applicants or managers have not complied at all times with all the requirements for registration as set forth in this Chapter;
 2. Any of the conditions or circumstances of Sections 5.31.070.A or 5.31.260.D, singularly or in combination, of this Chapter have occurred; or
 3. The City Council or designee is aware of any other facts or circumstances, which indicate that renewal of the regulatory permit will be detrimental to the health, safety, or welfare of the residents of the City.
- C. The City Council or designee may revoke a regulatory permit issued under this Chapter, upon such notice as deemed appropriate by the City Council or designee, if:
1. The cannabis facility and its applicants or managers have not complied at all times with all the requirements for registration as set forth in this Chapter;
 2. Any of the conditions or circumstances of Sections 5.31.070.A or 5.31.260.D, singularly or in combination, of this Chapter have occurred; or
 3. The City Council or designee is aware of any other facts or circumstances, which indicate that continued operation of the cannabis facility will be detrimental to the health, safety, or welfare of the residents of the City.

5.31.130 Limitations on City’s Liability.

- A. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any regulatory permit pursuant to this Chapter or the operation of any cannabis facility approved pursuant to this Chapter.
- B. As a condition of approval of a regulatory permit as provided in this Chapter, the applicants of the cannabis facility shall:
1. Execute an agreement indemnifying the City from any claims, damages, injuries, or liabilities of any kind associated with the registration or operation of the cannabis facility or the prosecution of the cannabis facility, its applicants, managers, or employees, or its qualified patients or primary caregivers for violation of federal or State laws;

2. Maintain insurance in the amounts and of the types that are acceptable to the City Council or designee;
3. Name the City as an additionally insured on all City required insurance policies;
4. Agree to defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of a regulatory permit; and
5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a regulatory permit. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

5.31.140 Additional Terms and Conditions.

Based on the information set forth in the application, the City Council or designee may impose reasonable terms and conditions on the proposed operations of the cannabis facility in addition to those specified in this Chapter.

5.31.150 Signage.

Exterior signage for the facility shall be limited to one exterior building sign not to exceed sixteen square feet in area, and door and/or window signage not to exceed ten square feet in area; such signs shall not be directly illuminated. Signage shall otherwise be reviewed and approved by the City according to the City of San Juan Bautista Sign Ordinance.

5.31.160 Cultivation, Dispensary, Manufacturing, Distribution and Testing Locations.

- A. A cannabis dispensary may be located in Industrial zones only.
- B. A cannabis cultivation facility may be located in Industrial zones only.
- C. A cannabis manufacturing facility may be located in Industrial zones only.
- D. A cannabis testing facility may be located in Industrial zones only.
- E. A cannabis distribution facility may be located in Industrial zones only.
- F. All cannabis facilities shall be setback a minimum of 600 feet from, a school, measured in a straight and direct horizontal line from the parcel boundary line of the cannabis facility to the parcel boundary line of the school. For the purposes of this Section, "school" means any

public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

G. All cannabis facilities shall be additionally setback a minimum of 150 feet from a conforming residential use or a licensed rehabilitation facility, measured in a straight and direct horizontal line from the closest wall of the cannabis facility to the closest exterior wall of the conforming residential.

H. All cannabis cultivation shall be conducted only in the interior of an indoor structure and all cultivation operations including all cannabis plants at any stage of growth shall not be visible from the exterior of any structure, facility, or building containing the cultivation of cannabis.

1. For the purposes of this Section, “indoor structure” means a building, or other structure (or space within a building, or other structure) that (i) has an improved and permanent foundation spanning the entire surface underlying the building, or other structure, (ii) has a complete roof enclosure, transparent or non-transparent, supported by connecting hard sided walls extending from an improved and permanent foundation to the roof, (iii) is secure against unauthorized entry, (iv) provides complete visual screening, (v) complies with all odor control and other design standards required by this Chapter (including any regulations adopted pursuant to this Chapter), (vi) is accessible only through one or more lockable doors, and (vii) is inaccessible to minors.

I. Designation of zoning districts does not give owner or lessor of real property any rights to operate under this Chapter, or provide that any permit applied for under this Chapter shall be allowed. The City shall consider the existing surrounding uses in analyzing impacts of facility, and can deny use in any zoning district if City feels impacts on existing conforming uses are unreasonable. The herein Chapter is intended to allow for activities and uses that are unique and whose effect on the surrounding environment cannot be determined prior to being proposed for a particular location. At the time of application, a review of the location, design, configuration, and potential impact of the proposed use shall be conducted by comparing it to established development standards and individual aspects of application.

J. The permit for a cannabis facility shall apply to a single premise only.

5.31.170 Dispensing of Cannabis.

A. Cannabis retail transactions shall only occur inside the premises of the cannabis dispensary. The foregoing notwithstanding, a cannabis dispensary will engage in the delivery of cannabis or cannabis products as provided for in Section 5.31.180.

B. No cannabis sale, transfer, dispensing, or distribution of any kind shall be made to an individual under the age of twenty-one (21) unless the individual is a registered patient, and no such individual shall be allowed in any cannabis facility.

5.31.180 Delivery of Cannabis.

- A. “Delivery” means the retail sale or transfer of cannabis or cannabis products to a recreational user or qualified patient using a motor vehicle other than a “motorcycle” as that term is defined in Division 1 of the Vehicle Code.
- B. A permitted cannabis dispensary may only engage in the delivery of cannabis or cannabis products subject to any regulations promulgated pursuant to this Chapter.
- C. Any person engaging in the delivery of cannabis or cannabis products with a vehicle originating from outside the City shall:
 - 1. Be licensed or permitted by the jurisdiction from which the vehicle originates;
 - 2. Obtain a City of San Juan Bautista Business license; and
 - 3. Comply with the requirements of the Business and Professions Code and any regulations promulgated pursuant to this Chapter.
- D. The delivery of cannabis or cannabis products shall only be during the normal operating hours in permit or license.
- E. A list of the names and cellular telephone contact numbers for all individuals delivering cannabis or cannabis products shall be provided to the City. Such list shall at all times be kept current and up to date.

5.31.190 Packaging of Cannabis.

- A. Prior to retail sale or transfer, cannabis and cannabis products shall be packaged and labeled as required by regulations issued by the State pursuant thereto.
- B. If edible cannabis products are offered for sale, the cannabis dispensary facility shall first secure any approval from the County of San Benito Health Department required for handling food products.
- C. Edible products distributed or sold by any cannabis facility shall not be produced, manufactured, stored, or packaged in private homes.

5.31.200 Cannabis Facility Operations.

- A. Cannabis dispensaries may only deliver between the hours of 9:00 a.m. and 8:00 p.m. and may deliver as many as seven days per week.

B. The sale, dispensing, or consumption of alcoholic beverages on or about the cannabis facility or in the parking area for the facility is prohibited.

C. Facility operator will report any loitering within one hundred feet of the premises. The loitering by persons outside the facility, either on the premises or within one hundred feet of the premises, is prohibited.

D. A copy of the regulatory permit issued by the City and any licenses or certifications issued by the State, and any conditions thereof, shall be posted on the premises in a prominent place, readily viewable.

E. A cannabis facility shall take all necessary and reasonable steps to prevent:

1. The distribution of cannabis to minors;
2. Revenue from the sale or distribution of cannabis from going to criminal enterprises, gangs and cartels;
3. The diversion of cannabis from California to any other state;
4. State-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
5. Violence and the use of firearms in the cultivation, manufacture, and distribution of cannabis;
6. Drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use;
7. Growing of cannabis on public lands and the attendant public safety and environmental dangers posed by cannabis production on public lands; and
8. Cannabis possession or use on federal property.

Any violation of this provision shall result in the immediate suspension of any permit authorized under this Chapter, and pending investigation and a hearing, shall result in revocation of the permit at the election of the City Manager or designee.

5.31.210 Public Health and Safety.

A. Each cannabis facility shall operate in a reasonable manner such that the effects on the health or safety of nearby properties through creation of mold, mildew, dust, glare, heat, noise,

noxious gasses, odor, smoke, traffic, vibration, or other impacts cultivation, manufacture, dispensing, delivery, or distribution of cannabis or cannabis products are minimized.

B. The cultivation, manufacture, dispensing, delivery, and distribution of cannabis or cannabis products shall not create hazards due to the use or storage of materials, processes, products, chemicals, fertilizers, or wastes.

C. The interior and exterior of the cannabis facility, including driveways, sidewalks, parking strips, fire access roads and streets on or adjacent to the premises shall be kept in a clean and safe condition.

D. Exterior lighting on the premises and location shall ensure the safety of the public and the members and employees of the facility while not disturbing surrounding areas.

5.31.220 Records.

A. Cannabis facilities shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis products throughout the distribution chain until purchased. The inventory control and reporting system shall comply with the State of California's Rules & Regulations.

B. Cannabis facilities shall have an electronic point of sale system that produces historical transactional data for review by the City Manager or designee for compliance and auditing purposes.

C. Each cannabis facility shall maintain at the premises all records and documents required by this Chapter and all the information and records listed below and as otherwise required by applicable State law or regulation:

1. The name, address, and telephone number(s) of the owner, landlord and/or lessee of the location;
2. Up-to-date information for all savings accounts, checking accounts, investment accounts and trusts associated with the operation of the cannabis facility;
3. Complete and up-to-date records regarding the amount of cannabis cultivated, produced, manufactured, harvested, stored, or packaged at each cannabis facility;
4. Complete and up-to-date records regarding cannabis transfers throughout the distribution chain from cultivation, to manufacturing, to its dispensing location, including the date and time of the transfer; the name and address of the cultivation and manufacturing facility and the name and address of the supplier if different from the cultivation or manufacturing facility; the amount, form, type, batch and lot number of

cannabis transferred; the time of departure from the distribution, cultivation or manufacturing facility; the time of arrival at the dispensing location; the names of the employees transporting the product; and the name of the employee who received the product at the dispensing location;

5. Complete and up-to-date records documenting each transfer of cannabis from the cannabis dispensing location to customers including the amount provided, the form or product category in which the cannabis was provided, the date and time provided, the name of the employee making the delivery, and the amount of transaction;

6. All receipts of the cannabis facility, including but not limited to expenditures incurred by the cannabis facility for the cultivation, manufacture, dispensing, distribution, and delivery of cannabis;

7. Proof of completed registration with the City Manager or designee in conformance with this Chapter;

8. Records demonstrating compliance with State and federal rules and regulations regarding reporting and taxation of income received; and

9. All cannabis facilities shall perform an inventory each month and shall record the total quantity of each form of cannabis on the premises.

D. All records required by this Section shall be maintained by the cannabis facility for a period of seven years and shall be made available to the City Council or designee and any City official charged with enforcing the provisions of this code upon request.

5.31.230 Financial Statements.

No later than sixty (60) days after licensees' close of business year (calendar or fiscal), each cannabis facility shall file with the City Manager a summary of its financial operations for the previous calendar year, completed in accordance with generally accepted auditing and accounting principles. The statement shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to this Chapter. The information contained in the statement shall be made available to the City Council or designee in standard electronic format as designated by the City Council or designee.

5.31.240 Community Relations.

A. Each cannabis facility shall provide the City Manager or designee with the name, telephone number, and email address of an on-site community relations or staff person or other representative to whom the City can provide notice if there are operating problems associated with the cannabis facility or refer members of the public who may have any concerns or

complaints regarding the operation of the cannabis facility. Each cannabis facility shall also provide the above information to all businesses and residences located within 500-foot radius of the cannabis facility.

5.31.250 Compliance.

- A. All cannabis facilities shall pay any applicable sales, use, business or other tax, and all license, registration, or other fees pursuant to federal, State, and local laws.
- B. Nothing in this Chapter shall be construed as authorizing any actions, which violate State or local law with regard to the cultivation, transportation, manufacture, provision, sale, transfer, distribution or disposition of cannabis.

5.31.260 Inspections and Enforcement.

- A. The City Manager or their designees shall have the right to enter all cannabis facilities unannounced during the facility's hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this Chapter, to inspect and copy records required to be maintained under this Chapter, or to inspect, view, and copy recordings made by security cameras, all without requirement for a search warrant, subpoena, or court order.
- B. Operation of a cannabis facility in non-compliance with any conditions of approval or the provisions of this Chapter shall constitute a violation of the Municipal Code and shall be enforced pursuant to the provisions of this code.
- C. The City Council or designee may summarily suspend or revoke a cannabis regulatory permit, or disqualify an applicant from the registration process, or elect not to renew a regulatory permit if any of the following, singularly or in combination, occur:
 - 1. The City Manager or designee determines that the cannabis facility has failed to comply with any requirement of this Chapter or any condition of approval or a circumstance or situation has been created that would have permitted the City Manager or designee to deny the regulatory permit under Section 5.31.060 or elect not to renew or revoke the regulatory permit under Section 5.31.120;
 - 2. The cannabis facility has conducted itself or is being conducted in a manner that creates or results in a public nuisance;
 - 3. The cannabis facility ceased operations for more than 90 calendar days, including during change of ownership proceedings;
 - 4. Ownership is changed without the new owners applying for and securing a

regulatory permit under this Chapter;

5. The cannabis facility relocates to a different location or premises
6. The cannabis facility fails to allow inspection and/or copying of the security recordings, the activity logs and records required under this Chapter, or the premise by authorized City Manager or designee.
7. The cannabis facility fails to notify City of change of management.

5.31.270 Appeals.

Any decision regarding or pertaining to the regulatory permit process set forth in this Chapter, or any action taken by the City Manager or designee pursuant hereto, may be appealed to the City Council. Such appeal shall be taken by filing with the City Clerk, within ten (10) days after notice of the action or decision complained of has been issued, a written statement setting forth the grounds for the appeal. The City Clerk shall transmit the written statement to the City Council and at its next regular meeting the council shall set a time and place for a hearing on the appeal. Notice of the time and place of such hearing shall be mailed to the appellant. The decision of the City Council on such appeal shall be final and binding on all parties concerned.

5.31.280 Violations.

- A. Any violation of any of the provisions of this Chapter is unlawful and a public nuisance and will be subject to an Administrative Citation.
- B. Any violation of any of the provisions of this Chapter shall give the City the right to issue an administrative citation, and/or assess an administrative fine of up to one thousand dollars (\$1,000.00) for each violation of this Ordinance.
- C. A separate offense occurs for each day any violation of this Chapter is continued and/or maintained.
- D. The remedies provided herein are not to be construed as exclusive remedies, and in the event of violation, the City may pursue any proceedings or remedies otherwise provided by law.

5.31.290 Implementation Procedures.

- A. This Chapter shall not become operative and applications for a regulatory permit authorized by this Chapter shall not be accepted by the City Manager or designee, nor a regulatory permit issued unless both of the following occur:
 1. The City Council submits a City tax on Cannabis Facilities to the voters, the

voters approve the tax, and the tax is certified by the County pursuant to Section 15372 of the California Elections Code.

2. Written implementing regulations have been approved by the City Council for the type of cannabis facility permit for which application is sought. The City Council may impose such conditions of approval as it deems appropriate.

B. The City Council or designee shall develop written regulations governing the implementation of the cannabis facility regulatory permit process authorized by this Chapter. Such written regulations shall be approved by the City Council before they shall become effective. The City Council may impose such conditions of approval as it deems appropriate.

5.31.300 Cannabis Permit Types.

A. The following M-permits and A-Permits are created under this Chapter:

Tier	Classification/Type	Area
Type 1A	Cultivation: Specialty indoor	501-5,000 ft
Type 1B	Cultivation: Specialty mixed-light	2,501-5,000 ft
Type 1C-i	Cultivation: Specialty cottage indoor	up to 500 ft
Type 1C-m	Cultivation: Specialty cottage mixed-light	up to 2,500 ft
Type 2A	Cultivation: Small indoor	5,001-10,000 ft
Type 2B	Cultivation: Small mixed-light	5,001-10,000 ft
Type 3A	Cultivation: Indoor	10,001-22,000 ft
Type 3B	Cultivation: Mixed-light	10,001-22,000 ft
Type 4	Cultivation: Nursery	up to 22,000 ft
Type 6	Manufacturing Level 1	non-volatile
Type 7	Manufacturing Level 2	Using volatile solvents
Type 8	Testing Laboratory	N/A
Type 10	Retail	N/A
Type 11	Distributor	N/A
Type 12	Microbusiness	Up to 10,000 ft

Section 3. SEVERABILITY.

The City Council declares that, should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 4. EXECUTION AND CERTIFICATION.

The City Clerk is directed to do all things necessary to cause the execution of this Ordinance immediately upon its adoption and shall thereafter certify to the passage of this Ordinance and cause the same to be published and posted according to law.

Section 5. ENVIRONMENTAL ASSESSMENT.

The City Council declares that the approval of this ordinance is not subject to the California Environmental Quality Act (“CEQA”) because pursuant to CEQA Guidelines Sections 15060 (c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); and, 15060 (c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the approval of this ordinance is not a “Project” under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment. Further projects subject to the ordinance will require a discretionary permit and CEQA review and will be analyzed at that time in accordance with CEQA.

Section 6. EFFECTIVE DATE.

This ordinance shall go into effect thirty days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the San Juan Bautista City Council on the 15th day of May, 2018, and was adopted at a regular meeting of the San Juan Bautista City Council on the 19th day of June, 2018, by the following vote:

- AYES: West, Martorana, Boch, Freeman**
- NOES: None**
- ABSENT: DeVries**
- ABSTAIN: None**

Mayor Jim West

ATTEST:

Mackenzie Quaid, Acting City Clerk