

DATE ISSUED: June 14, 2022

TO: Community Planners Committee

FROM: Development Services Department

SUBJECT: Proposed Cannabis Municipal Code Amendments

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Council District(s): Citywide

**OVERVIEW:**

The Development Services Department (DSD) Cannabis Business Division (CBD) oversees administration of cannabis businesses operating in the City of San Diego, including permitting, compliance/enforcement and program development activities. As part of CBD's activities, a review of the current Municipal Code has identified issues in relation to the following:

1. City Council redistricting boundaries;
2. Conditional Use Permit (CUP) abandonment;
3. Cannabis tax payment responsibilities; and,
4. Cannabis permit expiration date regulations.

**Background/Legal Framework:**

With the passage of Prop. 64 in 2016, the City of San Diego adopted San Diego Municipal Code (SDMC) regulations to allow specific types of commercial cannabis businesses, including cannabis outlets, cannabis production facilities and cannabis testing facilities to operate in specific land use zones of the City. As separately regulated uses, all new Cannabis Outlets and Cannabis Production Facilities require approval of a Process Three CUP; these CUPs are granted for five years at a time, and renewals/amendments may be processed to continue operations for additional five-year increments. The SDMC currently allows for 36 Cannabis Outlet storefront retailers (four per Council District) for medicinal and adult-use sales, and a total of 40 Cannabis Production Facilities citywide

for cannabis cultivation, manufacturing and distribution activities. There are no limits on the number of cannabis testing facilities, and they are allowed by right in certain zones.

To date, DSD has issued CUPs for 26 retail cannabis outlets (22 in operation) and 40 cannabis production facilities (18 in operation). Currently four cannabis testing facilities operate within the city, performing quality control testing of cannabis goods as they pass through the supply chain.

PROPOSED ACTIONS:

1. Request that the Community Planners Committee provide a recommendation to approve the proposed ordinances adopting requested revisions to the San Diego Municipal Code including amending:
  - a. SDMC Section 141.0504 (Redistricting);
  - b. SDMC Section 126.0108 (CUP Recission);
  - c. SDMC 42.1504 and 42.1507 (Tax Payment Responsibilities); and,
  - d. SDMC Section 141.0504(n)(4) (CUP Extensions).

DISCUSSION OF ITEM:

**1. Redistricting**

[Section 5.1](#) of the San Diego City Charter requires the creation of a Redistricting Commission at the beginning of each decade, after the U.S. Census, to adopt plans which specify the boundaries of districts for the City Council. The redrawing of district boundaries is designed to ensure local legislatures are representative of the City's diverse population. On Wednesday, December 15, 2021, the City of San Diego Redistricting Commission voted 7-0-2 to approve the final map which can be reviewed in [Map 92973 \(link is external\)](#). The new boundaries will take effect after the City's next general election in November 2022.

Redistricting will impact a number of Cannabis Outlet (CO) CUPs. [SDMC 141.0504](#) allows a maximum of four COs per Council District. By changing Council District boundaries, the redistricting process will impact the number of allowed COs in certain districts. Redistricting does not affect Cannabis Production Facilities (CPFs); they are limited to 40 CUPs City-wide per [SDMC 141.1004](#) and not restricted per Council District.

Redistricting will allow two (2) additional CUPs over the existing cap, which will make a total of 12 CUPs available. Please see table below:

Council District	Number of COs Allowed	Number of Existing COs	# of COs after Redistricting	Redistricting Outcome	Total allowed per District after Redistricting
District 1	4	4	5	No CUPs available	5
District 2*	4	4	2	2 available	4
District 3	4	2	5	No CUPs available	5

District 4*	4	1	3	1 available	4
District 5*	4	0	0	4 available	4
District 6*	4	4	3	1 available	4
District 7	4	4	2	2 available	4
District 8	4	4	3	1 available	4
District 9	4	3	3	1 available	4
Total	36	26	26	12 CUPs available	38

\*Note there are eight new Cannabis Outlet applications pending: Four in District 2, one in District 4, two in District 5, and one in District 6.

On February 3, 2021, the City Attorney's office issued a [memo](#) on the outcome of redistricting on cannabis CUPs in relation to redistricting. As such, the proposed code amendments will address the cannabis outlet cap. Therefore, staff recommends amending [SDMC 141.0504](#) to read: "No more than four *cannabis outlets* are permitted in each City Council District, unless the location of a *cannabis outlet* is redistricted after it was permitted to a different City Council District resulting in more than four *cannabis outlets* in the City Council District."

## 2. Cannabis Conditional Use Permit Recission

The San Diego Municipal Code stipulates that cannabis production facilities (CPFs) must obtain a CUP to operate. The Land Development Code allows up to 40 CPFs City-wide.

Staff review indicates a total of eight (8) CPF CUPs for facilities that have not become operational or ceased operation and should be considered abandoned. Generally, the City does not proactively rescind CUPs. However, cannabis permits are unique due to the limited number of permits available. Therefore, it is important to allow for CUPs to be made available to allow the industry to grow and generate new sources of cannabis product and tax revenue.

The current process for voluntary cancellation and/or recission of a CUP for a non-operational facility depends on whether or not a permit has been utilized per [SDMC 126.0108](#). If the permit was never utilized, a Process One cancellation can be processed. For CPFs that did utilize their permits, a permit may be rescinded according to Process One if the property complies with all use and development regulations. If it does not, the recission will require a Process Three Hearing Officer decision, appealable to the Planning Commission. If no appeal is received, the revocation will be recorded by the County of San Diego.

To allow new applicants the opportunity to obtain a CUP, the City's Cannabis Business Division (CBD) staff identified abandoned CUPs and began processing voluntary cancellations and recissions per [SDMC Section 126.0110](#). CBD requested owner and

permittee concurrence on abandoning the CUPs and processing the rescission/revocation per SDMC 126.0110 via certified mail sent to responsible parties on February 22, 2022.

Staff's experience is that responsible parties for abandoned cannabis CUPs are difficult to locate and correspond with. Because the current CUP cancellation/rescission process depends upon voluntary approval by both the property owner and the CUP holder, the current Municipal Code abandonment procedures are extremely difficult to implement.

Because the cancellation/rescission process per SDMC 126.0110 is voluntary, a property is not eligible if all parties to a CUP cannot reach agreement. Staff requests that new abandonment language be included in the Municipal Code to allow the City to make a Process One determination if a cannabis CUP is no longer being used. Staff is proposing to amend Municipal Code Section 126.0108 in order to ensure that if CPF abandonment occurs, City staff has the ability to rescind the CUP in an expedited manner. The following language is suggested to be incorporated into SDMC 126.0108:

The utilization of a CUP is contingent upon (but not limited to) the following:

- (1) The existence of a valid license at this location by the California Department of Cannabis Control (DCC) for the proposed business activities. The issuance of this CUP does not guarantee that the DCC will grant a license for this location.
- (2) Compliance with Chapter 4, Article 2, Division 15 of the San Diego Municipal Code, including payment of any fees enacted pursuant to SDMC 42.1506.
- (3) Timely payment of all current and future Cannabis Business Tax owed pursuant to Chapter 3, Article 4, Division 1 of the San Diego Municipal Code.
- (4) Possession of a Business Tax Certificate.
- (5) Fulfillment of all permit conditions.
- (6) Continued compliance with all other applicable federal, state, and local laws.

In the event a CUP does not comply with items 1 thru 6, the City Manager may make a determination to rescind the CUP through a Process 1 cancellation.

An additional amendment to Section 126.0108 includes the ability of the City Manager to revoke the CUP and operating permit for non-payment of cannabis taxes. This will ensure full tax compliance for cannabis businesses within the City of San Diego.

The following table provides information on the businesses proposed to be abandoned due to non-operation:

Address	CUP#	Date Approved	Expiration Date	Current Status
8390 Miramar Place	2068281	03/06/2019	03/21/2024	Business took too long to get operational. Abandoned.
10170 Sorrento Valley Road	2071481	12/06/2018	12/6/2023	Building has been sold and the business disbanded. Abandoned.

4655 Ruffner Street	2135497	6/13/2019	6/13/2024	Dispute with landlord. Abandoned.
5752 Oberlin Dr. Ste 111, 112	2058040	8/15/2018	10/17/2023	Abandoned in 2019.
5550 Oberlin Drive, Ste A	2070984	10/03/2018	08/30/2023	Abandoned
8333 Clairemont Mesa Blvd. Ste 100, 205, 214	2066187	9/19/2018	10/04/2023	Owners moved to another county. Abandoned.
9220 Mira Este Court	2063424	02/20/2019	03/07/2024	Abandoned.
7542 Trade Street	2064703	09/05/2018	09/19/2023	Abandoned.

Staff is in the process of rescinding these CUPs and include them in the future pool for potential equity applicants. The City of San Diego is in the process of a cannabis equity assessment and expects to have equity program recommendations in place that may include offering available CUPs to equity applicants.

### 3. Cannabis tax payment responsibilities

There have been several instances where cannabis production facilities have not paid their taxes, but the responsible person(s) have continued to operate cannabis businesses at other locations using a different company name. As a result, the Treasurer's Office and the CBD evaluated the current Municipal Code language and has determined that amendments to the code should be adopted in order to prohibit a responsible person from opening separate new cannabis operations within the City if there is an outstanding tax liability owed to the City. Staff proposes the following amendments to SDMC 42.1504 and 42.1507 proposed by staff:

42.1504(h): An application for a Cannabis Outlet Permit or a Cannabis Production Facility Permit shall be denied if the applicant has had any permit issued pursuant to this Division revoked by the City Manager within the five years preceding the date of application.

42.1507(e): It is unlawful to act as a *responsible person* for any *cannabis outlet* or *cannabis production facility* operating within the City at any time if that person meets any of the following criteria:

- 1) Was a *responsible person* for any *cannabis outlet* or *cannabis production facility* that is currently delinquent on taxes owed to the City at the time delinquency occurred.
- 2) Was a *responsible person* for any *cannabis outlet* or *cannabis production facility* at a location that is currently delinquent on cost recovery fees owed to the City pursuant to Section 42.1506 of this division at the time delinquency occurred.

- 3) Was a *responsible person* for any *cannabis outlet* or *cannabis production facility* at any location that currently has a deposit account in deficit with the City at the time the deficit occurred.

#### 4. Cannabis permit expiration date regulations

CUPs for most types of conditional uses do not expire. However, the SDMC places a five-year time limit on cannabis CUPs (see SDMC 141.0504 for Cannabis Outlets, COs, and SDMC 141.1004 for Cannabis Production Facilities (CPFs). Those code sections also state that COs and CPFs can amend their permits for another five-year term.

SDMC 126.0114(d) outlines the process for amending CUPs to extend expiration dates: An amendment to an existing development permit will not affect the original expiration date of the permit, unless a change is specifically requested. In such cases, the application must be deemed complete prior to the development permit expiration date and the development permit will automatically be extended until a decision on the amendment request is final and all available administrative appeals of the project decision have been exhausted.

Allowing CUPs to remain in effect while their amendments are being processed is reasonable. However, SDMC 126.0114 does not provide for a time limit on this extension. Applicants may take as long as they like to process. In the context of a five-year time limit, this can lead to applicants taking an extended amount of time to process their amendments, effectively extending their CUPs for up to a year or more in some cases. As of today (5/12/2022), there are six amendments in the process with CUPs that have already expired, with expiration dates ranging from 1/29/2020 to 9/29/2021.

Staff has significant equity and due process concerns with these extended amendment periods and how they can function as “holding” a spot. Therefore, staff is proposing municipal code changes to address the issue.

[SDMC 141.0504\(n\)\(4\)](#) outlines the cannabis CUP amendment process. Amendments extend the expiration date for a period not to exceed five years. An application to extend the expiration date of a Conditional Use Permit must be submitted and deemed complete prior to the Conditional Use Permit expiration date, and the existing CUP is automatically extended until a decision on the amendment request is final, and all available administrative appeals of the project decision have been exhausted.

Staff has found that applicants have used this code process to continue extending their CUP application while not actually seeing the amendment application through to decision. Because there is a cap on the number of cannabis CUPs, this prevents other applicants from applying for a CUP because there are no permits available.

Staff requests that SDMC 141.0504(n)(4) be amended to prohibit the indefinite extensions of cannabis CUPs as to allow other eligible applicants to be able to process their permits.

City Strategic Plan Goal(s)/Objective(s):

Goal 3: Create and sustain a resilient and economically prosperous City with opportunity in every community.

Strategic Objective: Diversify and grow the local economy.

Fiscal Considerations:

Adoption of the proposed Municipal Code amendments may result in additional new cannabis activity and revenue in the future.

Charter Section 225 Disclosure of Business Interests:

N/A; there is no contract associated with this action.

Environmental Impact:

Environmental staff are completing their review of the proposed amendments.

Climate Action Plan Implementation:

N/A

Equal Opportunity Contracting Information:

N/A

Previous Council and/or Committee Actions: N/A

Key Stakeholders and Community Outreach Efforts: Key stakeholder included existing and future cannabis businesses as well as impacted equity applicants who may be interested in seeking a license to operate a cannabis outlet or production facility.

*Lara Gates*

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Lara Gates, Deputy Director  
Cannabis Business Division  
Development Services Department

## **SUMMARY OF PROPOSED SAN DIEGO MUNICIPAL CODE CHANGES IN RELATION TO CANNABIS CONDITIONAL USE PERMITS**

### **1. Redistricting**

[SDMC 141.0504](#): “No more than four *cannabis outlets* are permitted in each City Council District, unless the location of a *cannabis outlet* is redistricted after it was permitted to a different City Council District resulting in more than four *cannabis outlets* in the City Council District.”

### **2. Cannabis Conditional Use Permit Recission**

SDMC Section 126.0108: The utilization of a CUP is contingent upon (but not limited to) the following:

- (1) The existence of a valid license at this location by the California Department of Cannabis Control (DCC) for the proposed business activities. The issuance of this CUP does not guarantee that the DCC will grant a license for this location.
- (2) Compliance with Chapter 4, Article 2, Division 15 of the San Diego Municipal Code, including payment of any fees enacted pursuant to SDMC 42.1506.
- (3) Timely payment of all current and future Cannabis Business Tax owed pursuant to Chapter 3, Article 4, Division 1 of the San Diego Municipal Code.
- (4) Possession of a Business Tax Certificate.
- (5) Fulfillment of all permit conditions.
- (6) Continued compliance with all other applicable federal, state, and local laws.

In the event a CUP does not comply with 1-6, the City Manager may make a determination to rescind the CUP through a Process 1 cancellation.

### **3. Cannabis tax payment responsibilities**

42.1504(h): An application for a Cannabis Outlet Permit or a Cannabis Production Facility Permit shall be denied if the applicant has had any permit issued pursuant to this Division revoked by the City Manager within the five years preceding the date of application.

42.1507(e): It is unlawful to act as a *responsible person* for any *cannabis outlet* or *cannabis production facility* operating within the City at any time if that person meets any of the following criteria:

- 1) Was a *responsible person* for any *cannabis outlet* or *cannabis production facility* that is currently delinquent on taxes owed to the City at the time delinquency occurred.
- 2) Was a *responsible person* for any *cannabis outlet* or *cannabis production facility* at a location that is currently delinquent on cost recovery fees owed to the City pursuant to Section 42.1506 of this division at the time delinquency occurred.
- 3) Was a *responsible person* for any *cannabis outlet* or *cannabis production facility* at any location that currently has a deposit account in deficit with the City at the time the deficit occurred.

### **4. Cannabis permit expiration date regulations**

SDMC 141.0504(n)(4): Prohibit the indefinite extensions of cannabis CUPs as to allow other eligible applicants to be able to process their permits.



## **Article 1: Separately Regulated Use Regulations**

### **Division 5: Retail Sales Use Category--Separately Regulated Uses**

*(Added 12-9-1997 by O-18451 N.S.)*

#### **§141.0501 Agriculture-Related Supplies and Equipment**

Agricultural-related supplies and equipment may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) The location, number, and intensity of other nonagricultural establishments located in the vicinity will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (b) The proximity and capacity of *freeways*, primary arterials, and major *streets* will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (c) Off-street parking shall be sufficient to serve the facility and limit adverse impacts to adjacent or nearby property.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

#### **§141.0502 Alcoholic Beverage Outlets**

Any establishment for which a Type 20 Beer and Wine License or a Type 21 General Liquor License has been obtained from, or for which an application has been submitted to, the California Department of Beverage Control for permission to sell alcoholic beverages for off-site consumption shall be regulated as an alcoholic beverage outlet subject to this section.

Alcoholic beverage outlets are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Section 141.0502(b). Proposals for alcoholic beverage outlets that do not comply with the regulations in Section 141.0502(b) may be permitted with a Conditional Use Permit decided in accordance with Process Three subject to the regulations in Section 141.0502(c).

- (a) Exemptions. The following alcoholic beverage outlets and areas are exempt from the provisions of this section:

- (1) Hotels, *motels*, or any other lodging establishments where the area devoted to the sale of alcoholic beverages for off-site consumption does not exceed 10 percent of the *gross floor area* of the entire *premises*;
- (2) Establishments of more than 15,000 square feet of *gross floor area*, provided the area devoted to alcohol sales does not exceed 10 percent of the *gross floor area* of the entire *premises*;
- (3) Alcoholic beverage establishments within the Gaslamp Quarter Planned District and the Centre City Planned District; and
- (4) Alcoholic beverage outlets that were in existence on December 20, 1995, if the outlet retains the same type of retail liquor license within a license classification and is in continuous operation without substantial change in the mode or character of operation.
  - (A) For the purposes of Section 141.0502(a)(4), a break in “continuous operation” does not include the suspension of business due to extraordinary circumstances beyond the control of the licensee or a closure for more than 180 calendar days during the diligent pursuit of building repairs or remodeling of the *premises* undertaken under the authority of a valid Building Permit.
  - (B) For the purposes of Section 141.0502(a)(4), “substantial change in mode or character of operation” includes any of the following:
    - (i) Closure, abandonment, discontinuance, or suspension of the outlet for more than 180 consecutive calendar days during which the *premises* are not continually maintained and secured;
    - (ii) Alteration of the *premises* that would result in an increase of more than 10 percent of the existing *gross floor area* of all *structures* on the *premises*;
    - (iii) Revocation or suspension of the license issued by the State of California Department of Alcoholic Beverage Control (ABC) for a period of more than 30 calendar days for any reason; or

- (iv) Conviction of the owner, operator, or the ABC licensee for violations of California Health and Safety Code Sections 11350, 11351, 11352, 11550 and 11364.7 when the conviction relates to the *premises* or the operation of the establishment.
- (b) Limited Use Regulations. Alcoholic beverage outlets are permitted as a limited use subject to the following regulations.
  - (1) Alcoholic beverage outlets are not permitted in any of the following locations:
    - (A) Within a census tract, or within 600 feet of a census tract, where the general crime rate exceeds the citywide average general crime rate by more than 20 percent;
    - (B) Within a census tract, or within 600 feet of a census tract, where the ratio of alcohol beverage outlets exceeds the standards established by California Business and Professional Code section 23958.4;
    - (C) In an adopted Redevelopment Project Area;
    - (D) Within 600 feet of a public or private accredited *school*, a *public park*, a playground or recreational area, a *church*, a hospital, or a San Diego County welfare district office; and
    - (E) Within 100 feet of a residentially zoned property.
  - (2) For the purposes of Section 141.0502(b)(1), the separation distance shall be measured from *property line* to *property line* in accordance with Section 113.0225. A separation distance less than that required in Section 141.0502(b)(1) may be approved by the City Manager due to the existence of natural or built barriers such as topography, *freeways*, *flood* control channels, rivers, or similar divisive features if no direct access is available within the measurement area.
  - (3) Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or coin-operated amusement devices are not permitted on the *premises* with an alcoholic beverage outlet.

- (4) Exterior public pay phones that permit incoming calls are not permitted on the *premises*, adjacent public sidewalks, or areas under the control of the owner or operator.
- (5) The owner or operator shall provide illumination, at a minimum level of 0.4 foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the *premises* at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.
- (6) The *sign* area pertaining to or referencing alcoholic sales or beverages shall not exceed 630 square inches.
- (7) A maximum of 33 percent of the square footage of the windows and doors of the *premises* may bear advertising or *signs* of any sort, and all advertising and *signs* shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.
- (8) The owner or operator of the alcoholic beverage outlet shall post a prominent, permanent *sign* or *signs* stating, “No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the *premises*, in the parking area, or on the public sidewalks adjacent to the *premises*.”
- (9) The owner or operator shall list a business address and telephone number in the Pacific Bell/San Diego telephone directory or other similarly distributed directory.
- (10) The owner or operator shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. At least one 13-gallon trash receptacle shall be located inside the *premises*. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the owner or operator.

- (11) The owner or operator shall maintain the *premises*, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. The owner or operator shall eliminate graffiti within 48 hours of application.
  - (12) Off-street parking shall be provided in accordance with the requirements for retail sales uses in Table 142.05E.
- (c) Conditional Use Permit Regulations. Proposed alcoholic beverage outlets that do not comply with the regulations in Section 141.0502(b) may be permitted with a Conditional Use Permit decided in accordance with Process Three subject to the following regulations.
- (1) The San Diego Police Department shall provide the City Manager with a recommendation on the proposed use and location of the alcoholic beverage outlet. The City Manager will provide the *applicant* with a copy the Police Department recommendation at least 7 calendar days before the date of the public hearing. The decision maker will review and consider the Police Department recommendation before making a decision on the application.
  - (2) The decision maker may request that the State of California Department of Alcoholic Beverage Control impose restrictions on any alcohol sales license to be issued or renewed by the state. The decision maker's request shall be based on an evaluation of conditions in the area of the proposed alcoholic beverage outlet, including the concentration of alcoholic beverage outlets, high crime rates, or any other conditions in the area that would be aggravated by the sale of alcoholic beverages.
  - (3) Off-street parking shall be provided in accordance with the requirements for retail sales uses in Table 142.05E.
  - (4) Conditions addressing the following issues may be imposed by the decision maker:
    - (A) Entertainment uses or activities or amusement devices on the *premises*;
    - (B) Separation, monitoring, or design of the area devoted to alcoholic beverage sales;

- (C) Hours of operation;
  - (D) Security measures; and
  - (E) Lighting, litter, graffiti or nuisance abatement, or any other special requirements for the *premises*.
- (5) The owner or operator shall post a copy of the Conditional Use Permit conditions in the licensed *premises* in a place where they may be readily viewed by any member of the general public or any member of a government agency.
- (6) The Conditional Use Permit shall include a date on which the permit will expire and become void. This date shall not be less than 10 years from the approval date of the Conditional Use Permit.
- (7) An *applicant* may request that the expiration date be extended in accordance with the following provisions.
- (A) An application for an extension shall be filed before the expiration of the approved Conditional Use Permit.
  - (B) An application for an extension shall be considered in accordance with Process Two if there is no record in the City of San Diego Police Department or other department or with any other governmental agency of any violations of the State of California Department of Alcoholic Beverage Control rules, regulations, and orders or of any violation of city, county, state or federal law, code, regulation or policy related to prostitution, drug activity or other criminal activity on the *premises*.
  - (C) An application for an extension shall be considered in accordance with Process Three if there is a record of violations as described in Section 141.0502(c)(7)(B).
  - (D) Prior violations of any conditions contained in an approved Conditional Use Permit shall constitute grounds for denying an application for an extension.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

*(Amended 11-16-2012 by O-20216 N.S.; effective 12-16-2012.)*

*(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)*

**§141.0503 Farmers' Markets**

Farmers' markets are outdoor establishments where farmers and other vendors sell produce and other goods directly to consumers and where vendors selling farm produce comprise at least 50 percent of the vendors. A farmers' market may be either a weekly farmers market or a daily farmers market stand. Weekly farmers' markets conducted on public property are not subject to this section. Farmers' markets are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Weekly farmers' markets on private property shall comply with the following:
  - (1) Written permission of the property owner to conduct the weekly farmers' market shall be available to City of San Diego staff and officials upon request;
  - (2) A farmers' market shall be limited to one event per week per location;
  - (3) No parking shall be required; however, any parking reserved for handicapped access impacted by the farmers' market shall be temporarily relocated to a handicapped accessible location during the hours of the farmers market;
  - (4) Access to all building entryways and all disabled access routes shall be maintained; and
  - (5) One restroom per 250 persons shall be available.
- (b) Daily farmers' market stands shall comply with the following:
  - (1) Daily farmers' market stands may operate seven days per week at a given location;
  - (2) Outdoor display areas shall comply with Section 142.1130 (Outdoor Display Regulations for Commercial Zones);
  - (3) No parking shall be required;
  - (4) Sales shall be limited to the sale of unprocessed, non-value added crops;
  - (5) A daily farmers' market stand shall occupy an area no greater than five feet in depth and sixteen feet in length per commercial frontage; and

- (6) No required parking shall be displaced.
- (c) Daily farmers' market stands on private property shall obtain written permission of the property owner to conduct the daily farmers' market and shall make such written permission available to City of San Diego staff and officials upon request, in addition to the requirements of Section 141.0503(b)(1) through 141.0503(b)(6).
- (d) Daily farmers' market stands located in the public right-of-way, between the curb and fronting property line, shall comply with the following in addition to the requirements of Section 141.0503(b)(1) through 141.0503(b)(6):
  - (1) Written permission of the fronting property owner to conduct the daily farmers' market shall be available to City of San Diego staff and officials upon request;
  - (2) A Certificate of Insurance for a Public Liability Insurance Policy of at least \$500,000 in a form acceptable to the City Engineer and naming the City as an additional insured shall be required to be maintained at all times; and
  - (3) The location of the daily farmers' market stand shall comply with the following:
    - (A) A minimum 4-foot wide clear path of sidewalk shall be maintained within the public right-of-way at all times;
    - (B) Access to adjacent uses shall be maintained at all times;
    - (C) The daily farmers' market stand shall be located as close as feasible to the fronting property; and
    - (D) The daily farmers' market stand shall not be located parallel to loading areas, transit stops, taxi zones, or areas designated for pedestrian loading and unloading.

*(“Plant Nurseries” added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*  
*(“Farmers’ Markets” added 2-22-2012 by O-20141 N.S.; effective 3-23-2012.*  
*Former Section “Plant Nurseries” renumbered to Section 141.0504.)*



## §§141.0504 Cannabis Outlets

*Cannabis outlets* that are consistent with the requirements for retailer or dispensary license requirements in the California Business and Professions Code may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). ~~\_, provided that n~~ No more than four *cannabis outlets* are permitted in each City Council District. ~~unless except that any permitted cannabis outlet that changes the City Council Districts as a result of redistricting is allowed to remain at its originally permitted location, subject to continued compliance with this section, and regardless of the number of permitted cannabis outlets in the new district. - location of a cannabis outlet is redistricted after it was permitted to a different City Council District resulting in more than four cannabis outlets in the City Council District.~~ *Cannabis outlets* are subject to the following regulations.

- (a) *Cannabis outlets* shall maintain the following minimum separation:
  - (1) 1,000 feet from resource and population-based city parks, other *cannabis outlets*, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools. For purposes of this section, school means any public or private institution of learning 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. The distance shall be measured between the *property lines*, in accordance with Section 113.0225.
  - (2) 100 feet from the *property line* of a residentially zoned lot or premises. The distance shall be measured horizontally in a straight line between the two closest points of the *property lines* without regard to topography or structures that would interfere with a straight-line measurement.
- (b) Lighting shall be provided to illuminate the interior, facade, and the immediate surrounding area of the *cannabis outlet*, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented to deflect light away from adjacent properties.
- (c) Security shall be provided at the *cannabis outlet* which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. The security guard shall only be engaged in activities related to providing security for the facility, except on an incidental basis.
- (d) Primary signs shall be posted on the outside of the *cannabis outlet* and shall

only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors. Secondary *signs advertising cannabis*, window *signs* and any display visible from the *public right-of-way* are not permitted.

- (e) The name and emergency contact phone number of the designated responsible managing operator shall be posted in a location visible from outside the *cannabis outlet* in character size at least two inches in height.
- (f) The *cannabis outlet* shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.
- (g) The use of vending machines which allow access to *cannabis* and *cannabis* products except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this Section, a vending machine is any device which allows access to *cannabis* and *cannabis* products without a human intermediary.
- (h) A permit shall be obtained as required pursuant to Chapter 4, Article 2, Division 15.
- (i) A Conditional Use Permit for a *cannabis outlet* shall expire no later than five years from the date of issuance.
- (j) Deliveries shall be permitted as an *accessory use* only from *cannabis outlets* with a valid Conditional Use Permit unless otherwise allowed pursuant to state law.
- (k) The *cannabis outlet*, adjacent public sidewalks, and areas under the control of the *cannabis outlet*, shall be maintained free of litter and graffiti at all times.
- (l) The *cannabis outlet* shall provide daily removal of trash, litter, and debris. Graffiti shall be removed from the premises within 24 hours.
- (m) Consultations by medical professionals shall not be a permitted *accessory use* at a *cannabis outlet*.
- (n) A Conditional Use Permit for a *cannabis outlet* or medical marijuana consumer cooperative as defined in O-20356 converting to a *cannabis outlet*, may be amended in accordance with a Process Two decision as described in Section 112.0503, subject to this Section 141.0504(n).
  - (1) The separation requirements in Section 141.0504(a) shall not be considered in making the findings required for amendments processed in accordance with Section 141.0504(n).
  - (2) A change in zoning after the approval date of the current Conditional Use Permit shall not be considered in making the findings required for amendments processed in accordance with Section 141.0504(n).

- (3) The *cannabis outlet* or medical marijuana consumer cooperative shall be subject to Section 141.0504(a) if expanded beyond the *premises* identified in the current Conditional Use Permit.
- (4) A Conditional Use Permit for a *cannabis outlet* or medical marijuana consumer cooperative may be amended one or more times as follows:
  - (A) An application for an amendment may include a request to extend the expiration date for a period not to exceed five years.
  - (B) An amendment application to extend the expiration date of a Conditional Use Permit for a cannabis outlet must be submitted and *deemed complete* prior to the Conditional Use Permit expiration date. In that case, and the Conditional Use Permit shall automatically be extended until a decision on the amendment request is final and all available administrative appeals of the project decision have been exhausted. Failure to respond within 90 days per Section 126.0115 will void this automatic extension.

*(“Marijuana Outlets” added 2-22-2017 by O-20793 N.S.; effective 4-12-2017.  
Former Section 141.0504 “Plant Nurseries” renumbered to Section 141.0505.)  
(Retitled from “Marijuana Outlets” to “Cannabis Outlets” and amended 1-8-2020  
by O-21163 N.S.; effective 2-9-2020.)  
(Amended 7-30-2020 by O-21221 N.S.; effective 8-29-2020.)*

**§141.0505 Plant Nurseries**

For the purpose of Section 141.0504, plant nurseries are commercial establishments where plants are cultivated and grown for transplant, distribution, and sale that have a sales transaction area greater than 300 square feet. Plant nurseries are permitted in the zones indicated with a “P” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones). Plant nurseries may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following regulations.

- (a) The location, number, and intensity of other nonagricultural establishments located in the vicinity will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (b) The proximity and capacity of *freeways*, primary arterials, and major *streets* will be evaluated to determine the appropriate size and intensity of the proposed establishment.
- (c) Off-street parking shall be provided at a level sufficient to serve the establishment without impacting adjacent or nearby property.
- (d) Section 141.0505 shall not apply to the sale of plants from a garden center or other retail store, which is permitted in zones that allow the sale of consumer goods.

*(Amended 4-8-2008 by O-19734 N.S.; effective 5-8-2008.)*

*(Renumbered from former Section 141.0503, on 2-22-2012 by O-20141 N.S.; effective 3-23-2012.)*

*(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)*

*(Renumbered from former Section 141.0504 on 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)*

*(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)*

**§141.0506     Retail Farms**

Retail farms are establishments whose primary function is to produce and sell food and other related products on the same *premises*. Retail farms are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:

- (a) The maximum area inclusive of retail and farming areas shall not exceed 4 acres;
- (b) The use of pesticides is limited to those permitted by the U. S. Department of Agriculture’s National Organic Program;
- (c) A minimum of seventy-five percent of the products sold must be grown or generated onsite;
- (d) The hours of operation for the farm component shall be limited to the hours between sunrise and sunset as set forth by the National Oceanic and Atmosphere Administration for the San Diego area;
- (e) All equipment shall be stored on the *premises*;
- (f) All storage, service, and repair areas shall be enclosed, secured and located outside of all required setbacks; and
- (g) Parking shall comply with Chapter 14, Division 2, Article 5 (Parking Regulations).
  - (1) The retail component shall comply with the parking ratios for Retail Sales, Commercial Services, and Mixed use Development;
  - (2) The farm component shall provide one parking space per employee working the farm during the largest shift; and
  - (3) For a “pick your own” retail operation, the retail parking ratio shall assume 1,000 square feet of retail space per acre of land farm.

*(“Retail Farms” added 2-22-2012 by O-20141 N.S.; effective 3-23-2012.)  
(Renumbered from former Section 141.0505 on 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)*

**§141.0507 Swap Meets and Other Large Outdoor Retail Facilities**

Swap meets and other large outdoor retail facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Swap meets and other large outdoor retail facilities are not permitted in agricultural zones *Proposition A Lands* or within *floodplains* located in agriculturally zoned areas of the Coastal Overlay Zone..
- (b) Access to these facilities shall be as direct as possible from *freeways* and shall avoid residential *streets*.
- (c) Off-street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.
- (d) Hours of operation shall be limited so that neighboring *development* is not disturbed by noise and lights.
- (e) A litter control plan shall be implemented to keep the facility and adjacent property litter-free.
- (f) All storage, service, and repair areas shall be located on the site and *screened* so that they are not visible from *public rights-of-way* or from nearby residential *development*.

*(Renumbered from former Section 141.0504, on 2-22-2012 by O-20141 N.S.; effective 3-23-2012.)*

*(Renumbered from former Section 141.0506 on 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)*

**§141.0508 Retail Tasting Stores**

Retail tasting stores are branch locations of an affiliated licensed beer manufacturer, which sell or deliver alcoholic beverages produced by that manufacturer.

Consumption of the applicable beverage may be on or off the *premises* of the retail tasting store. Retail tasting stores are establishments with Duplicate Type 1 Beer Manufacturer Licenses or a Duplicate Type 23 Small Beer Manufacturer Licenses issued by the California Department of Alcoholic Beverage Control. This Section does not apply to tasting rooms located on the *premises* of a licensed beer manufacturer. No beer manufacturing shall occur on the *premises* of the retail tasting store.

Retail tasting stores are permitted as a limited use in the zones indicated with a “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones), subject to the following:

- (a) Off-street parking shall be provided in accordance with Section 142.0530 Table 142-05E (Parking Ratios for Retail Sales, Commercial Services, and Mixed-Use Development); and
- (b) Retail tasting stores shall not operate between 12:00 midnight and 6:00 a.m. in CN zones or on *premises* abutting residentially zoned property.

*(“Retail Tasting Stores” added 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)  
(Renumbered from former Section 141.0507 on 2-22-2017 by O-20793 N.S.; effective 4-12-2017.)*



**Article 6: Development Permits**

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**Division 1: General Development Permit Procedures**

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§126.0101 Purpose of Development Review Procedures**

The purpose of these procedures is to provide a review for the types of *developments* where the applicable regulations may need to be supplemented by project-specific conditions. Development review is not required for all projects. When development review is required, the intent is to provide review at the conceptual or schematic design stage preceding issuance of *construction permits*. A variety of *development permits* are provided with varying levels of review to address the variety in size, location, and complexity of *developments* throughout the City.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§126.0102 When Development Permit Procedures Apply**

The following permits require development review and the *development permit* procedures apply to these permits: Neighborhood Use Permits, Conditional Use Permits, Neighborhood Development Permits, Site Development Permits, Planned Development Permits, Coastal Development Permits, and Variances.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§126.0103 How to Apply for a Development Permit**

An *applicant* for a *development permit* shall file an application for one or more permits, as required, in accordance with Section 112.0102.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§126.0104 Decision Processes for a Development Permit**

A decision on an application for a *development permit* shall be made in accordance with Process Two, Process Three, Process Four, Process Five, Process CIP-Two or Process CIP- Five as indicated in Chapter 12, Article 6, Divisions 1 through 8, for each type of *development permit*.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

*(Amended 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)*

**§126.0105 Findings for Development Permit Approval**

An application for a *development permit* may be approved only if the decision maker determines that the *development*, as proposed or as conditioned, meets all *findings* for all required permits as provided in Chapter 12, Article 6, Divisions 2 through 8. If the decision maker determines that any of the *findings* are not met, the application shall be denied. The decision maker shall record the decision in writing and shall specify the evidence or statements presented that support the *findings*.

*(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)*

**§126.0106 Recordation of a Development Permit**

- (a) *Development permits* affect title to, use of, or possession of real property and shall be recorded in the Office of the County Recorder of San Diego County.
- (b) After the date on which all rights of appeal have expired, the *applicant* shall sign and return a copy of the approved permit to the City.
- (c) The City will forward the permit and the resolution approving the permit to the County Recorder for recordation provided that the *applicant* has paid all required fees and costs in accordance with Section 112.0202.
- (d) Before the City forwards the permit for recordation, the *applicant* may submit a request in writing to the City Manager that the City obtain a certified copy of the permit from the County Recorder. The *applicant* shall pay the fees to obtain the certified copy.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

*(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)*

**§126.0107 Issuance of a Development Permit**

- (a) A *development permit* will be issued to the *applicant* within 5 *business days* of the date on which the original recorded permit or a certified copy of the permit is returned to the City from the County Recorder.
- (b) It is unlawful for any *applicant* to begin work or use of the property that is authorized by a *development permit* until the *development permit* has been issued. If a *construction permit* is also required, construction may not begin until the *construction permit* has been issued.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

**§126.0108 Utilization of a Development Permit**

- (a) A *development permit* grants the *permit holder* 36 months to initiate utilization of the *development permit*. If utilization does not occur in accordance with this Section within 36 months after the date on which all rights of appeal have expired, and an application for an extension of time was not timely filed, the *development permit* shall be void.
- (b) To demonstrate utilization, the *permit holder* shall establish, with evidence identified in Section 126.0108(c), that at least one of the following circumstances occurred before expiration of the *development permit*:
  - (1) Significant investment was incurred to meet permit conditions;
  - (2) Substantial work was performed in reliance on the *development permit* granted; or
  - (3) Use of the property has occurred in the manner granted by the *development permit*.
- (c) Upon request, the *permit holder* shall provide evidence of the following, to the satisfaction of the City Manager:
  - (1) Issuance of a *construction permit* for the entire project or for a substantial portion of the activity regulated by the *development permit*, according to standards developed by the City Manager;
  - (2) Compliance with the terms contained in the individual permit, such as a phasing program, or the terms contained in an approved Development Agreement;
  - (3) Evidence of substantial use as granted by the *development permit*, according to standards developed by the City Manager;
  - (4) Approval of a *final map* or a *parcel map*, or acceptance of an easement, if the map or easement was a condition of, or was processed concurrently with, the *development permit*; or
  - (5) Other facts demonstrating the occurrence of any of the circumstances described in Section 126.0108(b).

- (d) *Development permits for capital improvement program projects or public projects* are exempt from the permit utilization requirement of Section 126.0108(a), except that:
- (1) Outside the Coastal Overlay Zone, if 10 years have passed from the date on which all rights of appeal have expired and the City is unable to establish, with evidence in accordance with Section 126.0108(c), that at least one of the circumstances identified in Section 126.0108(b) occurred, then the *development permit* shall be void.
  - (2) In the Coastal Overlay Zone, if 6 years has passed from the date on which all rights of appeal have expired and the City is unable to establish, with evidence in accordance with Section 126.0108(c), that at least one of the circumstances identified in Section 126.0108(b) occurred, then, notwithstanding Section 126.0111(a), an extension not to exceed 36 months shall be obtained by the City pursuant to Section 126.0111, or the *development permit* shall be void. If upon the expiration of the extension, the City is unable to establish, with evidence in accordance with Section 126.0108(c), that at least one of the circumstances identified in Section 126.0108(b) occurred, then the *development permit* shall be void.
- (e) After initial utilization per (b) and/or (c) above, the continued utilization of -Aa Conditional Use Permit for a cannabis outlets and-or cannabis production facilities-facility is contingent upon the following all of the following items being maintained as current:
- (1) Each cannabis business at the permitted premises shall have a~~The existence of a~~ valid license ~~from at this location by~~ the California Department of Cannabis Control (DCC) for the proposed business activities at all times.~~The issuance of this CUP does not guarantee that the DCC will grant a license for this location.~~
  - (2) Each cannabis business at the permitted premises shall have ~~Compliance a~~ valid operating permit per with Chapter 4, Article 2, Division 15 of the San Diego Municipal Code, and shall be current on any fees owed including ~~payment of any fees enacted~~ pursuant to SDMC 42.1506.
  - (3) Each cannabis business at the permitted premises shall ensure ~~Timely~~ payment of all current and future Cannabis Business Tax owed pursuant to Chapter 3, Article 4, Division 1 of the San Diego Municipal Code. Delinquent taxes are immediate cause to cancel a Conditional Use Permit per section (7) below.
  - (4) Each cannabis business at the permitted premises shall ~~Possession have a~~ valid, non-delinquent of a Business Tax Certificate.
  - (5) Each cannabis business at the permitted premises must maintain continued compliance with ~~Fulfillment of all~~ all permit conditions.

- (6) Continued compliance with all other applicable federal, state, and local laws.
- (7) In the event a Conditional Use Permit for a cannabis outlet and/or cannabis production facility CUP does not comply with sections (1) through (68), the City Manager may make a determination to rescind the Conditional Use Permit through a Process 1 cancellation.

*(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)*

*(Retitled to "Utilization of a Development Permit" and amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)*

*(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)*

*(Amended 3-20-2017 by O-20797 N.S.; effective 6-7-2017.)*

*(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)*

#### **§126.0110 Cancellation or Rescission of a Development Permit**

- (a) *A permit holder may request cancellation of a development permit at any time before utilization of the permit. The permit holder shall submit the request for cancellation in writing to the City Manager. The development permit shall be void as of the date it is cancelled by the City Manager.*
- (b) *If a development permit has already been utilized in accordance with Section 126.0108, the permit holder may submit an application to rescind the development permit in accordance with the following:*
  - (1) *Where the development complies with all use and development regulations the application to rescind a development permit shall be processed in accordance with Process One.*

- (2) For *development* not in compliance with Section 126.0110(b)(1), an application to rescind a *development permit* shall be processed in accordance with the same process as would a new application for the same permit.

The *development permit* shall be void as of the date it is rescinded by the City Manager.

- (c) The cancellation or rescission shall thereafter be recorded by the *applicant*, or the City may record it by forwarding a written declaration of the cancellation or rescission to the County Recorder for recordation in accordance with Section 126.0106.

~~(e)~~(d) For cannabis development permits, if the City Manager can make a determination that a *cannabis outlet* or *cannabis production facility* is no longer in operation and has been abandoned by the Conditional Use Permit holder, the City Manager may cancel the Conditional Use Permit through a Process 1 decision.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

(Retitled to "Cancellation or Rescission of a Development Permit" and amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

#### **§126.0111 Extension of Time of a Development Permit**

- (a) Expiration Date. The expiration date of an approved *development permit* may be extended one or more times. The *development permit* approval and subsequent *development permit* extensions shall not exceed a total of 72 months beyond the initial *development permit* approval date, with the following exceptions:
- (1) The 72 month maximum may be exceeded if permitted by any extension granted pursuant to state law or by any *development permit* extension granted by the City Council by ordinance.
- (2) When a *development permit* is associated with a *tentative map*, any map extensions granted pursuant to state law shall automatically extend the expiration of associated *development permits* to coincide with the expiration of the *tentative map*.
- (b) Request for Extension. Before the expiration of an approved *development permit*, but not more than 12 months before the expiration date, an application may be filed for an extension of time for a *development permit* in accordance with Section 112.0102. If an application for extension of time is timely filed,

the *development permit* shall be automatically extended for a period of 60 calendar days from the expiration date or until a decision on the extension of time has been made, whichever occurs first.

- (c) **Review of Application.** An application for an extension of time of a *development permit* shall be reviewed by the City Manager to determine whether the proposed *development* has significantly changed or is in *substantial conformance* with the approved *development permit*. If the proposed *development* is not in *substantial conformance* with the approved *development permit*, an application for an amendment to the *development permit* will be required. An *applicant* for an extension of time may also submit an application for, and concurrently process, an amendment to the approved *development permit* in order to extend the existing permit in case the extension of time request is denied.
- (d) **Decision Process.** A decision on an application for an extension of time of a *development permit* shall be made in accordance with Process Two, except that it shall be appealable in accordance with Section 126.0111(i).
- (e) **Findings for Approval.** An extension of time, except for a Coastal Development Permit, may be approved without new conditions if the decision maker makes both of the following *findings*:
  - (1) The project as originally approved and without any new conditions would not place the occupants of the proposed *development* or the immediate community in a condition dangerous to their health or safety; and
  - (2) No new condition is required to comply with state or federal law.
- (f) **Findings for Conditional Approval.** An extension of time, except for a Coastal Development Permit, may be approved with new conditions if the decision maker makes one of the following *findings*:
  - (1) New conditions are necessary to protect the health or safety of the residents of the *development* or the immediate community; or
  - (2) New conditions are necessary to comply with applicable state or federal law.
- (g) **Findings for Approval for Extension of Time for a Coastal Development Permit.** An extension of time for a Coastal Development Permit may be approved only if the decision maker makes all of the following findings:
  - (1) The project as originally approved would not place the occupants of the proposed *development* or the immediate community in a condition dangerous to their health and safety;
  - (2) There are no changed circumstances which would affect the project's consistency with the *Local Coastal Program*; and



- (3) No new condition is required to comply with state or federal law.
- (h) Denial of the Extension of Time. The decision maker shall deny the extension of time if the project, even as conditioned, would place the residents of the proposed *development* or the immediate community in a condition dangerous to their health or safety, or would not comply with state or federal law.
- (i) Appeals. The City Council shall hear appeals of decisions on Extensions of Time for *development permits*.
- (j) Commencement of Extension. If the extension of time is granted, the extension shall begin from the date of expiration of the previously-approved *development permit*.

*(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)*

*(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)*

*(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)*

*(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)*

#### **§126.0112 Modifications to a Development Permit**

- (a) A proposed modification to an approved *development permit* may be submitted to the City Manager to determine if the revision is in *substantial conformance* with the approved permit.
- (b) If the revision is determined to be in *substantial conformance* with the approved permit, the revision shall not require an amendment to the *development permit*.
- (c) Where a *development permit* requires compliance with a regulation in effect on the date of approval, but that regulation is subsequently amended, the *permit holder* may utilize the amended regulation without obtaining an amendment to its *development permit* if the *permit holder* can demonstrate to the satisfaction of the City Manager that the resulting *development* is in *substantial conformance* with the approved *development permit*.
- (d) If a determination of *substantial conformance* cannot be made for a *development* seeking to utilize an amended regulation in accordance with Section 126.0112(c), the *permit holder* may utilize the amended regulation if the *permit holder* obtains a Process Two Neighborhood Development Permit.

- (e) Within the Coastal Overlay Zone, any *substantial conformance* determination shall be decided in accordance with Process Two, except that a *substantial conformance* determination for a *capital improvement program project* shall be reached through a Process CIP-Two review.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

(Retitled from “Minor Modifications to a Development Permit” to “Modifications to a Development Permit” and amended 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)

### **§126.0113 Development on a Premises with a Utilized Development Permit**

The purpose of this Section is to allow a change in *development* to occur on a *premises* that has a utilized *development permit* in accordance with Section 126.0108, when the proposed *development* is not included within the scope of the utilized *development permit* but complies with the use and *development* regulations of the applicable base zone or overlay zone.

- (a) *Development* that is not included within the scope of a utilized *development permit* may be approved without an amendment to the *development permit* in accordance with Process One, subject to all of the following:
- (1) The proposed use is listed as a permitted use in the applicable base zone and overlay zones, or listed as a limited use and the proposed *development* complies with all limited use regulations;
  - (2) The proposed *development* complies with all *development* regulations of the applicable base zone and overlay zones, except through the use of incentives or waivers as provided in Chapter 14, Article 3, Division 7;
  - (3) The proposed *development* does not require additional *development permits*; and
  - (3) Except as permitted by Section 126.0112, all *development* within the scope of the utilized *development permit* that has received a *construction permit* complies with the applicable conditions of the *development permit*.

- (b) If the utilized *development permit* was approved concurrently with an individual, project-specific rezone action, a *permit holder* cannot rely on the provisions of Section 126.0113(a) for a proposed *development* unless:
  - (1) A comprehensive community land use plan was adopted or updated after the utilized *development permit* was approved; or
  - (2) The utilized *development permit* allowed the maximum development allowed under the base zone and applicable overlay zones, accounting for any building restricted easements required as part of the *development*.

(“*Development on a Premises with a Utilized Development Permit*” added 1-8-2020 by O-21161 N.S.; effective 2-9-2020. Former Section 126.0113 “*Amendments to a Development Permit*” renumbered to Section 126.0114.)

#### **§126.0114 Amendments to a Development Permit**

- (a) A proposed revision to an approved *development permit* that would significantly reduce the scope of the *development* or is not in *substantial conformance* with the approved *development permit* requires an amendment to the approved *development permit* or an application for a new *development permit*, except that a *development permit* for industrial *development* in an industrial zone that is not located within 1,000 feet of a residential zone may be amended by obtaining a Process Two Neighborhood Development Permit.
- (b) A proposed change in use from one use category to another or the change, addition, or deletion of a use within the same use category may require an amendment to a Neighborhood Use Permit or a Conditional Use Permit, depending on the uses allowed by the permit, except as provided in Sections 126.0112 or 126.0113.
- (c) An application for an amendment to a *development permit* shall be acted upon in accordance with the same process as would a new application for the same permit. When a *development permit* includes existing land uses that would not be permitted as new uses by the underlying base zone, the amendment application shall nevertheless be acted upon in accordance with the same process as the original *development permit*. The application is subject to environmental review and will be evaluated in accordance with the State California Environmental Quality Act (CEQA) Guidelines, Sections 15162-15164. The decision maker may revise existing conditions or impose new conditions.

- (d) An amendment to an existing *development permit* will not affect the original expiration date of the permit, unless a change is specifically requested. In such cases, the application must be *deemed complete* prior to the *development permit* expiration date and the *development permit* will automatically be extended until a decision on the amendment request is final and all available administrative appeals of the project decision have been exhausted. For amendments to development permits for cannabis outlets and cannabis production facilities, failure to respond within 90 days per Section 126.0115 will void this automatic extension.
- (e) Within the Coastal Overlay Zone, a proposed change in use which will result in an intensification of use requires an amendment or a new Coastal Development Permit.
- (f) An amendment to a *development permit* shall not be required for approval of a *sign* application in accordance with Section 142.1208.

*(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)*

*(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)*

*(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)*

*(Renumbered from Section 126.0113 to Section 126.0114 and amended 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)*

#### **§126.0115 Closing of Development Permit Application**

The *development permit* application file shall be closed if the *applicant* fails to submit or resubmit requested materials, information, fees, or deposits 90 calendar days from the date the application was deemed complete or the last written request by the City, whichever is later. Once closed, the application, plans and other data submitted for review may be returned to the *applicant* or destroyed by the City Manager. To reapply, the *applicant* shall submit a new *development permit* application with required submittal materials and shall be subject to all applicable fees and regulations in effect on the date the new application is deemed complete.

*(“Closing of Development Permit Application” added 6-3-2003 by O-19187 N.S.)*

*(Renumbered from Section 126.0114 to Section 126.0115 on 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)*

#### **§126.0116 Tolling of a Development Permit**

- (a) An *applicant* may request a tolling of the expiration of an approved or conditionally approved *development permit* for up to 5 years while a lawsuit involving the approval or conditional approval of the *development permit* is or was pending in a court of competent jurisdiction.

- (b) A request to toll the process must be submitted prior to expiration of the *development permit*.
- (c) A decision regarding a request to toll the expiration date for a *development permit* shall be made in accordance with Process One and, additionally, for *development* within the Coastal Overlay Zone, in accordance with the procedures in Section 126.0111(g).
- (d) A request to toll the expiration date for a *development permit* shall be granted within 40 days of the date of application if it can be demonstrated to the satisfaction of the City Manager that:
  - (1) A lawsuit was filed that is related to the processing of an approved or conditionally approved *development permit*; and
  - (2) Tolling of the expiration date for up to 5 years during the lawsuit would allow time for the *applicant* to address associated court orders or procedures related to processing of the *development permit*.
- (e) Upon resolution of the lawsuit, the *applicant* shall contact the City Manager to request the adjusted expiration date for the approved or conditionally approved *development permit*. The adjusted expiration date shall allow tolling as follows:
  - (1) The credited time for the tolling period shall be limited to the time period between the date the petition or complaint in the lawsuit was filed and the date the lawsuit was officially resolved.
  - (2) The credited time for the tolling period shall not exceed 5 years.
  - (3) Within the Coastal Overlay Zone, the adjusted expiration date for a Coastal Development Permit may be granted only if the decision maker makes all of the findings required by Section 126.0111(g), Findings for Approval for Extension of Time for a Coastal Development Permit.

*(“Tolling of a Development Permit” added 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)*

*(Amended 8-30-2013 by O-20293 N.S.; effective 10-10-2013.)*

*(Renumbered from Section 126.0115 to Section 126.0116 on 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)*

## **Article 2: Health Regulated Businesses and Activities**

### **Division 15: Cannabis Outlets, Cannabis Production Facilities, and Transportation of Cannabis**

*(“Medical Marijuana Consumer Cooperatives” added 4-27-2011  
by O-20043 N.S.; effective 5-27-2011.)*

*(Retitled from “Medical Marijuana Consumer Cooperatives” to “Marijuana  
Outlets” on 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(“Retitled from “Marijuana Outlets” to “Marijuana Outlets, Marijuana Production Facilities, and  
Transportation of Marijuana” and amended 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Retitled from “Marijuana Outlets, Marijuana Production Facilities, and Transportation of  
Marijuana” to “Cannabis Outlets, Cannabis Production Facilities,  
and Transportation of Cannabis” on 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

#### **§42.1501 Purpose and Intent**

It is the intent of this Division to promote and protect the public health, safety, and welfare of the citizens of San Diego by allowing but strictly regulating the retail sale of *cannabis* at *cannabis outlets*, and the raising, harvesting, processing, wholesaling, distributing, storing, and producing of *cannabis* and *cannabis* products at *cannabis production facilities* in accordance with state law. It is further the intent of this Division to ensure that *cannabis* is not diverted for illegal purposes, and to limit its use to those persons authorized under state law. Nothing in this Division is intended to authorize the cultivation, sale, distribution, possession of *cannabis*, or other transaction, in violation of state law.

It is not the intent of this Division to supersede or conflict with state law, but to implement the Compassionate Use Act (California Health and Safety Code section 11362.5), the Medical Marijuana Program Act (California Health and Safety Code sections 11362.7-11362.83), the Medicinal and Adult-Use Cannabis Regulation and Safety Act, and the Adult Use of Marijuana Act.

*(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)*

*(Amended 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(Amended 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

## §42.1502 Definitions

For the purpose of this Division, the following definitions shall apply and appear in italicized letters:

*Cannabis* has the same meaning as in California Business and Professions Code section 26001.

*Cannabis outlet* means a retail establishment operating with a Conditional Use Permit in accordance with section 141.0504, where *cannabis*, *cannabis* products, and *cannabis* accessories, as defined in California Health and Safety Code sections 11018, 11018.1, and 11018.2, respectively, are sold to the public in accordance with dispensary or retailer licensing requirements contained in the California Business and Professions Code sections governing *cannabis* and medical *cannabis*. A *cannabis outlet* shall not include clinics licensed by the State of California pursuant to Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code.

*Cannabis production facility* means individual or combined uses, operating with a Conditional Use Permit in accordance with section 141.1004, engaged in the agricultural raising, harvesting, and processing of *cannabis*; wholesale distribution and storage of *cannabis* and *cannabis* products; and production of goods from *cannabis* and *cannabis* products consistent with the requirements of State of California Statutes and the California Departments of Food and Agriculture, Consumer Affairs, and Public Health regulations.

*Primary caregiver* has the same meaning as in San Diego Municipal Code section 42.1302.

*Qualified patient* has the same meaning as in San Diego Municipal Code section 42.1302.

*Responsible person* has the same meaning as in San Diego Municipal Code section 11.0210, and includes a corporate director or officer, manager or member-manager, partner, trustee, or sole proprietor of an entity or trust operating or owning a *cannabis outlet* or a *cannabis production facility*, and persons responsible for the operation, management, direction, or policy of a *cannabis outlet* or a *cannabis production facility*.

*State identification card* means the card issued to a *qualified patient* or *primary caregiver* in accordance with California Health and Safety Code sections 11362.71-11362.76.

*Violent felony* means the same as it does in California Penal Code section 667.5(c) as may be amended from time to time.

*(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)*

*(Amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)*

*(Amended 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(Amended 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

**§42.1504 Cannabis Outlets and Cannabis Production Facilities—Permit Required**

- (a) It is unlawful for any person to operate any *cannabis outlet* without a *Cannabis Outlet Permit* or a *cannabis production facility* without a *Cannabis Production Facility Permit* issued pursuant to this Division.
- (b) *Cannabis outlets* and *cannabis production facilities* shall designate one officer or manager to act as a responsible managing officer. The responsible managing officer may complete and sign the permit application on behalf of the *cannabis outlet* or a *cannabis production facility*.
- (c) The issuance of a *Cannabis Outlet Permit* or *Cannabis Production Facility Permit* pursuant to this Division does not relieve any person from the obligation to obtain any other permit, license, certificate, or other similar approval that may be required by the City, the County of San Diego, or state or federal law.
- (d) A permit applicant must obtain a Conditional Use Permit as required by sections 141.0504 and 141.1004 prior to obtaining a permit under this Division.
- (e) Applications for *Cannabis Outlet Permits* and *Cannabis Production Facility Permits* shall be filed with the City Manager.
- (f) The City Manager shall act upon the application within thirty calendar days, except that notice of an incomplete application shall be given within five business days.
- (g) *Cannabis Outlet Permits* and *Cannabis Production Facility Permits* issued pursuant to this Division shall be valid for one year from the date of issuance.



- (h) An application for a *Cannabis Outlet Permit* or a *Cannabis Production Facility Permit* shall be denied if the applicant has had any permit issued pursuant to this Division revoked by the City Manager within ~~the~~ twelve~~five year months~~ preceding the date of application.

*(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)*

*(Amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)*

*(Retitled from “Cooperatives–Permit Required” to “Outlets–Permit Required” and amended 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(Retitled from “Outlets–Permit Required” to “Marijuana Outlets and Marijuana Production Facilities–Permit Required” and amended 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Retitled from “Marijuana Outlets and Marijuana Production Facilities–Permit Required” to “Cannabis Outlets and Cannabis Production Facilities–Permit Required” and amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

#### **§42.1505 Exemptions**

- (a) This Division does not apply to the cultivation of *cannabis* by a *qualified patient* at that patient’s home, so long as the qualified patient is only growing the *cannabis* for his or her own personal medical needs in a manner consistent with state law.
- (b) This Division does not apply to the cultivation of six or fewer *cannabis* plants within a private residence or an accessory structure to that residence that is fully enclosed and secure. For the purposes of this section, a private residence means a house, apartment unit, mobile home, or other similar dwelling.

*(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)*

*(Amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)*

*(Amended 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(Amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

**§42.1506 Cannabis Outlets and Cannabis Production Facilities–Cost Recovery Fees**

Notwithstanding any other provision of this Code, the City may recover its costs in the form of a permit fee for the costs of permitting and regulating *cannabis outlets* and *cannabis production facilities*.

*(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)*

*(Retitled from “Cooperatives–Cost Recovery Fees” to “Outlets–Cost Recovery Fees” and amended 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(Retitled from “Outlets–Cost Recovery Fees” to “Marijuana Outlets and Marijuana Production Facilities–Cost Recovery Fees” and amended 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Retitled from “Marijuana Outlets and Marijuana Production Facilities–Cost Recovery Fees” to “Cannabis Outlets and Cannabis Production Facilities–Cost Recovery Fees” and amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

**§42.1507 Cannabis Outlets and Cannabis Production Facilities–Background Checks and Reporting Convictions**

- (a) Prior to acting as a *responsible person* in a *cannabis outlet* or a *cannabis production facility*, all persons shall undergo fingerprinting. The fingerprints shall be provided to and kept on file with the City.
- (b) The City shall conduct a background check of all *responsible persons*. Any person who has been convicted of a *violent felony* or a crime of moral turpitude within the past seven years cannot act as a *responsible person* for a *cannabis outlet* or a *cannabis production facility*.

A conviction is complete upon entry of judgment upon a finding of guilty, or upon entry of a plea of guilty, or upon entry of a plea of nolo contendere or “no contest,” regardless of the pendency of any appeal, or expungement pursuant to California Penal Code sections 1203.4, 1203.4a, or 1203.41.

- (c) It is unlawful for any *responsible person* to act as a *responsible person* for a *cannabis outlet* or a *cannabis production facility* if he or she fails to provide their fingerprints to the City.
- (d) The cost of the fingerprinting and attendant background check shall be borne by the *responsible person*.

~~A responsible person who is convicted of a violent felony or crime of moral turpitude shall report the conviction to the City Manager within 48 hours.~~

(e) It is unlawful to act as a responsible person for any cannabis outlet or cannabis production facility operating within the City at any time if that person meets any of the following criteria:

- (1) Was a responsible person for any cannabis outlet or cannabis production facility that is currently delinquent on taxes owed to the City at the time delinquency occurred.
- (2) Was a responsible person for any cannabis outlet or cannabis production facility at a location that is currently delinquent on cost recovery fees owed to the City pursuant to Section 42.1506 of this division at the time delinquency occurred.
- (3) Was a responsible person for any cannabis outlet or cannabis production facility at any location that currently has a deposit account in deficit with the City at the time the deficit occurred.

*(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)*

*(Amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)*

*(Retitled from "Cooperatives–Background Checks" to "Outlets– Background Checks" and amended 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(Retitled from "Outlets–Background Checks" to "Marijuana Outlets and Marijuana Production Facilities–Background Checks and Reporting Convictions" and amended 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Retitled from "Marijuana Outlets and Marijuana Production Facilities–Background Checks and Reporting Convictions" to "Cannabis Outlets and Cannabis Production Facilities–Background Checks and Reporting Convictions" and amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

#### **§42.1508 Cannabis Outlets and Cannabis Production Facilities–Operational Requirements**

- (a) The *responsible person* for a *cannabis outlet* and a *cannabis production facility* shall maintain and provide, upon request by the City, a current list of all *responsible persons*.
- (b) Age Limitations
  - (1) No person under the age of 21 is allowed at or in any *cannabis outlet* or *cannabis production facility* unless the person is a *qualified patient* or *state identification card* holder, and if under the age of 18, is accompanied by a parent, legal guardian, or a *primary caregiver* who is over the age of 18.

- (2) No person under the age of 21 may be employed by or act as a *responsible person* on behalf of a *cannabis outlet* or a *cannabis production facility*.

*(Retitled from “Cooperatives–Verification and Documentation” to “Cooperatives–Operational Requirements” and amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)*

*(Retitled from “Cooperatives–Operational Requirements” to “Outlets–Operational Requirements” and amended 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(Retitled from “Outlets–Operational Requirements” to “Marijuana Outlets and Marijuana Production Facilities–Operational Requirements” and amended 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Retitled from “Marijuana Outlets and Marijuana Production Facilities–Operational Requirements” to “Cannabis Outlets and Cannabis Production Facilities–Operational Requirements” and amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

**§42.1509 Cannabis Outlets and Cannabis Production Facilities–Regulatory Actions on Permit**

- (a) In addition to any penalties and remedies provided by law, and any other bases for regulatory action provided by law, a *Cannabis Outlet* Permit and a *Cannabis Production Facility* Permit are subject to regulatory actions for the following reasons:
  - (1) non-compliance with this Division or any condition of this permit;
  - (2) conviction of any crime which would have been grounds for denial of the permit;
  - (3) failure to take corrective action after timely written notice of a violation;
  - (4) failure to supervise the business, resulting in a pattern of violations of the San Diego Municipal Code or other provisions of law by the *responsible persons* or patrons, or both. A revocation based on the act or omission of a patron may be based on a determination that a *responsible person* caused or condoned the act or omission, or failed to take reasonable corrective action after a timely written notice of violation; or
  - (5) violation of any state or local law or regulation pertaining to the business.
- (b) Regulatory action includes the following:
  - (1) Issuance of a verbal warning;
  - (2) Issuance of a written warning;
  - (3) Issuance of a notice of violation;

- (4) Placing conditions upon the permit which are reasonably related to any violation. Unless otherwise stated as part of the condition, all such conditions expire when the permit expires, excluding any time stayed during an appeal;
  - (5) Suspension of the *Cannabis Outlet* Permit or the *Cannabis Production Facility* Permit; or
  - (6) Revocation of the *Cannabis Outlet* Permit or the *Cannabis Production Facility* Permit.
- (c) Written notice of the regulatory actions taken pursuant to section 42.1509(b)(2) through (b)(6) shall be provided to the individual identified as the responsible managing officer pursuant to section 42.1504(b).
  - (d) A request for an appeal hearing of the regulatory actions taken pursuant to section 42.1509(b)(2) through (b)(6) may be made by the responsible managing officer.
  - (e) The request for an appeal hearing must be made in writing to the City Manager within ten calendar days of the receipt of the notice of regulatory action.
  - (f) Upon receiving the request for a hearing, the City Manager shall set hearing not more than thirty calendar days from the date of the receipt of the request, unless a later date is agreed to by the City and the responsible managing officer in writing.
  - (g) The City Manager shall notify the responsible managing officer of the date, time, and place of the hearing by means of registered or certified mail, or hand delivery.
  - (h) The hearing shall be conducted by a hearing officer provided by the City Manager.
  - (i) The hearing officer may affirm, deny, or modify the regulatory action, and shall furnish the reason for the decision to the responsible managing officer in writing within thirty calendar days of the conclusion of the hearing.

- (j) The regulatory action shall be suspended while an appeal is pending, or until the time for filing such an appeal has expired, except for regulatory action taken when the City Manager determines there is a need to take immediate action to protect the public from injury or harm or when the *Cannabis Outlet* Permit or the *Cannabis Production Facility* Permit was based on material misrepresentations in the application and the permit would not have been issued but for the material misrepresentations.

*(Retitled from “Cooperatives–Not-for-Profit” to “Cooperatives-Regulatory Actions on Permit” and amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)*

*(“Retitled from “Cooperatives–Regulatory Actions on Permit” to “Outlets–Regulatory Actions on Permit” and amended 2-22-2017 by O-20795 N.S.; effective 4-12-2017.)*

*(“Retitled from “Outlets–Regulatory Actions on Permit” to “Marijuana Outlets and Marijuana Production Facilities–Regulatory Actions on Permit” and amended 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Retitled from “Marijuana Outlets and Marijuana Production Facilities–Regulatory Actions on Permit” to Cannabis Outlets and Cannabis Production Facilities–Regulatory Actions on Permit” and amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*

#### **§42.1510 Transportation**

The transportation of *cannabis* and *cannabis* products between facilities licensed by the State of California pursuant to Business and Professions Code, Division 10, is permitted.

*(“Transportation” added 10-17-2017 by O-20858 N.S.; effective 11-16-2017.)*

*(Amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)*