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ORDINANCE NO. O-17-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COLTON, CALIFORNIA, AMENDING CHAPTER 5.54 COMMERCIAL CANNABIS BUSINESSES OF THE COLTON MUNICIPAL CODE

WHEREAS, the City of Colton, California, (“City”) is a municipal corporation, duly organized under the constitution and laws of the State of California;

WHEREAS, California Government Code section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, the City passed Ordinance No. 0-02-17 on March 21, 2017;

WHEREAS, the City desires to properly regulate all commercial cannabis cultivation activities in the City to protect the health, safety, and welfare of its citizens and to reduce the potential for negative secondary effects of establishing commercial cultivation in Colton;

WHEREAS, on November 8, 2016, California voters approved Proposition 64, titled the “Adult Use of Marijuana Act” (the “AUMA”) and enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical (“adult-use” or “recreational”) cannabis, including cannabis products, for use by adults twenty-one (21) years of age and older;

WHEREAS, on June 27, 2017, Governor Brown signed Senate Bill 94, the “Medicinal and Adult-Use Cannabis Regulation and Safety Act” (“SB 94” or the “MAUCRSA”). SB 94 creates one state regulatory structure for medical and adult-use commercial cannabis activities, reconciling AUMA, with the Compassionate Use Act of 1996 (Proposition 215) and MCRSA (collectively referred to as “the Act”). SB 94 provided that a state license will not be approved for a business to engage in Commercial Cannabis Activity if the business activity violates any local ordinance or regulation;

WHEREAS, in preparation for the implementation of MAUCRSA, in November 2017, the three State licensing authorities charged with licensing and regulating commercial cannabis activities in California, the Bureau of Cannabis Control (“BCC”), the California Department of

1 Food and Agriculture (“CDFA”), and the California Department of Public Health (“CDPH”),
2 commenced releasing emergency regulations, outlining the standards and licensing procedures
3 for both medicinal and adult-use commercial cannabis, and began issuing licenses for such
4 activities on January 1, 2018;

5 **WHEREAS**, on January 16, 2019, the Office of Administrative Law (OAL) officially
6 approved state regulations for cannabis businesses across the supply chain. These new cannabis
7 regulations took effect immediately; and

8 **WHEREAS**, in response to changes in state law, the City Council created a Prop. 64
9 Ad-hoc Committee (Ad-hoc Committee). The purpose of the Ad-hoc Committee is to explore
10 the potential for certain commercial cannabis activities in the City;

11 **WHEREAS**, on September 17, 2017, during a regular meeting of the City Council, the
12 Ad-hoc Committee recommended that the City Council direct staff to prepare the necessary
13 ordinance and program for the consideration of the Planning Commission and City Council, to
14 allow for the commercial cultivation, manufacturing, distribution and testing of cannabis within
15 limited areas in the City of Colton in accordance with the provisions of MAUCRSA and other
16 applicable state laws;

17 **WHEREAS**, on May 7, 2019, the City Council approved an ordinance amending
18 chapter 5.54 establishing permitting procedures for commercial cannabis cultivation,
19 manufacturing, distribution, and testing businesses and adopting a change of zone to apply for
20 cannabis candidate sites (“MCCS”); and

21 **WHEREAS**, on November 6, 2018, Colton residents approved Measure U. Measure U
22 is a cannabis business tax to allow the city to impose a tax on cannabis businesses of up to
23 twenty-five dollars (\$25.00) per square foot for cultivation/processing and up to ten (10) percent
24 of gross receipts for other businesses. Measure U would be a “general tax.” All revenues from
25 this tax would be deposited into the city’s general fund and could be used for general city
26 operations and services, including police enforcement, emergency response, parks, youth and
27 senior services and street repair.

28 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COLTON DOES**

1 ORDAIN AS FOLLOWS:

2 **SECTION 1.** Incorporation of Recitals. The above recitals are true and correct and are
3 incorporated herein by reference.

4 **SECTION 2.** Chapter 5.54 of the Colton Municipal Code is hereby repealed and replaced in
5 full by new Chapter 5.54 as follows:

6 **CHAPTER 5.54: COMMERCIAL CANNABIS BUSINESSES**

7 **Sec. 5.54.010 Purpose and Intent.**

8 **Sec. 5.54.020 Legal Authority.**

9 **Sec. 5.54.030 Commercial Cannabis Businesses Prohibited Unless Specifically**
10 **Authorized by this Chapter.**

11 **Sec. 5.54.040 Compliance with Laws.**

12 **Sec. 5.54.050 Definitions.**

13 **Sec. 5.54.060 Commercial Cannabis Permit: Authorized and Lawful Commercial**
14 **Cannabis Business.**

15 **Sec. 5.54.070 Commercial Cannabis Businesses Permitted only in Cannabis**
16 **Candidate Overlay Sites.**

17 **Sec. 5.54.080 Maximum Number and Type of Commercial Cannabis Businesses**
18 **Authorized; Application Process.**

19 **Sec. 5.54.090 Initial Commercial Cannabis Permit Application.**

20 **Sec. 5.54.100 Application Review, Scoring and Selection Process.**

21 **Sec. 5.54.110 Expiration of Commercial Cannabis Permits.**

22 **Sec. 5.54.120 Revocation of Permits.**

23 **Sec. 5.54.130 Renewal Applications.**

24 **Sec. 5.54.140 Effect of State License Suspension, Revocation, or Termination.**

25 **Sec. 5.54.150 Appeals.**

26 **Sec. 5.54.160 Commercial Cannabis Permit – Non-assignable and**
27 **Nontransferable.**

28 **Sec. 5.54.170 Change in Location of Commercial Cannabis Business.**

- 1 **Sec. 5.54.180 Changes in Ownership of Commercial Cannabis Business.**
- 2 **Sec. 5.54.190 Change in Ownership when the Permittee is a Partnership or**
- 3 **Corporation.**
- 4 **Sec. 5.54.200 Changes in Name Only.**
- 5 **Sec. 5.54.210 Alterations to Approved Facility.**
- 6 **Sec. 5.54.220 City Business License.**
- 7 **Sec. 5.54.230 Permits and Inspections Prior to Commencing Operations.**
- 8 **Sec. 5.54.240 Indemnification and Limitations on City’s Liability.**
- 9 **Sec. 5.54.250 Records and Recordkeeping.**
- 10 **Sec. 5.54.260 Restriction on Alcohol and Tobacco Sales, Dispensing or**
- 11 **Consumption.**
- 12 **Sec. 5.54.270 Fees and Charges.**
- 13 **Sec. 5.54.280 Operating Requirements Applicable to all Commercial Cannabis**
- 14 **Businesses.**
- 15 **Sec. 5.54.290 Additional Operating Requirements for Cultivation Facilities**
- 16 **Sec. 5.54.300 Additional Operating Requirements for Cannabis Manufacturing**
- 17 **Businesses**
- 18 **Sec. 5.54.310 Additional Operating Requirements for Cannabis Distribution**
- 19 **Sec. 5.54.320 Additional Operating Requirements for Cannabis Testing**
- 20 **Sec. 5.54.325 Additional Operating Requirements for Delivery Services**
- 21
- 22 **Sec. 5.54.326 Permissible Delivery Locations and Customers**
- 23 **Sec. 5.54.330 Personal Cultivation of Cannabis**
- 24 **Sec. 5.54.340 Promulgation of Regulations, Standards and Other Legal Duties.**
- 25 **Sec. 5.54.350 Fees Deemed Debt to City.**
- 26 **Sec. 5.54.360 Responsibility for Violations.**
- 27 **Sec. 5.54.370 Inspections.**
- 28 **Sec. 5.54.380 Violations and Penalties.**

1 **Sec. 5.54.390 Effect on Other Ordinances.**

2 **Sec. 5.54.400 Retaliation/Whistleblower Protection.**

3 **Sec. 5.54.410 Revolving Door Prohibition.**

4 **Sec. 5.54.420 Process Integrity Provision**

5 **Sec. 5.54.010 Purpose and Intent.**

6 It is the purpose and intent of this Chapter to implement the provisions of the Medicinal
7 and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”) to accommodate the needs
8 of medically-ill persons and provide access to cannabis for medicinal purposes as recommended
9 by their health care provider(s), and to provide access to adult-use of cannabis for persons over
10 the age of 21 as authorized by the Control, Tax & Regulate the Adult Use of Marijuana Act
11 (“AUMA” or “Proposition 64” passed by California voters in 2016), while imposing reasonable
12 regulations on the use of land to protect the City’s residents, neighborhoods, and businesses
13 from disproportionately negative impacts. As such, it is the purpose and intent of this Chapter to
14 regulate the cultivation, processing, manufacturing, testing, distribution and transportation of
15 medicinal and adult-use cannabis and cannabis products in a responsible manner to protect the
16 health, safety, and welfare of the residents of Colton and to enforce rules and regulations
17 consistent with state law.

18 It is the further purpose and intent of this Chapter to require all commercial cannabis
19 businesses operating in the City to obtain and renew annually a Commercial Cannabis Permit to
20 operate within Colton and an annual City of Colton Business License.

21 Nothing in this Chapter is intended to authorize the possession, use, or provision of
22 cannabis for purposes that violate state or federal law. The provisions of this Chapter are in
23 addition to any other permits, licenses and approvals which may be required to conduct
24 business in the City, and are in addition to any permits, licenses and approval required under
25 state, county, or other law.

26 **Sec. 5.54.020 Legal Authority.**

27 Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions
28

1 of MAUCRSA, any subsequent state legislation and regulations regarding same, the City of
2 Colton is authorized to adopt ordinances that establish standards, requirements and regulations
3 for the licensing and permitting of commercial medicinal and adult-use cannabis activity. Any
4 standards, requirements, and regulations regarding health and safety, security, and worker
5 protections established by the State of California, or any of its departments or divisions, shall be
6 the minimum standards applicable in the City of Colton to all Commercial Cannabis Activity.

7 **Sec. 5.54.030 Commercial Cannabis Businesses Prohibited Unless Specifically Authorized**
8 **by this Chapter.**

9 Except as specifically authorized in this Chapter, commercial cultivation, manufacture,
10 processing, storing, laboratory testing, labeling, retail, distribution or transportation (other than
11 as provided under California Business & Professions Code section 26090(e)), of cannabis or
12 cannabis products is expressly prohibited.

13 **Sec. 5.54.040 Compliance with Laws.**

14 Nothing in this Chapter shall be construed as authorizing any actions that violate federal,
15 state law or local law with respect to engaging in, or in the operation of, a commercial cannabis
16 business. Nor shall this Chapter be construed as amending existing prohibitions on smoking
17 tobacco or cannabis in public buildings and parks. It shall be the responsibility of the
18 Permittees and Responsible Persons of a commercial cannabis business to ensure that a
19 commercial cannabis business is, at all times, operating in a manner compliant with all
20 applicable federal, state and local laws, including for as long as applicable, all state cannabis
21 laws, any subsequently enacted state law or regulatory, licensing, or certification standards or
22 requirements, and any specific, additional operating procedures or requirements which may be
23 imposed as conditions of approval of a required license or permit.

24 **Sec. 5.54.050 Definitions.**

25 When used in this Chapter, the following words shall have the meanings ascribed to
26 them as set forth herein. Any reference to California statutes includes any regulations
27 promulgated thereunder, and is deemed to include any successor or amended version of the
28 referenced statute or regulatory provision.

1 “A-License” is a license issued by the State of California under MAUCRSA for
2 cannabis or cannabis products that are intended for adults 21 years of age and over and who do
3 not possess physician’s recommendations.

4 “Applicant” shall include any individual or entity applying for a permit under this
5 Chapter, and including any officer, director, partner, or other duly authorized representative
6 applying on behalf of an entity.

7 “Business License” is the license issued by the City’s Business License Division after
8 payment of the business tax as set forth in Division 1 of Article VIII of Chapter 50 of the City
9 of Colton City Code.

10 “Bureau” means the Bureau of Cannabis Control within the Department of Consumer
11 Affairs, and shall have the same meaning as in Section 26001(e) of the Business and
12 Professions Code, as same may be amended from time to time.

13 “Indoor” in relation to commercial cannabis cultivation uses, refers to industrial uses
14 within industrial zones, where all commercial cannabis cultivation uses are required to take
15 place within fully enclosed structure with solid walls and solid roof.

16 “Cannabis” means all parts of the Cannabis sativa Linnaeus, Cannabis indica, or
17 Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or
18 purified, extracted from any part of the plant; and every compound, manufacture, salt,
19 derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the
20 separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include
21 the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of
22 the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the
23 mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of
24 the plant which is incapable of germination. For the purpose of this Chapter, “cannabis” does
25 not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety
26 Code. Cannabis shall also have the same meaning as in Section 26001(f) of the Business and
27 Professions Code, as same may be amended from time to time.

28 “Cannabis Accessories” means any equipment, products or materials of any kind which are

1 used, intended for use, or designed for use in planting, propagating, cultivating, growing,
2 harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing,
3 analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for
4 ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.
5 Cannabis accessories shall also have the same meaning as in Section 11018.2 of the Health and
6 Safety Code, as same may be amended from time to time.

7 “Cannabis Products” means cannabis that has undergone a process whereby the plant
8 material has been transformed into a concentrate, including but not limited to concentrated
9 cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other
10 ingredients. Cannabis concentrate is not considered food, as defined by Section 109935 of the
11 Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.
12 Cannabis products shall also have the same meaning as in Section 11018.1 of the Health and
13 Safety Code, as same may be amended from time to time.

14 “Canopy” means all areas occupied by any portion of a cannabis plant, inclusive of all
15 vertical planes, whether contiguous or noncontiguous on any one site.

16 “Caregiver” or “Primary Caregiver” has the same meaning as that term is defined in
17 Section 11362.7 of the California Health and Safety Code.

18 “City” shall mean the City of Colton, California.

19 “City Manager” shall mean the City Manager of the City, including his or her designee.

20 “Code” shall mean the City of Colton City Code.

21 “Commercial Cannabis Activity” includes the cultivation, possession, manufacture,
22 distribution, processing, storing, laboratory testing, packaging, labeling, or transportation of
23 cannabis and cannabis products as provided for in MAUCRSA. Commercial cannabis activity
24 shall also have the same meaning as in Section 26001(k) of the Business and Professions Code,
25 as same may be amended from time to time.

26 “Commercial cannabis business” means any business or operation which engages in
27 medicinal or adult-use Commercial Cannabis Activity.

28 “Commercial Cannabis Permit” means the regulatory permit issued by the City to a

1 commercial cannabis business, which is required before any Commercial Cannabis Activity
2 may be conducted in the City, pursuant to this Chapter.

3 “Cultivation” is any activity involving the planting, growing, harvesting, drying, curing,
4 grading, or trimming of cannabis. Cultivation shall also have the same meaning as in Section
5 26001(l) of the Business and Professions Code, as same may be amended from time to time.
6 Whenever references to cultivation are made in this Chapter, permitted or licensed cultivation
7 shall only be indoors, as outdoor cultivation is expressly prohibited.

8 “Cultivation Site” means a location where cannabis is planted, grown, harvested, dried,
9 cured, graded, or trimmed, or a location where any combination of those activities occurs.
10 Cultivation site shall also have the same meaning as in Section 26001(m) of the Business and
11 Professions Code, as same may be amended from time to time. Whenever references to a
12 cultivation site are made in this Chapter, a permitted or licensed cultivation site shall only allow
13 cultivation activities indoors, as outdoor cultivation is expressly prohibited.

14 “Day Care Center” has the same meaning as in Section 1596.76 of the Health and Safety
15 Code, as same may be amended from time to time.

16 “Distribution” means the procurement, sale, and transport of cannabis and cannabis
17 products between licensees. Distribution shall also have the same meaning as in Section
18 26001(r) of the Business and Professions Code, as same may be amended from time to time.

19 “Distributor” means a person holding a valid Commercial Cannabis Permit for
20 distribution issued by the City and a valid state license for distribution, required by state law to
21 engage in the business of purchasing cannabis from a licensed cultivator or cannabis products
22 from a licensed manufacturer, for sale to a licensed retailer.

23 “Edible Cannabis Product” means a cannabis product that is intended to be used, in
24 whole or in part, for human consumption, and is not considered food. Edible cannabis product
25 has the same meaning as Business and Professions Code section 26001.

26 “Fire Chief” shall mean the Colton Fire Department Fire Chief, or his or her designee.

27 “Greenhouse” means a permanent, enclosed structure not constructed of fabric,
28 lightweight metal, or plastic employed for cultivation of cannabis that provides access to natural

1 light.

2 “Law enforcement agency” refers to the agency charged with enforcing the pertinent
3 laws in the City. The law enforcement agency for the City shall be the Colton Police
4 Department. Unless the provisions of the context otherwise require, whenever any provision of
5 this Code makes reference to the law enforcement agency of the City, such shall be construed to
6 mean, and deemed to constitute, that person holding the office of Chief of Police for the City
7 and his or her authorized deputies or officers, performing law enforcement functions for the
8 City.

9 “Law enforcement officer” means any law enforcement officer of the City’s law
10 enforcement agency, or deputy of the Colton Police Department, authorized to enforce the
11 City’s laws, including those contained in this Chapter.

12 “License or State License” means a license issued by the State of California, or one of
13 its departments or divisions, under MAUCRSA, and any subsequent State of California
14 legislation regarding the same, to lawfully engage in Commercial Cannabis Activity.

15 “Licensee” means any person holding a license issued by the State of California to
16 conduct commercial cannabis business activities.

17 “Live plants” means living cannabis flowers and plants including seeds, immature
18 plants, and vegetative stage plants.

19 “Manager” means any person(s) designated by the commercial cannabis business to act
20 as the representative or agent of the commercial cannabis business in managing day-to-day
21 operations with corresponding liabilities and responsibilities, or the person in apparent charge
22 of the premises where the commercial cannabis business is located. Evidence of management
23 includes, but is not limited to, evidence that the individual has the power to direct, supervise, or
24 hire and dismiss employees, controls hours of operations, creates policy rules, or purchases
25 supplies.

26 “M-license” means a license issued by the state of California under MAUCRSA for
27 Commercial Cannabis Activity involving medicinal cannabis.

28 “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare

1 a cannabis product. Manufacture shall also have the same meaning as in Section 26001(ag) of
2 the Business and Professions Code, as same may be amended from time to time.

3 “Manufactured cannabis” means raw cannabis that has undergone a process whereby the
4 raw agricultural product has been transformed into a concentrate, extraction or other
5 manufactured product intended for internal consumption through inhalation or oral ingestion or
6 for topical application.

7 “Manufacturer” means a licensee that conducts the production, preparation, propagation,
8 or compounding of cannabis or cannabis products either directly or indirectly or by extraction
9 methods, or independently by means of chemical synthesis, or by a combination of extraction
10 and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis
11 products or labels or re-labels its container. A manufacturer may also be a person that infuses
12 cannabis in its products but does not perform its own extraction. Manufacturer shall also have
13 the same meaning as in Section 26001(ah) of the Business and Professions Code, as same may
14 be amended from time to time.

15 “Manufacturing site” means a location that produces, prepares, propagates, or
16 compounds cannabis or cannabis products, directly or indirectly, by extraction methods,
17 independently by means of chemical synthesis, or by a combination of extraction and chemical
18 synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels
19 or re-labels its container, and is owned and operated by a person issued a valid Commercial
20 Cannabis Permit for manufacturing from the City and, a valid state license as required for
21 manufacturing of cannabis products.

22 “Medicinal cannabis or medicinal cannabis product” refers to cannabis or a cannabis
23 product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of
24 1996 (Proposition 215) or the Medical Cannabis Program Act of 2003, found at Sections
25 11362.5 and 11362.71 et seq. of the Health and Safety Code, by a medicinal cannabis patient in
26 California who possesses a valid and current identification card issued by a California licensed
27 physician’s recommendation.

28 “Microbusiness” means licensees who engage in these three (3) following commercial

1 cannabis activities: indoor cultivation of less than 10,000 square feet, manufacturing (level 1,
2 type 6), and distribution, as defined within this Chapter.

3 “Neighborhood Compatibility” reflects the plans of the commercial cannabis business to
4 take specific actions to avoid becoming a nuisance, due to odor, loitering, excessive light at
5 night, and the degree of diligence with which the business will maintain a clean property (this
6 includes both waste disposal and general maintenance).

7 “Operation” means any act for which a license is required under the provisions of the
8 Act, or any commercial transfer of cannabis or cannabis products. Operation shall also have the
9 same meaning as in Section 26001(ak) of the Business and Professions Code, as same may be
10 amended from time to time.

11 “Owner” means any of the following, or a group or combination of any of the following
12 acting as a unit:

- 13 (1) A person with an aggregate ownership interest of 10 percent or more in the
14 person applying for a City Commercial Cannabis Permit, whether a partner,
15 shareholder, principal, member, or the like, unless the interest is solely a
16 security, lien, or encumbrance.
- 17 (2) The chief executive officer of a nonprofit or other entity.
- 18 (3) A member of the board of directors of a nonprofit.
- 19 (4) An individual who will be participating in the direction, control, or management
20 of the person applying for a City Commercial Cannabis Permit.

21 “Patient or qualified patient” means the same definition as California Health and Safety
22 Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled
23 to the protections of California Health & Safety Code Section 11362.5.

24 “Permittee” means any person to whom a current and valid City-issued commercial
25 Cannabis Business Permit has been issued.

26 “Person” means any individual, firm, partnership, joint venture, association, corporation,
27 limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or
28 combination acting as a unit or entity, and the plural as well as the singular.

“Premises” means the designated structure or structures and land specified in the

1 application that is owned, leased, or otherwise held under the control of the applicant where the
2 commercial cannabis business will be or is conducted. The premises shall be a contiguous area
3 and shall only be occupied by one Permittee.

4 “Purchaser” means the customer who is engaged in a transaction with a Permittee for
5 purposes of obtaining cannabis or cannabis products.

6 “Regulations” means those regulations prescribed and issued by the State of California,
7 through its respective departments and/or divisions, pursuant to Section 26013 of the Business
8 and Professions Code, including those regulations as found in the California Code of
9 Regulations (including, Title 3, Division 8; Title 16, Division 42; and Title 17, Division 1), as
10 same may be amended from time to time, to implement, interpret, administer and enforce the
11 Act, and providing licensing and enforcement criteria for commercial cannabis activities and
12 businesses.

13 “Responsible Person” means all owners and operators of a commercial cannabis
14 business, including the Permittee and all officers, directors, managers, or partners, and all
15 persons with authority, including apparent authority, over the premises of the commercial
16 cannabis business.

17 “Sell,” “sale,” or “to sell” includes any transaction whereby, for any consideration or
18 gross receipt, whether actual or intangible, title to cannabis or cannabis products are transferred
19 from one person to another, and includes the delivery of cannabis or cannabis products pursuant
20 to an order placed for the purchase of the same and soliciting or receiving an order for the same,
21 but does not include the return of cannabis or cannabis products by a Customer to the Licensee
22 from whom the cannabis or cannabis product was purchased.

23 “State law” means all laws of the State of California, which includes, but are not limited
24 to, all rules, regulations, and policies adopted by State of California agencies, departments,
25 divisions, and regulatory entities, as same may be amended from time to time.

26 “Testing Laboratory” means a laboratory, facility, or entity in the state that offers or
27 performs tests of cannabis or cannabis products and that is both of the following:
28

1 (1) Accredited by an accrediting body that is independent from all other persons
2 involved in Commercial Cannabis Activity in the state.

3 (2) Licensed by the State of California.

4 Testing laboratory shall also have the same meaning as in Section 26001(at) of the Business and
5 Professions Code, as same may be amended from time to time.

6 “Topical Cannabis” means a product intended for external application and/or absorption
7 through the skin. A topical cannabis product is not considered a drug as defined by Section
8 109925 of the California Health and Safety Code.

9 “Transport” means the transfer of cannabis products from the permitted business
10 location of one licensee to the permitted business location of another licensee, for the purposes
11 of conducting Commercial Cannabis Activity authorized by law and which may be amended or
12 repealed by any subsequent State of California legislation regarding the same.

13 “Youth and Recreation Center” means any public or private facility that is primarily
14 used to host recreation or social activities for minors, including, but not limited to, private youth
15 membership organizations or clubs, social service teenage club facilities, video arcades where
16 10 or more video games or game machines or devices are operated, and where minors are
17 legally permitted to conduct business, or similar amusement park facilities. It shall also include
18 a park, playground or recreational area specifically designed to be used by children which has
19 play equipment installed, including public grounds designed for athletic activities such as
baseball, softball, soccer, or basketball or any similar facility located on a public or private
school grounds, or on city, county or state parks. Parks with organized youth-oriented programs
are also youth and recreation centers for purposes of this Chapter. This definition shall not
include any private martial arts, yoga, ballet, music or similar studio of this nature nor shall it
include any private athletic training facility or pizza parlor, dentist office or doctor’s office
primarily serving children.

20 **Sec. 5.54.060 Commercial Cannabis Permit Required to Engage in Commercial Cannabis**
21 **Business.**

22 (a) No person may engage in any commercial cannabis business or in any Commercial
23 Cannabis Activity within the City unless the person (a) has a valid Commercial Cannabis
24 Permit from the City, (b) has a valid State of California Seller’s Permit, and (c) is in compliance
25 with all applicable state and local laws and regulations pertaining to the commercial cannabis
26 business and commercial cannabis activities, including the duty to obtain any required state
licenses, business license obtained and all taxes paid and all other applicable laws including
without limitation zoning and fire codes.

27 (b) The classification and type of commercial cannabis businesses allowed for by this
28 Chapter are the indoor cultivation, manufacturing, testing, distribution, a microbusiness of

1 medicinal and adult-use cannabis and cannabis products, and the ancillary transportation and
2 out of town deliver services of cannabis or cannabis products.

3 (c) In addition to all other applicable zoning regulations and the requirements of all
4 required state and local permits, no Commercial Cannabis Permit will be valid if the proposed
5 commercial cannabis business is located within a 600-foot radius of a school providing
6 instruction in kindergarten or any grades one through twelve, a day care center, or a youth and
7 recreation center with primary youth and recreation center activities, which is in lawful
8 existence at the time a successful application was submitted to the City.

9
10 **Sec. 5.54.070 Commercial Cannabis Businesses Permitted only in Cannabis Candidate
11 Overlay Sites.**

12 Commercial Cannabis Businesses shall only be permitted to operate within Cannabis
13 Candidate Overlay Sites as described in Chapter 18.06.060.

14 **Sec. 5.54.080 Maximum Number and Type of Commercial Cannabis Businesses
15 Authorized; Application Process.**

16 (a) The City Council, by resolution, may determine the maximum number of
17 commercial cannabis businesses by category that may be permitted to operate in the City. In its
18 discretion, the City Council may increase or decrease the maximum number of permits that may
19 be issued in any category of Commercial Cannabis Activity. This section is only intended to
20 establish the procedure to set the maximum number of commercial cannabis businesses that
21 may be issued permits to operate in the City under each category of commercial cannabis
22 activities. Nothing in this Chapter requires that the City authorize any or all of the commercial
23 cannabis businesses that submit an application to the City.

24 (b) The process for issuing Commercial Cannabis Permits to qualified cannabis
25 businesses is meant to result in qualified businesses that will operate in accordance with state
26 and local law, be successful, contribute positively to the community and local economy, and
27 avoid secondary adverse impacts. Toward that objective, the application process includes these
28 three phases:

29 (1) PHASE ONE: Application submittal

30 This includes submitting complete information, obtaining a zoning clearance to
31 verify the proposed location is permissible, completed Livescan and background
32 check information (state and federal database), and processing fees.

33 (2) PHASE TWO: Initial scoring of application

34 (3) PHASE THREE: Selection Committee Interview, final ranking and permit
35 issuance.

1 **Sec. 5.54.090 Initial Commercial Cannabis Permit Application and Scoring**

2 (a) The City Manager may establish additional submittal requirements for an application
3 for a Commercial Cannabis Permit. The following information shall be included in any
4 application for a Commercial Cannabis Permit:

- 5 (1) Name of Applicant
- 6 (2) Business Trade Name (if applicable) of the applicant
- 7 (3) Identification of Owner(s) (full name, primary phone number, social security
8 number or individual taxpayer identification number, date and place of birth,
9 email address, and mailing address for the primary owner submitting the
10 Application)
- 11 (4) For each person that is an “owner” of the applicant,
 - 12 a. Percentage of interest held in the applicant entity by the owner;
 - 13 b. Whether the owner has an ownership or financial interest, as defined in
14 section 6003 of the Bureau of Cannabis Control Regulations, in any other
15 commercial cannabis business licensed under the AUMA or MAUCRSA;
 - 16 c. A copy of the owner’s government-issued identification, acceptable forms
17 are a document issued by a federal, state, county, or municipal government
18 that includes the name, date of birth, physical description, and picture of the
19 owner, such as a driver’s license;
 - 20 d. A detailed description of the owner’s criminal convictions, if applicable. A
21 conviction for this purpose means a plea or guilty verdict of guilty or a
22 conviction following a plea of nolo contendere. Convictions dismissed under
23 Penal Code section 1203.4 or equivalent non-California law must be
24 disclosed. Convictions dismissed under Health & Safety Code section
25 11361.8 or equivalent non-California law must be disclosed. Juvenile
26 Adjudications and traffic infractions under \$300 that did not involve alcohol,
27 dangerous drugs, or controlled substances do not need to be included. For
28 each conviction, provide: (1) the date of conviction; (2) dates of
incarceration, if applicable; (3) dates of probation, if applicable; (4) dates of
parole, if applicable; (5) a detailed description of the offense for which the
owner was convicted; and (6) a statement of rehabilitation for each
conviction written by the owner that demonstrates the owner’s fitness for
consideration;
 - e. If applicable, a detailed description of a commercial cannabis license,
revocation of a commercial cannabis license, or sanctions for unlicensed
Commercial Cannabis Activity by a licensing authority or local agency
against the applicant or a business entity in which the applicant was an owner
or officer within the three (3) years immediately preceding the date of the
application;

1 f. If applicable, a detailed description if the City issued the applicant a notice or
2 citation for unlicensed Commercial Cannabis Activity, or if the applicant was
3 a defendant in a civil or criminal proceeding filed by the City or the People
4 of the State of California, for allowing, causing, or permitting unlicensed
5 commercial cannabis activities within the City’s jurisdiction;

6 g. An attestation of each owner as follows: “Under penalty of perjury, I hereby
7 declare that the information contained within and submitted with the
8 application is complete, true, and accurate. I understand that a
9 misrepresentation of fact or omission may be cause for rejection or denial of
10 this application, or revocation of any Commercial Cannabis Permit or any
11 permit, license or approval issued in reliance thereon.”

12 (5) Primary Contact: The contact information for the applicant’s designated primary
13 contact person, including the name, title, phone number, and email address of
14 said individual.

15 (6) Nature of Operations: Identification of whether the applicant seeks to operate a
16 cannabis cultivation site, manufacturing site, testing laboratory, distribution site,
17 or microbusiness non-retail facility; the specific State license category under
18 which the applicant will seek to operate; and the number of employees
19 anticipated.

20 (7) Qualifications and Experience of Applicants and Owners: The application shall
21 include information concerning any special business or professional
22 qualifications or licenses of the applicants and owners, and the years of relevant
23 and related experience, that would add to the number or quality of services that
24 facility would provide, or otherwise demonstrates the applicants’ and owners’
25 capacity to operate a successful commercial cannabis facility in compliance with
26 applicable laws and regulations.

27 (8) Disclosure of Lobbying Activity: If applicant contracted, employed or in any
28 manner paid or will pay any person for influencing or attempting to influence an
elected official, appointed official or any employee of the City, shall fully
disclose the name of individuals and organization(s) performing lobbying
services.

(9) The physical address of the proposed location, as well as the San Bernardino
County Assessor Parcel Number and property owner’s consent.

a. Evidence of the applicant’s right to use and occupy the property. If owned by
applicant, a grant deed or a copy of title for the property. If not owned by
applicant, a document from the landowner or the landowner’s agent stating
the applicant has the right to occupy the property and acknowledges that the
applicant may use the property to potentially conduct a commercial cannabis
business for which the applicant is applying, plus any lease agreement.

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- b. A complete and detailed diagram, such as a site plan, of the premises, as well as a map showing the premises' location within the City, which comply with the following:
 - 1. Shows the boundaries of the property and the proposed premises to be utilized, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, bathrooms, windows, doorways, and common or common shared entryways, and a brief statement of the principal activity to be conducted therein;
 - 2. Map identifying any schools (K-12), day care, or youth and recreation center facilities and any commercial cannabis business located within 600 feet of the property lines of the proposed location. If the proposed location is not within 600 feet of any such uses, identify on the map the closest such use, and the distance in feet between that use and the property line of the proposed location;
 - c. Identifies all commercial cannabis activities that will take place in each area of the premises, and identification of limited access areas;
 - d. The location of all proposed security cameras with a number assigned to each for identification purposes;
 - e. The diagram shall be clear, legible, and to scale, and shall not include any highlighting, and the markings on the diagram shall be in blue-and-white print; and
 - f. If the proposed premises include only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remainder will be used for.
- (10) Description of Operating Procedures: Applications shall include a detailed description of the applicant's proposed operating procedures for each commercial cannabis activity, including an explanation for how the business will comply with the operating regulations of this Code and state law. The application must include copies of any applicable policies or manuals of the applicant and address each of the following, if applicable:
- a. Transportation Procedures: A description of the procedure for transporting cannabis and cannabis products, including whether or not the applicant will be transporting cannabis or cannabis products or contracting for transportation services.
 - b. Inventory Procedures:
 - 1. A description of the applicant's procedure for receiving shipments of inventory;

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- 2. Where the applicant’s inventory will be stored on the premises and how records of the inventory will be maintained; and
- 3. Procedure for performing inventory reconciliation and for ensuring that inventory records are accurate.

c. Non-Laboratory Quality Control Procedures:

- 1. Procedures for preventing the deterioration of cannabis or cannabis products held by the applicant;
- 2. Procedures for ensuring that cannabis and cannabis products are properly packaged and labeled; and
- 3. Procedure for ensuring that an independent licensed testing laboratory samples and analyzes cannabis and cannabis products held by the applicant.

d. Security Procedures: All applicants shall propose sufficient security measures to deter and prevent the unauthorized access or entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis business. Except as may otherwise be determined by the City Manager or his/her designee, security procedures shall include, but shall not be limited to, all of the following:

- 1. Preventing individuals from remaining on the premises of the commercial cannabis business if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis business.
- 2. Establishing limited access areas accessible only to authorized commercial cannabis business personnel.
- 3. Except for live growing plants which are being cultivated at a cultivation operation, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

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- 4. Arranging for professional installation of a 24-hour security surveillance cameras (CCTV) of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur. All cameras shall record in color. Procedures for how the applicant will ensure that the security surveillance camera's footage is remotely accessible to law enforcement, and that it is compatible with the City's software and hardware. In addition, procedures on how remote and real-time, live access to the video footage from the cameras will be provided to law enforcement. Procedures for ensuring video recordings are maintained for a minimum of ninety (90) calendar days, and procedures to make them available to law enforcement upon request. Procedures to ensure video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis business. In addition to surveillance cameras, each commercial cannabis business shall have access control and intrusion detection alarm systems designed to protect the inventory, facility, and employees. Each business shall have network security protocols that are certified by Underwriters Laboratories.
- 5. A description of where sensors will be installed to detect entry and exit from all secure areas. These sensors shall be monitored in real-time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- 6. Each commercial cannabis business shall arrange for professional installation of panic buttons in the premises, with immediate notification to the Colton Police Department dispatch.
- 7. Each commercial cannabis business shall have a professionally installed, maintained, and monitored alarm system, with the required City alarm permit as required by this Colton City Code Section 9.30, et seq. that is monitored in real-time by a security company licensed by the State of California Bureau of Security and Investigative Services.
- 8. A description of the physical security features and improvements that will be installed within the interior of the building, and in full compliance with all applicable Building and Safety and Fire Code requirements (Use of wrought iron on any interior or exterior door, window or opening is prohibited) and any applicable zoning requirements.
- 9. Procedures for establishing a plan to have security personnel on-site 24 hours a day, or alternative security as authorized by the Colton Police Department. Description or documentation showing that the proposed security personnel are licensed by the State of California Bureau of

1 Security and Investigative Services. The security personnel shall be
2 subject to prior review and approval by the Chief of Police or his/her
3 designee, with such approval not to be unreasonably withheld. Firearms
4 may be carried by security personnel while on duty if authorized by the
5 Chief of Police. The commercial cannabis business shall submit to the
6 City and the Police Department the names and contact information of
7 security personnel, with copies of state-issued licenses and/or permits,
8 governmentally issued identification form, and photographs of uniforms
9 and badges. Acknowledgement from applicant indicating that it shall be
10 responsible for providing this confirming information to law
11 enforcement, with updating information within seven (7) calendar days of
12 a change in security personnel, agents, or representatives.

- 13 10. Procedures on how each applicant shall have the capability to remain
14 secure during a power outage and ensure that all access doors are not
15 solely controlled by an electronic access panel to ensure that locks are not
16 released during a power outage.
- 17 11. Entrance areas are to be locked at all times and under the control of a
18 designated responsible party that is either: (a) an employee of the
19 commercial cannabis business; or (b) a licensed security professional.
- 20 12. Identification of a designated security representative/liaison to the City,
21 who shall be reasonably available to meet with City staff, as well as law
22 enforcement regarding any security related measures and/or operational
23 issues.
- 24 13. A storage and transportation plan, describing in detail the procedures for
25 safely and securely storing and transporting all cannabis, cannabis
26 products, (including the use of child-safe cannabis containers) and any
27 currency.
- 28 14. Each commercial cannabis business shall have an accounting software
system in place to provide point of sale data as well as audit trails or both
product and cash, where applicable.
15. An affirmative commitment that the applicant will cooperate with the
City whenever the City Manager, or his or her designee, makes a request,
upon reasonable notice, to inspect or audit the effectiveness of any security
plan or of any other requirement of this subsection.
16. A description and plan of how the applicant will notify the Police
Department within 24 hours after discovering any of the following:

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- a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by law enforcement.
- b. Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
- c. The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the commercial cannabis business.
- d. Any other breach of security.
- e. Testing Laboratories (only): For applicants seeking to operate a testing laboratory, describe operating procedures as required by the applicable state law and regulations, with references to the applicable state law or regulation requiring same.

17. Each commercial cannabis business shall demonstrate to the Chief of Police, City Manager, or their designee, compliance with the state's track and trace system for cannabis and cannabis products, as soon as it is operational.

(11) For applicants with twenty (20) or more employees, the applicant shall attest that the applicant will enter into a labor peace agreement and will abide by the terms of the agreement, and the applicant shall provide a copy thereof to the City. The Labor Peace Agreement shall include the following provisions: (1) Prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business; (2) Applicant agrees not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees; (3) The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(12) Seller's Permit: The applicant shall provide a valid seller's permit number issued by the California Department of Tax and Fee Administration, if applicable. If the applicant has not yet received a seller's permit, the applicant shall attest that the applicant is or will before commencing operations, apply for a seller's permit.

1 (13) Indemnification Agreement: To the fullest extent permitted by local, state
2 and/or federal law, the City shall not assume any liability whatsoever with respect to
3 having issued a Commercial Cannabis Permit or otherwise approving the operation
4 of any commercial cannabis business. As a condition to the approval of any
5 Commercial Cannabis Permit, the applicant is to execute a separate Indemnification
6 Agreement prepared by the City that fully indemnifies the City for all liabilities
7 associated with the Commercial Cannabis Permit, the Commercial Cannabis
8 Permittee's Commercial Cannabis Activities, and any action taken by the Cannabis
9 Permittee. The Indemnification Agreement shall include the defense of the City and
10 reimbursement of all fees, costs and expenses incurred by the City related to any
11 action arising from the Agreement.

12 (14) Payment of Application Fee: Each applicant shall pay the applicable fee(s)
13 pursuant to this Chapter.

14 (b) Background Check. Pursuant to California Penal Code Sections 11105(b)(11) and
15 13300(b)(11), which authorizes City authorities to access state and local summary criminal
16 history information for employment, licensing, or certification purposes; and authorizes access
17 to federal level criminal history information by transmitting fingerprint images and related
18 information to the Department of Justice to be transmitted to the Federal Bureau of
19 Investigation, ~~every applicant~~ every person listed as an owner, manager, supervisor, employee,
20 contract employee or who otherwise works in a commercial cannabis business must submit
21 fingerprints and other information deemed necessary by the Colton Police Department, or the
22 City's law enforcement agency, for a background check. No person shall be issued a permit to
23 operate a commercial cannabis business unless they have first cleared the background check, as
24 determined by the City, the Colton Police Department. A fee for the cost of the background
25 investigation, which shall be the actual cost to the City to conduct the background investigation,
26 as it deems necessary and appropriate, shall be paid at the time the application for a
27 Commercial Cannabis Permit is submitted.

28 (c) The City Manager may adopt any procedure(s) to supplement the initial application
process. The City Manager is authorized to prepare the necessary applications, forms, adopt any
necessary rules to the application, regulations and processes, and solicit applications.

(d) Any Applicant whose 'ownership' includes a person with a past plea or verdict of
guilty or a conviction following a plea of nolo contendere for operating a non-licensed cannabis
business shall be disqualified from receiving a Commercial Cannabis Permit.

Sec. 5.54.095 Evidence of Cannabis Employee Background Check Required.

(a) Any person who is an employee or who otherwise works within a commercial
cannabis business must be legally authorized to do so under applicable state law.

(b) Commercial cannabis business owners and operators shall be required to provide
the Chief of Police with evidence of the completion of a criminal background
check for all persons in their employ.

(c) The criminal background checks completed by commercial cannabis business
employers must at a minimum identify the following:

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- 1) Whether the individual applying for employment has ever been convicted of a violent felony as defined by California Penal Code 667.5, or equivalent offenses in other states;
 - 2) Whether the individual applying for employment has ever been convicted of a crime involving dishonesty, fraud or deceit, including but not limited to fraud, forgery, theft, or embezzlement as those offenses are defined in California Penal Code Sections 186.11, 470, 484, and 504a, respectively; or equivalent offenses in other states; or
 - 3) Whether the individual applying for employment has ever been convicted of the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, not including cannabis-related offenses for which the conviction occurred after the passage of the Compassionate Use Act of 1996.
- (d) Evidence of a conviction of any the offenses enumerated in Section 5.54.095(c) shall be grounds for denial of employment. Employers who wish to hire an individual notwithstanding this rule shall apply to the Chief of Police, who at his/her sole discretion may issue a written waiver.
- (e) Violation of this section shall be grounds for immediate suspension of the business' operating permit, pending a hearing before the Community Development Director and the Chief of Police within 30 days for a final determination of the status of the permit.

Sec. 5.54.100 Application Review, Scoring, and Selection Process; Permit Issuance.

(a) Phase One. Once the City determines that a complete and timely initial application has been submitted, the application will be subjected to review and initial scoring. A total of 1000 points are available in the initial scoring (Phase Two).

(b) Phase Two. The initial review and scoring is done by the team of professionals assigned by the City Manager. The applications will be evaluated on the following criteria:

1. Business Plan (500 points)
 - a. Operations and financial pro forma (100 points)
 - b. Qualifications of principals (100 points)
 - c. Air Quality Plan, Environmental mitigation plan and benefits (200 points)
 - d. Local enterprise: Business owned or operated by a Colton resident (25 points)
 - e. Public benefits (75 points)
Community contributions and involvement
2. Safety and Security Plan (200 points)

1 **Sec. 5.54.120 Revocation of Permits.**

2 (a) The following are grounds for revocation of a Commercial Cannabis Permit:

- 3 (1) Failure of a permittee to comply with any requirement imposed by the provisions
4 of this Code, including but not limited to any rule, regulation, condition or
5 standard adopted pursuant to this Chapter, or any term or condition imposed on
6 the Commercial Cannabis Permit, or any provision of state law;
- 7 (2) Revocation of a state license held by a Responsible Person or permittee of a
8 Commercial Cannabis Permit issued by the City;
- 9 (3) If the Permittee, its owner(s), manager(s) or a Responsible Person, within the
10 past three years has been sentenced or had a judgment issued in a criminal or
11 civil court proceeding, or has been sanctioned or fined for, enjoined from, or
12 found guilty of or pled guilty or no contest to a charge for engaging in a
13 Commercial Cannabis Activity in the state without the necessary permits and
14 approvals from the applicable state or local jurisdictions;
- 15 (4) Conviction within the past 10 years of the Permittee, its owner(s) or manager(s),
16 or a Responsible Person, including a plea of guilty or no contest, to any the
17 following offenses shall be grounds for revocation of a Commercial Cannabis
18 Permit issued by the City:
- 19 a. A violent felony, as specified in Section 667.5(c) of the Penal Code.
 - 20 b. A serious felony, as specified in Section 1192.7(c) of the Penal Code.
 - 21 c. A felony involving fraud, deceit, or embezzlement.
 - 22 d. A felony for hiring, employing, or using a minor in transporting, carrying,
23 selling, giving away, preparing for sale, or peddling, any controlled
24 substance to a minor; or selling, offering to sell, furnishing, offering to
25 furnish, administering, or giving any controlled substance to a minor.
 - 26 e. A felony for drug trafficking with enhancements pursuant to Section 11370.4
27 or 11379.8 of the Health and Safety Code.
 - 28 f. A felony or misdemeanor involving the illegal possession for sale, sale,
manufacture, transportation, or cultivation of a controlled substance
occurring after January 1, 2016.

(b) If the City Manager determines that a ground for revocation of a Commercial Cannabis Permit exists, the City Manager shall serve written notice of revocation to the Permittee or Responsible Person. The notice may be served on the recipient either personally or by certified first class mail to the address listed on the application. The notice must state the grounds for revocation, the effective date of the decision, and that the permittee has a right to an evidentiary appeal hearing to challenge the revocation decision.

1 (c) The permittee may appeal a revocation decision within 15 days of the date of the
2 notice of revocation. To exercise the right to appeal, the permittee must file with the City Clerk
3 written basis for the appeal, including evidence relating to the grounds for revocation, and the
4 applicable appeal fee. The appeal will be heard by the City Council in accordance with Section
5 5.54.140. If no timely appeal is filed, the City Manager's decision will be final 15 days after the
6 date on the notice of revocation. If a timely appeal is filed in accordance with this Chapter, then
7 the effective date of the notice is stayed until a decision is made after the hearing on the appeal.

8 **Sec. 5.54.130 Renewal Applications.**

9 (a) An application for renewal of a Commercial Cannabis Permit and renewal fee shall
10 be filed with the City Manager's office prior to, but not more than 120 days before, the
11 expiration date of an active and current permit.

12 (b) The applicant shall pay a fee in an amount to be set by the City Council to cover the
13 costs of processing the renewal permit application, together with any costs incurred by the City
14 to administer the program created under this Chapter.

15 (c) Any permittee submitting a renewal application less than sixty calendar days before
16 permit expiration may be required to pay a late renewal application fee, as established by
17 resolution of the City Council.

18 (d) To ensure on-going compliance with the initial screening criteria, the renewal
19 application may be required to contain all the information required for new applications.

20 (e) An application for renewal of a Commercial Cannabis Permit may be denied if any
21 of the following exists:

- 22 (1) Any of the grounds for denial of an application or revocation of a permit
- 23 (2) The Commercial Cannabis Permit is suspended or revoked at the time of the
24 renewal application submittal.
- 25 (3) The commercial cannabis business has not been in regular and continuous
26 operation in the four months prior to the renewal application.
- 27 (4) The permittee fails or is unable to renew its State of California license.
- 28 (5) The permittee made a false, misleading, or fraudulent statement or omission of
fact in the renewal application.

(f) The City Manager is authorized to make all decisions concerning the issuance of a
renewal permit. In making the decision, the City Manager is authorized to impose additional
conditions to a renewal permit, if it is determined to promote compliance with state or local
laws and regulations or otherwise to preserve the public health, safety or welfare. Appeals of
the decision of the City Manager shall be handled pursuant to the provisions of section 5.54.110
of this Chapter.

1 (g) If a renewal application is denied, the permittee may file a new application pursuant
2 to this Chapter no sooner than one year from the date of the rejection and only if and when the
3 City is receiving new applications.

4 **Sec. 5.54.140 Effect of State License Suspension, Revocation, or Termination.**

5 (a) Suspension of a license issued by the State of California, or by any of its
6 departments or divisions, shall immediately suspend the ability of a commercial cannabis
7 business to operate within the City, unless and until the State of California, or its respective
8 department or division, reinstates or reissues the State license.

9 (b) Should the State of California, or any of its departments or divisions, revoke or
10 terminate the license of a commercial cannabis business operating in the City, such revocation
11 or termination shall also revoke or terminate the ability of a commercial cannabis business to
12 operate within the City.

13 (c) Permittee shall notify the City Manager in writing within five days of suspension or
14 revocation of a license issued by the State of California, or by any of its departments or
15 divisions.

16 **Sec. 5.54.150 Appeals.**

17 (a) Notice of and Time to Appeal and Effect of Timely Appeal.

18 (1) A permittee of a commercial cannabis business may appeal a decision of the City
19 Manager made pursuant to this Chapter to suspend, revoke, condition, or not
20 renew a permit. Appeals are made by filing with the City Clerk a written Notice
21 of Appeal within fifteen (15) calendar days from the date of service of the notice
22 issued by the City Manager of his or her decision. Date of service shall mean the
23 date when a notice or written decision was personally delivered to the permittee
24 or the date when the notice was sent by certified, first class mail. Unsuccessful
25 applicants have no right of appeal.

26 (2) The Notice of Appeal shall be in writing and signed by the person making the
27 appeal (“appellant”), or his or her legal representative, and shall contain the
28 following:

- a. Name, address, and telephone number of the appellant.
- b. Specify the decision, action, or a particular part thereof, made by the City Manager that is the subject of the appeal.
- c. Include a true and correct copy of the notice of decision issued by the City Manager which is the subject of the appeal.
- d. State with specificity the reasons and grounds for making the appeal, including, but not limited to, a statement of facts upon which the appeal is based in sufficient detail to enable the City Council, or any appointed hearing

1 officer, to understand the nature of the controversy, the basis of the appeal,
2 and the relief requested.

3 e. All documents or other evidence pertinent to the appeal that the appellant
4 requests the considered at the appeal hearing.

5 f. An appeal fee, as established by resolution of the City Council.

6 (3) Failure to file a timely Notice of Appeal constitutes a waiver of the right to
7 appeal rendering the City Manager's notice of revocation, nonrenewal,
8 suspension and/or other action final and binding. If no appeal is timely filed in
9 the event of a decision of nonrenewal, the Commercial Cannabis Permit shall
10 expire at the conclusion of the term of the permit. If no appeal is timely filed in
11 the event of a decision of suspension or revocation, the suspension or revocation
12 shall become effective upon the expiration of the period for filing a written
13 Notice of Appeal.

14 (4) In the event a written Notice of Appeal is timely filed, the nonrenewal,
15 suspension, revocation, or other properly appealed action shall not become
16 effective until a final decision has been rendered and issued by the City Council,
17 or appointed hearing officer or body.

18 (b) Review by City Council; Appeal Hearing and Proceedings.

19 (1) The City Council or its appointed hearing officer or body will decide timely
20 appeals. The appellant(s) listed on the written Notice of Appeal shall be notified
21 in writing of the date, time, and location of the hearing at least ten calendar days
22 before the date of the hearing.

23 (2) All requests by an appellant to continue a hearing must be submitted to the City
24 Clerk in writing no later than three business days before the date scheduled for
25 the hearing. The City Council or its appointed hearing officer or body may
26 continue a hearing for good cause or on its own motion.

27 (3) The City Council shall preside over the hearing on appeal, or at the City
28 Council's discretion, the City Council may appoint a hearing officer or body to
conduct the hearing.

(4) At the date, time and location set forth in the notice of appeal hearing, the City
Council, or its appointed hearing officer or body, shall hear and consider the
testimony and any documentary evidence properly submitted for consideration.

(5) Appeal hearings are informal, and formal rules of evidence and discovery do not
apply. However, rules of privilege shall be applicable to the extent they are
permitted by law, and irrelevant, collateral, undue, and repetitious testimony may
be excluded. The City Manager's decision will be upheld only if a
preponderance of the evidence supports the nonrenewal, suspension, or
revocation.

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(c) Final Decision.

- (1) Following the conclusion of the appeal hearing, the City Council, or its appointed hearing officer or body, shall determine if any ground exists for the nonrenewal, suspension or revocation of a Commercial Cannabis Permit or other action subject to appeal under this Chapter. If the City Council, or its appointed hearing officer or body, determines that no grounds for denial, nonrenewal, suspension, revocation, or other action exist, the City Manager’s notice of decision shall be deemed vacated. If the City Council, or its appointed hearing officer or body, determines that one or more of the reasons or grounds enumerated in notice of decision exists, the City Manager’s decision may be affirmed or modified.
- (2) The decision of the City Council, or its appointed hearing officer or body, is the final administrative decision and subject to judicial review within the time limits set forth in California Code of Civil Procedure Section 1094.6.

Sec. 5.54.160 Commercial Cannabis Permit – Non-assignable and Non-transferable.

(a) A Commercial Cannabis Permit issued under this Chapter is valid only as to the permittee and approved location and is non-transferable to other persons, projects or locations.

(b) No Commercial Cannabis Permit may be sold, transferred or assigned by a permittee, or by operation of law, to any other person, persons, or entities. Any such sale, transfer, or assignment, or attempted sale, transfer, or assignment shall be deemed to constitute a voluntary surrender of such permit and such permit shall thereafter be null and void, except as set forth in this Chapter.

Sec. 5.54.170 Change in Location of Commercial Cannabis Business.

No permittee shall change the location of the commercial cannabis business specified in the Commercial Cannabis Permit until any such change of location is approved by the City Manager. The proposed location shall meet all the requirements under this Code, including but not limited to this Chapter and the Colton Zoning Ordinance. The proposed location shall be reviewed and evaluated using the same review criteria and procedure as used and relied on under the initial application process, including a public meeting.

Sec. 5.54.180 Changes in Ownership of Commercial Cannabis Business.

(a) No permittee shall transfer ownership or control of a commercial cannabis business unless and until the proposed new owner submits all required application materials and pays all applicable fees, and the proposed new owner independently meets the requirements of this Chapter such as to be entitled to the issuance of an original Commercial Cannabis Permit.

1 (b) A substantial change in the ownership of a permittee business entity (changes that
2 result in a change of 51% or more of the original ownership), must be approved by the City
3 Manager after completion of the application process under this Chapter, including evaluation
4 and selection process.

5 (c) A permittee may change the form of business entity without applying for a new
6 Commercial Cannabis Permit provided that either:

7 (1) The ownership of the new business entity is the same as the original permit
8 holder business entity; or

9 (2) If the original permittee is an unincorporated association, mutual or public
10 benefit corporation, agricultural or consumer cooperative corporation and
11 subsequently transitions to or forms a new business entity as allowed under the
12 MAUCRSA, provided that the Board of Directors (or in the case of an
13 unincorporated association, the individual(s) listed on the City permit
14 application) of the original permittee entity are the same as the new business
15 entity.

16 (d) Although a new Commercial Cannabis Permit is not required in the two
17 circumstances listed in this subsection (c), the permittee shall notify the City in writing of the
18 change within ten (10) calendar days of the change and obtain an amendment to the original
19 Commercial Cannabis Permit.

20 (e) No permittees may avail themselves of the provisions of this section if the City
21 Manager, or his or her designee, has notified the permittee that the Commercial Cannabis
22 Permit has been or may be suspended, revoked, or not renewed.

23 (f) Failure to comply with this section is grounds for revocation of a Commercial
24 Cannabis Permit.

25 (g) Any attempt to transfer a Commercial Cannabis Permit either directly or indirectly
26 in violation of this section is hereby declared void and such a purported transfer is a ground for
27 revocation of the permit.

28 **Sec. 5.54.190 Change in Ownership when the Permittee is a Partnership or Corporation.**

(a) One or more proposed partners in a partnership granted a Commercial Cannabis
Permit may make application to the City Manager, together with the fee established by the City
Council, to amend the original application, providing all information as required for partners in
the first instance and, upon approval thereof, the transfer of the interests of one or more partners
to the proposed partner or partners may occur. If the permittee is a partnership and one or more
of the partners should die, one or more of the surviving partners may acquire, by purchase or
otherwise, the interest of the deceased partner or partners without effecting a surrender or
termination of such permit, and in such case, the Commercial Cannabis Permit, upon
notification to the City Manager, shall be placed in the name of the surviving partners.

1 (b) If the Commercial Cannabis Permit is issued to a corporation, stock may be sold,
2 transferred, issued, or assigned to stockholders who have been named on the application. If
3 51% or more of any stock is sold, transferred, issued, or assigned to a person not listed on the
4 application as a stockholder, the permit shall be deemed terminated and void; provided,
5 however, the proposed stock purchaser transferee may submit to the City Manager, together
6 with the fee established by the City Council, an application to amend the original application
7 providing all information as required for stockholders in the first instance under this Chapter,
8 and, upon approval thereof, the transfer may then occur.

6 (c) All changes in ownership as described in this section, with the exception of transfers
7 occurring due to death of a partner or stockholder, must be submitted to the City within thirty
8 calendar days, along with any organizational documents reflecting the changes.

9 **Sec. 5.54.200 Changes in Name Only.**

10 (a) The permittee shall advise the City Manager within fifteen calendar days of all
11 changes of name or designation under which the business is to be conducted. The change of
12 name or designation shall be accompanied by a non-refundable fee established by resolution of
13 the City Council to defray the costs of reissuance of the Commercial Cannabis Permit.

14 (b) No permittee shall operate, conduct, manage, engage in, or carry on the business of a
15 commercial cannabis business under any name other than the name of the commercial cannabis
16 business specified in the permit.

17 **Sec. 5.54.210 Alterations to Approved Facility.**

18 All required City approvals, plan approvals, and permits must be obtained before
19 causing, allowing, or permitting alterations to or extensions or expansions of the existing
20 building(s), structure(s), or portions thereof, approved as a location for a commercial cannabis
21 business. Alterations, extensions, or expansions shall comply with all applicable laws,
22 regulations and standards, including those concerning building and fire safety, as well as
23 occupancy.

24 **Sec. 5.54.220 City Business License.**

25 Prior to commencing operations, a Permittee of a commercial cannabis business shall
26 obtain a City business license, in accordance with Colton City Code Section 5.02, et seq.

27 **Sec. 5.54.230 Permits and Inspections Prior to Commencing Operations.**

28 Prior to commencing operations, a commercial cannabis business shall be subject to a
mandatory inspection of the premises and must obtain approval of a conditional use permit and

1 all required building permits and approvals which would otherwise be required for any business
2 of the same size and intensity operating in that zone. The permittee shall also obtain all required
3 Building Safety Department approvals, Fire Department approvals, Health Department
4 approvals and any other permit or approval required by this code or applicable law.

5 **Sec. 5.54.240 Limitations on City's Liability.**

6 (a) To the fullest extent permitted by law, the City shall not assume any liability
7 whatsoever with respect to having issued a Commercial Cannabis Permit or otherwise
8 approving the operation of any commercial cannabis business. As a condition to the approval of
9 any Commercial Cannabis Permit, the applicant shall be required to meet all of the following
10 conditions before they can receive the Commercial Cannabis Permit:

- 11 (1) They must execute an agreement, in a form approved by the City Attorney,
12 agreeing to indemnify, defend at the applicant's sole cost and expense, and hold
13 harmless the City, and its officers, officials, employees, representatives,
14 attorneys, and agents from any and all claims, losses, damages, injuries,
15 liabilities or losses which arise out of, or which are in any way related to the
16 City's issuance of the Commercial Cannabis Permit, the City's decision to
17 approve the operation of the commercial cannabis business or activity; the
18 process used by the City in making its decision to issue, approve or deny a
19 permit; or the alleged violation of any federal, state or local laws by the
20 commercial cannabis business or any of its officers, employees or agents.
- 21 (2) Maintain insurance at coverage limits, and with conditions thereon determined
22 necessary and appropriate from time to time by the City's Risk Manager.
- 23 (3) Reimburse the City for all costs and expenses, including but not limited to
24 attorney fees and costs and court costs, which the City may be required to pay as
25 a result of any legal challenge related to the City's approval of the applicant's
26 Commercial Cannabis Permit, or related to the City's approval of the applicant's
27 Commercial Cannabis Activity. The City may, at its sole discretion, participate
28 at its own expense in the defense of any such action, but such participation shall
not relieve any of the obligations imposed hereunder.

(b) The terms and provisions as enumerated in this section related to indemnification
and limitation on the City's liability shall be an explicit term of a Commercial Cannabis Permit
that an applicant and a permittee shall agree to in order for same to be valid.

24 **Sec. 5.54.250 Records and Recordkeeping.**

25 (a) Each owner and operator of a commercial cannabis business shall maintain accurate
26 books and records in an electronic format, detailing all of the revenues and expenses of the
27 business, and all of its assets and liabilities. On no less than an annual basis, or at any time
28 upon reasonable request of the City, each commercial cannabis business shall file a sworn
statement detailing the commercial cannabis business' revenue and number of sales during the
previous twelve-month period (or shorter period based upon the timing of the request), provided

1 on a per-month basis. The statement shall also include gross revenues for each month, and all
2 applicable taxes paid or due to be paid. On an annual basis, each owner and operator shall
3 submit to the City a financial audit of the business' operations conducted by an independent
4 certified public accountant. Each permittee shall be subject to a regulatory compliance review
5 and financial audit as determined by the City Manager, or his or her designee.

6 (b) Each owner and operator of a commercial cannabis business shall maintain a current
7 register of the names and the contact information (including the name, address, and telephone
8 number) of anyone owning or holding an interest in the commercial cannabis business, and
9 separately of all the officers, managers, employees, agents and volunteers currently employed
10 or otherwise engaged by the commercial cannabis business. The register required by this
11 paragraph shall be provided to the City Manager upon request.

12 (c) All records collected by a permittee pursuant to this Chapter shall be maintained for
13 a minimum of seven (7) years and shall be made available by the permittee to the agents or
14 employees of the City upon request, except that private medical records shall be made available
15 only pursuant to a properly executed search warrant, subpoena, or court order.

16 (d) Subject to any restrictions under the Health Insurance Portability and Accountability
17 Act (HIPAA) regulations, each commercial cannabis business shall allow City officials to have
18 access to the business's books, records, accounts, together with any other data or documents
19 relevant to its permitted commercial cannabis activities, for the purpose of conducting an audit
20 or examination. Books, records, accounts, and any and all relevant data or documents will be
21 produced no later than twenty-four (24) hours after receipt of the City's request, unless
22 otherwise stipulated by the City. The City may require the materials to be submitted in an
23 electronic format that is compatible with the City's software and hardware.

24 **Sec. 5.54.260 Restriction on Alcohol and Tobacco Sales, Dispensing or Consumption.**

25 No person shall cause or permit the sale, dispensing, or consumption of alcoholic
26 beverages or tobacco products on or about the premises of a commercial cannabis business.

27 **Sec. 5.54.270 Fees and Charges.**

28 (a) All related fees and charges associated with the operation of a commercial cannabis
business as referenced or determined by this Chapter shall be established by Resolution of the
City Council, which may be amended from time to time.

(b) No person may commence or continue any Commercial Cannabis Activity in the
City, without timely paying in full all fees and charges required for the operation of a
Commercial Cannabis Activity, and as mandated by this Chapter.

(c) All commercial cannabis businesses authorized to operate under this Chapter shall
pay all sales tax, use tax, business tax and other applicable taxes, and all license, registration,
and other fees required under federal, state and local law. Each commercial cannabis business
shall cooperate with the City with respect to any reasonable request to audit the commercial
cannabis business' books and records for the purpose of verifying compliance with this section,

1 including but not limited to a verification of the amount of fees, costs or taxes required to be
2 paid during any period.

3 **Sec. 5.54.280 Operating Requirements Applicable to all Commercial Cannabis**
4 **Businesses.**

5 (a) No commercial cannabis business may be located within a 600-foot radius of a
6 school providing instruction in kindergarten or any grades 1 through 12, a day care center, or a
7 youth and recreation center, which is in lawful existence at the time a successful application for
8 a Commercial Cannabis Permit was submitted to the City. The distance specified in this section
shall be the horizontal distance measured in a straight line from the property line of the school
or other protected use to the closest property line of the lot on which the commercial cannabis
business is located, without regard to intervening structures.

9 (b) Commercial cannabis businesses may operate only during the hours established by
10 resolution of the City Council and as specified in the Commercial Cannabis Permit issued by
the City.

11 (c) Cannabis shall not be consumed by anyone on the premises of any commercial
12 cannabis business, unless explicitly authorized by a City ordinance, resolutions, rules,
regulations or pursuant to explicit terms of a Commercial Cannabis Permit.

13 (d) No cannabis or cannabis products shall be visible from the exterior of any property
14 issued a Commercial Cannabis Permit or on any of the vehicles owned or used as part of the
commercial cannabis business. No outdoor storage of cannabis or cannabis products is
15 permitted at any time.

16 (e) Each commercial cannabis business shall have in place a point-of-sale or
17 management inventory tracking system to track and report on all aspects of the commercial
18 cannabis business including, but not limited to, such matters as cannabis tracking, inventory
19 data, gross sales (by weight and by sale) and other information which may be deemed necessary
20 by the City. The commercial cannabis business shall ensure that such information is compatible
with the City's record-keeping systems. In addition, the system must have the capability to
produce historical transactional data for review. Furthermore, any system selected must be
approved and authorized by the City Manager prior to being used by the permittee.

21 (f) All cannabis and cannabis products sold, tested, distributed or manufactured shall be
22 cultivated, manufactured, and transported by licensed facilities that maintain operations in full
conformance with the State of California and local regulations.

23 (g) No physician shall be permitted in any commercial cannabis business at any time for
24 the purpose of evaluating patients for the issuance of a medicinal cannabis recommendation or
25 medicinal cannabis identification card where applicable.

26 (h) All commercial cannabis operators shall have a manager on the premises at all times
27 during hours of operation.
28

1 (i) Each commercial cannabis business shall provide the City Manager with the name,
2 telephone number (both landline and mobile) of an on-site manager or owner to whom
3 emergency notice may be provided at any hour of the day.

4 (j) Signage and Notices:

5 (1) In addition to the requirements otherwise set forth in this section, business
6 identification signage for a commercial cannabis business shall conform to the
7 requirements of state law and the City Code, including, but not limited to, the
8 requirements for a City sign permit and applicable zoning laws regulating signs.

9 (2) Each commercial cannabis business premises shall be visibly posted with clear
10 and legible notices indoors indicating that smoking, ingesting, or otherwise
11 consuming cannabis on the premises or in the areas adjacent to the commercial
12 cannabis business is prohibited.

13 (k) Persons under the age of 21 years shall not be allowed on the premises of a
14 commercial cannabis business, except if pertaining to sales of cannabis for medicinal use. It
15 shall be unlawful and a violation of this Chapter for any person to employ any person at a
16 commercial cannabis business who is not at least 21 years of age.

17 (l) Odor control devices and techniques shall be incorporated in all commercial
18 cannabis businesses to ensure that odors from cannabis are not detectable off-site. Commercial
19 cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so
20 that odor generated inside the commercial cannabis business that is distinctive to its operation is
21 not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on
22 or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby
23 areas, or any other areas available for use by common tenants or the visiting public, or within
24 any other unit located inside the same building as the commercial cannabis business. As such,
25 commercial cannabis businesses must install and maintain the following equipment, or any
26 other equipment which the City Engineer, Public Works Director or Building Official
27 determines is a more effective method or technology:

28 (1) An exhaust air filtration system with odor control that prevents internal odors
from being emitted externally;

(2) An air system that creates negative air pressure between the commercial
cannabis business's interior and exterior, so that the odors generated inside the
commercial cannabis business are not detectable on the outside of the
commercial cannabis business.

(m) The original Commercial Cannabis Permit issued by the City pursuant to this
Chapter, the City issued business license, and the state-issued Seller's Permit shall be posted
inside the commercial cannabis business in a location readily-visible to any City, County or
State employee, official, or agent authorized to enforce the City's Code, or applicable cannabis-
related laws.

(n) The permittee of a commercial cannabis business shall prohibit loitering by persons
outside on the premises, and is required to enforce this prohibition within its premises and

1 adjacent public areas, including cooperating with the City's law enforcement agency dispatched
2 to enforce same. The placement and use of no loitering signs shall be included as part of any
3 submittal and depicted on a business or operational plan.

4 (o) Prior to the operation of a commercial cannabis business, the person intending to
5 establish a commercial cannabis business must first obtain all applicable planning, zoning,
6 building, and other applicable permits and approvals from the relevant City or County
7 department or division which may be applicable to the zoning district in which such commercial
8 cannabis business intends to establish and to operate.

9 (p) Permittees shall adhere to all applicable operating procedures, including those
10 submitted as part of the initial application process, and pursuant to those established in
11 applicable State of California laws, regulations, and policies.

12 (q) Permittees must comply with all applicable local, state and federal laws and
13 regulations pertaining to persons with disabilities.

14 (r) No commercial cannabis business may discriminate or exclude patrons in violation
15 of local, state and federal laws and regulations.

16 (s) Each commercial cannabis business shall provide the name, telephone number, and
17 email address of a community relations contact to whom notice of problems associated with the
18 commercial cannabis business can be provided. Each commercial cannabis business shall also
19 provide this information to all businesses and residences located within 400 feet of the
20 commercial cannabis business.

21 (t) The owner, manager, and community relations representative from each commercial
22 cannabis business holding a Commercial Cannabis Permit shall, if requested by the City
23 Manager, attend a quarterly meeting with the interested parties to discuss costs, benefits, and
24 other community issues arising as a result of implementation of this Chapter.

25 **Sec. 5.54.290 Additional Operating Requirements for Cultivation Facilities**

26 (a) The cultivation of all cannabis must occur indoors, and outdoor cultivation is
27 prohibited. Cultivation should not occur in any temporary greenhouse structures. Any
28 greenhouse structure that is not of a permanent nature, i.e. is constructed of fabric, metal or
plastic, is prohibited. All cultivation shall occur in secure structures constructed in accordance
with the California Building Code.

(b) From a public right-of-way, there should be no exterior evidence of cannabis
cultivation except for any signage authorized by this code.

(c) The general public is not permitted on the cannabis cultivation licensed premises
except for the agents, applicants, managers, employees, and volunteers of the cannabis
cultivation permittee and agents or employees of the City.

(d) (f) A permittee shall only be allowed to cultivate the square feet of canopy space
permitted by state law and in the permit issued for the premises.

1 (e) Cannabis cultivation shall be conducted in accordance with state and local laws
2 related to electricity, water usage, water quality, discharges, and similar matters.

3 (f) Permittee shall comply with all applicable federal, state and local laws and
4 regulations regarding use and disposal of pesticides and fertilizers.

5 (g) Pesticides and fertilizers shall be properly labeled and stored to avoid contamination
6 through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.

7 (h) The cultivation of cannabis shall at all times be operated in such a way as to ensure
8 the health, safety, and welfare of the public, the employees working at the commercial cannabis
9 business, neighboring properties, and the end users of the cannabis being cultivated; to protect
10 the environment from harm to waterways, fish, and wildlife; to ensure the security of the
11 cannabis being cultivated; and to safeguard against the diversion of cannabis.

12 (i) Prior to transportation, a cannabis cultivation licensee shall package and seal all
13 cannabis or cannabis products in tamper-evident packaging and use a unique identifier, such as
14 a batch and lot number or bar code, to identify and track the cannabis or cannabis products.

15 (j) All applicants for a Commercial Cannabis Permit pertaining to cannabis cultivation
16 shall submit the following in addition to the information generally otherwise required for a
17 commercial cannabis permit:

18 (1) A cultivation and operations plan that meets or exceeds minimum legal standards
19 for water usage, conservation and use; drainage, watershed and habitat
20 protection; and proper storage of fertilizers, pesticides, and other regulated
21 products to be used on the parcel; a description of the cultivation activities and
22 schedule of activities during each month of growing and harvesting; or an
23 explanation of growth cycles and anticipated harvesting schedules for all-season
24 harvesting.

25 (2) A description of a legal water source, irrigation plan, and projected water use.

26 (3) Identification of the source of electrical power and plan for compliance with
27 applicable Building Codes and related codes.

28 (4) Plan for addressing odor and other public nuisances that may derive from the
cultivation site.

**Sec. 5.54.300 Additional Operating Requirements for Cannabis Manufacturing
Businesses**

(a) From a public right-of-way, there should be no exterior evidence of cannabis
manufacturing except for any signage authorized by this chapter.

(b) The general public is not permitted on the cannabis manufacturing premises except
for the agents, applicants, managers, employees, and volunteers of the cannabis manufacturing
licensee and agents or employees of the City.

1 (c) All cannabis manufacturing shall comply with the standards set by state law.

2 (d) Cannabis Manufacturing Facilities may use heat, screens, presses, steam distillation,
3 ice water, and other methods without employing solvents or gases to create keef, hashish,
4 bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other
5 extracts.

6 (e) Cannabis Manufacturing Facilities may use food grade glycerin, ethanol, and
7 propylene glycol solvents to create or refine extracts. Ethanol should be removed from the
8 extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

9 (f) Cannabis Manufacturing Facilities creating cannabis extracts must develop standard
10 operating procedures, good manufacturing practices, and a training plan prior to producing
11 extracts for the marketplace.

12 (g) No volatile manufacturing of cannabis shall be permitted in the City. Volatile
13 manufacturing means using any solvent that is or produces a flammable gas or vapor that, when
14 present in the air is sufficient quantities, will create explosive or ignitable mixtures. Examples
15 of volatile solvents include, but are not limited to, butane, hexane, and propane.

16 **Sec. 5.54.310 Additional Operating Requirements for Cannabis Distribution**

17 (a) From a public right-of-way, there should be no exterior evidence of Cannabis
18 Distribution except for any signage authorized by this chapter.

19 (b) The general public is not permitted on the Cannabis Distribution licensed premises
20 except for the agents, applicants, managers, employees, and volunteers of the Cannabis
21 Distribution licensee and agents or employees of the City.

22 (c) Permittee for cannabis distribution shall only procure, sell, or transport cannabis or
23 cannabis products that are packaged and sealed in tamper-evident packaging using unique
24 identifiers, such as batch and lot numbers or bar codes, to identify and track the cannabis or
25 cannabis products.

26 (d) Permittee shall maintain a database and provide a list of the individuals and vehicles
27 authorized to conduct transportation on behalf of the cannabis distribution business pursuant to
28 Commercial Cannabis Permit issued by the City.

(e) Individuals authorized to conduct transportation on behalf of the cannabis
distribution business shall have a valid California Driver's License.

(f) Individuals transporting cannabis or cannabis products on behalf of the cannabis
distribution business pursuant to a Commercial Cannabis permit shall maintain a physical copy
of the transportation request and invoice and shall make them available upon request of agents
or employees of the City requesting documentation.

(g) During transportation, the individual conducting transportation on behalf of the
cannabis distribution business shall maintain a copy of the Commercial Cannabis Permit and

1 shall make it available upon the request of agents or employees of the City requesting
2 documentation.

3 (h) Cannabis or cannabis products shall be transported only in a vehicle that is (i)
4 insured at or above the legal requirement in California, (ii) capable of securing (locking) the
5 cannabis or cannabis products during transportation, and (iii) capable of being temperature
6 controlled if perishable cannabis products are being transported

7 **Sec. 5.54.320 Additional Operating Requirements for Cannabis Testing**

8 (a) Cannabis testing shall take place within an enclosed locked structure.

9 (b) From a public right-of-way, there should be no exterior evidence of cannabis testing
10 except for any signs authorized by this Chapter.

11 (c) All cannabis testing shall be performed in accordance with state law.

12 (d) Permittee shall adopt a standard operating procedure using methods consistent with
13 general requirements established by the International Organization for Standardization,
14 specifically ISO/IEC 17025, to test cannabis or cannabis products, and shall operate in
15 compliance with state law at all times.

16 (e) Permittee shall be accredited by a body that is a signatory to the International
17 Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

18 (f) Permittee shall establish standard operating procedures that provide for adequate
19 chain of custody controls for samples transferred to the testing laboratory for testing.

20 (g) Permittee shall destroy the remains of samples of any cannabis or cannabis product
21 upon completion of analyses. Destruction shall be done in a manner compliant with state law.

22 (h) Any testing that requires the use of solvents for extraction must comply with Section
23 68-31 (manufacturing requirements)

24 **Sec. 5.54.325 Additional Operating Requirements for Out-of-City Delivery Services**

25 Prior to commencing operations, a delivery service operating from outside the city shall comply
26 with the following requirements:

27 (1) Obtain from the City a permit authorizing the delivery of cannabis and cannabis
28 products within the City limits. A copy of this permit shall be retained by all
drivers.

(2) The retail business operating the delivery service shall provide the City Manager
or his/her designee with evidence of a valid state license for a commercial
cannabis business on whose authorization the delivery service is performing
the delivery function.

(3) The retail business operating the delivery service shall furnish to the City
Manager or his/her designee the year, make, model, color, license plate

1 number, and numerical Vehicle Identification Number (VIN) for any and all
2 vehicles that will be used to deliver cannabis goods.

3 **Section 5.54.326 Permissible Delivery Locations and Customers.**

4 Cannabis delivery businesses located outside of the City permitted to engage in delivery of
5 cannabis and cannabis products inside the City of Colton are subject to the following
6 requirements:

- 7 (a) A licensed cannabis business shall not deliver cannabis goods to an address
8 located on publicly owned land or any address on land or in a building leased
9 by a public agency.
- 10 (b) A licensed cannabis business shall comply with all requirements of state and
11 local law pertaining to the cannabis permit and all subsequent policies,
12 procedures and regulations which may be amended by the City Manager or
13 his or her designee from time to in order to enforce this Chapter.

14 **Sec. 5.54.330 Personal Cannabis Cultivation**

15 (a) Outdoor Cultivation. A person may not plant, cultivate, harvest, dry, or process
16 cannabis plants outdoors in any zoning district of the City. No use permit, building permit,
17 variance, or any other permit or entitlement, whether administrative or discretionary, shall be
18 approved or issued for any such use or activity.

19 (b) Indoor Cultivation.

20 (1) (1) A person may not plant, cultivate, harvest, dry, or process cannabis plants
21 inside a private residence, or inside an accessory structure to a private residence
22 located upon the grounds of a private residence, or inside any other enclosed
23 structure within any zoning district of the City, unless the person is issued a
24 residential indoor cannabis cultivation permit pursuant to 5.54.320. No use
25 permit, building permit, variance, or any other permit or entitlement, whether
26 administrative or discretionary, shall be approved or issued for any such use or
27 activity.

28 (2) To the extent a complete prohibition on indoor cultivation is not permitted under
California law, a person may not plant, cultivate, harvest, dry, or process
cannabis plants inside a private residence, or inside an accessory structure to a
private residence located upon the grounds of a private residence, unless the
person is issued a residential indoor cannabis cultivation permit pursuant to
5.54.320. A person may not plant, cultivate, harvest, dry, or process cannabis
plants inside any enclosed structure within any zoning district of the City which
is not either a private residence or an accessory structure to a private residence
located upon the grounds of a private residence.

1 **Sec. 5.54.340 Promulgation of Regulations, Standards and Other Legal Duties**

2 (a) The City Manager may promulgate additional or supplemental operating
3 requirements applicable to all commercial cannabis businesses to promote the public's safety,
4 welfare or health.

5 (b) The City Manager may establish additional rules, regulations, policies and standards
6 consistent with this Chapter governing the application review and approval process; the
7 issuance, denial or renewal of Commercial Cannabis Permits; the ongoing operation of
8 commercial cannabis businesses and the City's oversight of them; and concerning any other
9 subject determined to carry out the intent and purposes of this Chapter, including without
10 limitation, establishing time periods to solicit applications pursuant to this Chapter, and
11 corresponding deadlines for timely submittals of applications to the City.

12 (c) Additional rules, regulations, policies and standards shall be published on the City's
13 website and maintained and available to the public in the Office of the City Clerk.

14 (d) Rules, regulations, policies, and standards promulgated by the City Manager shall
15 become effective upon date of publication. Commercial cannabis businesses shall be required
16 to comply with all state and local laws and regulations, including but not limited to any rules,
17 regulations or standards adopted by the City Manager.

18 **Sec. 5.54.350 Fees Deemed Debt to City**

19 The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed
20 a debt to the City that is recoverable in any manner authorized by this Code, state law, or in any
21 court of competent jurisdiction.

22 **Sec. 5.54.360 Responsibility for Violations**

23 Permittees, their Responsible Persons and managers shall be responsible for violations
24 of the laws of the State of California or of the City Code, whether committed by the permittee,
25 or any employee or agent of the permittee, which violations occur on the premises of the
26 commercial cannabis business whether or not the violations occur within the permittee's
27 presence. Any act or omission of any employee constituting a violation of the provisions of this
28 Chapter shall be deemed the act or omission of the permittee for purposes of determining
whether the permit shall be revoked, suspended, or not renewed.

Sec. 5.54.370 Inspections

(a) The City Manager, Police Chief, Fire Marshal and their designees charged with
enforcing the provisions of the City Code may enter the location of a commercial cannabis
business at any time during regular business hours, without notice, and inspect the location of

1 any commercial cannabis business as well as any recordings and records required to be
2 maintained pursuant to this Chapter or under applicable provisions of state law.

3 (b) It is unlawful for any person having responsibility over the operation of a
4 commercial cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the
5 City to conduct an inspection, review or copy records, recordings or other documents required
6 to be maintained by a commercial cannabis business under this Chapter or under state or local
7 law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records,
8 recordings or other documents required to be maintained by a commercial cannabis business
9 under this Chapter or under state or local law.

7 **Sec. 5.54.380 Violations and Penalties**

8 (a) Any person who violates any provision of this Chapter is guilty of a misdemeanor
9 and subject to the penalties in Section 5.02.360 et. Seq. of this Code.

10 (b) It is unlawful for any Permittee of a commercial cannabis business, or its
11 Responsible Person, manager or any other person employed by or working in concert with them
12 or on their behalf, whether directly or indirectly, to continue to operate, conduct, or maintain a
13 commercial cannabis business after the City-issued Commercial Cannabis Permit has been
14 suspended or revoked, or not renewed, pursuant to a non-contested notice of decision issued by
15 the City Manager, or after the issuance of a final order after an appeal hearing.

14 (c) Any commercial cannabis business operated, conducted, or maintained contrary to
15 the provisions of this Chapter is unlawful and a public nuisance, and the City may, in addition
16 to or in lieu of prosecuting a criminal action, commence an administrative or civil action(s) or
17 proceeding(s), for the abatement, removal and injunction thereof, in the manner provided by
18 law, and may take such other steps and may apply to such court or courts as may have
19 jurisdiction to grant such relief to abate, cause cessation, or remove such commercial cannabis
20 business and restrain and enjoin any person from operating, conducting or maintaining a
21 commercial cannabis business contrary to the provisions of this Chapter.

19 (d) Each person shall be guilty of a separate offense for each and every day, or part
20 thereof, during which a violation of this Chapter, or of any law or regulation referenced herein,
21 is allowed, committed, continued, maintained or permitted by such person, and shall be
22 punishable accordingly.

22 (e) Whenever in this Chapter any act or omission is made unlawful, it shall include
23 causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

23 (f) The penalties set forth herein are cumulative and in addition to all other remedies,
24 violations, and penalties set forth in this Chapter, the City's Code, or in any other ordinance,
25 laws, rules or regulations of the City, County, or the State of California.

26 **Sec. 5.54.390 Effect on Other Ordinances**

27 Except as designated in this Chapter, the provisions of this Chapter shall control for
28

1 regulation of commercial cannabis businesses as defined herein if other provisions of the Code
2 conflict therewith. This Chapter shall not, however, relieve any person of his or her duty to
3 comply with such laws if additional obligations, duties, or prohibitions are imposed thereby.

4 **Sec. 5.54.400 Retaliation/Whistleblower Protection.**

5 It shall be unlawful for a permittee of a commercial cannabis business, or its
6 Responsible Person, manager or any other person employed by the permittee, to discriminate in
7 any manner or take adverse action against any Employee in retaliation for exercising rights
8 protected under this section. These rights include, but are not limited to: the right to file a
9 complaint or inform any person about any party's alleged noncompliance with this chapter; and
10 the right to inform any person of his or her potential rights under this section and to assist him
11 or her in asserting such rights. Protections under this section shall apply to any Employee who
12 mistakenly, but in good faith, alleges noncompliance with this chapter. Taking adverse action
13 against an Employee within 90 days of the Employee's exercise of rights protected under this
14 section shall raise a rebuttable presumption of having done so in retaliation for the exercise of
15 such rights.

16 **Sec. 5.54.410 Revolving Door Prohibition.**

17 (a) A local elected official, appointed official or any former employee of the City shall
18 not for a period of one year after leaving that office, position or employment, act as an agent or
19 attorney for, consultant or otherwise represent, for compensation, any other person, by making
20 any oral or written communication to the City Council, or any committee, subcommittee,
21 Board, Commission or present member thereof, or any officer or employee of the City, if the
22 appearance or communication is made for the purpose of influencing administrative or
legislative action, or influencing any action or proceeding involving issuance, amendment,
awarding, or revocation of a permit, license, grant or contract, or the sale or purchase of goods
or property, as described in this Chapter.

23 (b) Subdivision (a) does not apply to an individual who is, at the time of the appearance
24 or communication, an elected official, a board member, officer, or employee of another local
25 government agency or an employee or representative of a public agency and is appearing or
26 communicating on behalf of that agency.

27 **Sec. 5.54.420 Process Integrity Provision**

28 All permit applicants listed on the application or any persons lobbying on their behalf
shall comply with the Process Integrity Standards adopted by separate Resolution of the City

1 Council. Failure to abide by the Process Integrity Standards may result in disqualification from
2 an existing cannabis permit review process or revocation if it is later determined that the
3 applicant or any person associated with the application or any third party lobbying on their
4 behalf has violated the standards.

5 **SECTION 3. CEQA.** The City Council, on the basis of the whole record and exercising
6 independent judgment, finds that this Ordinance is not subject to environmental review pursuant
7 to Sections 15060(c)(2) and 15060(c)(3) of the State Guidelines for Implementations of the
8 California Environmental Quality Act (CEQA). Sections 15060(c) (2) and 15060(c) (3) pertain
9 to activities that will not result in a direct or reasonably foreseeable indirect change to the
10 environment and that are not defined as a project under Section 15378. The underlying
11 commercial cannabis business and land use activities authorized by this Ordinance are subject
12 to future discretionary approval(s) by the Planning Commission and/or City Council, and
13 accordingly environmental review of any resulting impact is premature.

14 **SECTION 4. Severability.** If any section, subsection, sentence, clause, phrase or portion of
15 this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent
16 jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The
17 City Council hereby declares that it would have adopted this Ordinance, and each section,
18 subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or
19 more sections, subsections, sentences, clauses, phrases, or portions may be declared invalid or
20 unconstitutional.

21 **SECTION 5.** Nothing in this Ordinance shall be construed to allow persons to engage in
22 conduct that violates state law, endangers others, causes a public nuisance, allows the use or
23 diversion of cannabis in an unlawful manner or inconsistent with state law

24 **SECTION 6.** The City Clerk shall attest to the passage and adoption of this ordinance, causing
25 it to be posted as required by law, and it shall become effective thirty (30) days after its
26 adoption.

27 **[SIGNATURES ON FOLLOWING PAGE]**

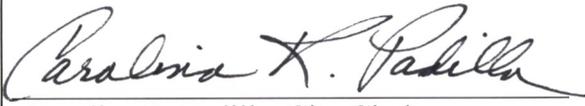
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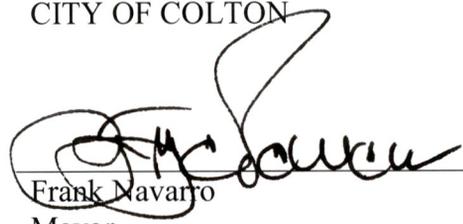
PASSED, APPROVED AND ADOPTED this 3 day of December, 2019.

ATTEST:

CITY OF COLTON

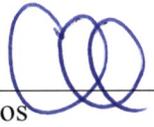


Carolina R. Padilla, City Clerk



Frank Navarro
Mayor

APPROVED AS TO FORM:



Carlos Campos
City Attorney

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