

ORDINANCE NO. 2020-15

A BILL

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING CHAPTERS 6, 22 AND 146 OF THE CITY CODE RELATED TO THE REGULATION AND LICENSING OF BUSINESSES RELATED TO THE MANUFACTURING OF HEMP

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-401 which section shall read as follows:

Article III – HEMP MANUFACTURING

Sec. 6-401. - Definitions.

Except as otherwise indicated by the context, the following words and phrases shall have the following meanings:

Applicant means any person who has submitted an application for a license or renewal of license pursuant to this article that was accepted by the local licensing authority for review but has not been approved or denied by the local licensing authority.

Cannabidiol (CBD) means one of the many cannabinoids or chemical compounds found in marijuana and hemp.

City or the city means the City of Aurora, Colorado.

Conviction means a plea of guilty or nolo contendere or any finding of guilt.

Delta-9 tetrahydrocannabinols has the same meaning as “tetrahydrocannabinols” as set forth in Colorado Revised Statutes (C.R.S.) § 27-80-203(24).

Dry weight basis refers to a method of determining the percentage of a chemical in a substance after removing the moisture from the substance. Percentage of THC on a dry weight basis means the percentage of THC, by weight, in a cannabis item (plant, extract, or other derivative), after excluding moisture from the item.

Farm Service Agency (“FSA”) is an agency of the U.S. Department of Agriculture that provided services to farm operations including loans, commodity price supports, conservation payments, disaster assistance and who will assist in information collection on land being tested for hemp production.

Finance director means the Director of Finance for the city or his or her designee.

Good cause for purposes of approving, refusing or denying the issuance or renewal of a license means:

- (a) The licensee or applicant has violated, does not meet, or has failed to comply with any of the provisions of the City Code, any rule and regulation adopted pursuant thereto, any supplemental relevant state or local law, rule or regulation related to the processing, extraction, manufacture, storage, distribution, transportation, testing, research and development, or use of hemp, hemp products, or hemp derivatives;
- (b) The licensee or applicant has failed to comply with any special term or condition placed on the license by order of the local licensing authority;
- (c) Evidence the licensee's licensed premises has been operated in a manner that adversely affects the public health, safety or the general welfare of the city or the immediate neighborhood where the business is located, which evidence may include a continuing pattern of violations of the City Code or terms and conditions of a license issued pursuant to this article;
- (d) Failing to obtain or maintain a state issued registration for industrial hemp research and development grow operations when engaged in cultivating hemp for research and development purposes; or
- (e) Failing to obtain or maintain a state issued registration to produce an industrial hemp product when engaged in the storage, extraction, processing or manufacturing of hemp.

Good moral character means having a criminal history that demonstrates honesty, fairness, and respect for the rights of others and for the law.

Hemp or industrial hemp means the plant species *Cannabis sativa* L. and any part of the plant, including the seeds of the plant and all the derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol ("THC") concentration of no more than three-tenths of one percent (0.3%) on a dry-weight basis.

Hemp manufacturing facility means a building or structure, or any part thereof, where a person or legal business entity with a valid hemp manufacturing license issued pursuant to this article can conduct the storage, extraction, processing or manufacturing of hemp or hemp products.

Hemp product means a finished product containing hemp that: is a cosmetic, food, food additive or herb; meant for human or animal use or human or animal consumption; contains any part of the hemp plant, including naturally occurring cannabinoids, compounds, concentrates, extracts, isolates, resins, or derivatives; and containing a delta-9 tetrahydrocannabinol ("THC") concentration of no more than 0.3% before entering the consumer market.

Key participant means a person or persons who have a direct or indirect financial interest in the legal business entity producing hemp such as an owner or partner in a partnership. A key participant also includes persons in a corporate entity at executive levels including chief executive officer, chief operating officer and chief financial officer. Key participant does not include other management positions like farm, field or shift managers.

License means to grant a revocable privilege to lawfully operate in the city a hemp related business activity authorized pursuant to this article.

Licensed premises means the premises specified in an application for a license authorized pursuant to this article, which are owned or in the possession of the licensee and within which the licensee is authorized to store, extract, process, manufacture, or research and develop hemp in accordance with all applicable laws.

Licensee means any person or legal business entity licensed pursuant to this article.

Local licensing authority means the manager of the Aurora Marijuana Enforcement Division of the city, or his or her designee.

Isolate extracts are full spectrum CBD with all traces of THC, terpenes, flavonoids and more removed during the extraction process.

Process or manufacture means to cause, effect, make or extract any derivative, extract, cannabinoid, isomer, acid, salt, and salts of isomers from the hemp plant. The term process or manufacture includes making, preparing, compounding or converting any part of the hemp plant into finished consumable products. The term process or manufacture includes removing or extracting hemp oil or hemp seed oil from a hemp plant. The term process or manufacture includes processing the fiber or seeds of the hemp plant. The term process or manufacture includes removing or extracting CBD and isolate extracts from the hemp plant.

Produce means to grow or propagate plants for market, or for cultivation for market in the United States.

Store or storage means to deposit hemp or hemp products in any location to include a storehouse, warehouse or other identified location by a processor or a manufacturer for safekeeping prior to delivery to a recipient for further processing or sale.

Section 2. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-402 which section shall read as follows:

Sec. 6-402. - Local licensing authority.

- (a) The local licensing authority has the power and authority to grant a license authorized by this article as well as ordering special terms and conditions on**

licenses without the need for a public hearing. The local licensing authority has the authority to deny a license or refuse to renew a license for good cause.

- (b) The local licensing authority may promulgate such rules and regulations as he or she deems necessary for the proper administration and enforcement of this article and may exercise all other powers and duties as are set forth in state statute or City Code and any rule or regulation adopted pursuant thereto.
- (c) The local licensing authority has the authority to summarily suspend a license issued pursuant to this article without notice pending any prosecution or public hearing for a period not to exceed fifteen (15) days when the local licensing authority determines a licensee or an agent or employee of the licensee has committed a deliberate and willful violation of the City Code, state statute, or any rule and regulation related to the storage, extraction, processing, or manufacturing of hemp or when the public health, safety or welfare imperatively requires emergency action, and incorporates such findings in the notice for a public hearing before the finance director on the matter.

Section 3. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-403 which section shall read as follows:

Sec. 6-403. - Hemp manufacturing license.

The local licensing authority may issue a hemp manufacturing license to a person to engage in the business of storing, extracting, processing or manufacturing hemp, or hemp products, excluding hemp seed oil, who complies with the requirements of the City Code and any rule or regulation adopted pursuant thereto.

Section 4. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-404 which section shall read as follows:

Sec. 6-404. – License required.

- (a) It shall be unlawful for any person to store, extract, process or manufacturer hemp, except hemp seed oil, or operate a hemp manufacturing facility in this City without obtaining and maintaining a hemp manufacturing license issued pursuant to this article.
- (b) The license requirement set forth in this article shall be in addition to, and not in lieu of, any other licensing and permitting requirements imposed by any other federal, state, or local law, including, by way of example, a retail sales and use tax license or any applicable zoning or building permit.
- (c) The issuance of any license pursuant to this article does not create an exception, defense, or immunity to any person in regard to any potential criminal liability the person may have for the production, distribution, storage, transportation or possession of hemp.

Section 5. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-405 which section shall read as follows:

Sec. 6-405. – General licensing requirements.

- (a) ***Applications.*** All applications for any license authorized by this article shall be submitted to the local licensing authority upon forms provided by the local licensing authority.
- (b) ***Complete applications.*** For purposes of this article an application for a license authorized by this article shall not be considered complete until the local licensing authority has (i) determined that all requirements of the application have been provided to the city, (ii) received the licensing fee, and (iii) obtained all other information the local licensing authority determines necessary to make a decision whether to approve or deny the license application, or approve it with conditions.
- (c) ***Operations plan.*** Every application for a new license issued pursuant to this article must include an operations plan. Every application for a renewal of a license issued pursuant to this article must include an updated operations plan if the operation of the business and the operation plan on file with the City changed during the past year.
- (d) ***Separate licenses.*** A separate license shall be required for each class of license issued pursuant to this article. A separate license shall be required for each geographic location as established by a different street addresses, different unit or suite number for the geographical location.
- (e) ***Issuance of a license.*** If after investigation the local licensing authority determines that:

 - (1) The applicant has met all the terms, conditions, provisions, and requirements imposed upon the applicant or the licensee by the City Code and all the rules and regulations adopted pursuant thereto, and all applicable building, fire, health or zoning statutes, codes, ordinances, rules, or regulations adopted pursuant thereto related to such a business application;
 - (2) The license application is complete and all requested supplemental documentation has been provided;
 - (3) The license application contains no falsified information, no false statements or misrepresented material or relevant facts;
 - (4) All fees and late charges, if any, have been paid;
 - (5) The applicant has timely filed all tax returns as required by law in relation to the business for which the license is sought;
 - (6) The applicant is not overdue on his or her payment to the city of any taxes, fines, interest, penalties or collections costs assessed against or imposed upon such applicant in relation to the business for which the license is sought;
 - (7) The applicant is of good moral character;

- (8) The applicant has made all the improvements to the licensed premises as required by the City Code or has an improvement implementation plan and timeline to make non-essential improvements to the premises or location approved by the local licensing authority;
- (9) The applicant has obtained a Certificate of Occupancy issued by the City's Building Division for the use approved in the application; and
- (10) The applicant is reasonably likely to begin operating the business within one year of the issuance of the license; then

the local licensing authority shall issue the license sought, with or without terms and conditions being ordered upon the license, to the applicant for the use and the location identified in the license application as the situs of the business.

(f) *Denial of application.* Each of the following, in and of itself, constitutes full and adequate grounds for denying an application:

- (1) The applicant has not paid all applicable fees required by this article;
- (2) The applicant has violated, does not meet, or has failed to comply with any provision of the City Code or any rule or regulation adopted pursuant thereto, or any other applicable building, fire, health rule or regulation adopted pursuant thereto or any zoning statute, code, or ordinance;
- (3) The application contains falsified information, false statements, misleading or incomplete information;
- (4) The applicant or anyone stated in the application is not of good moral character;
- (5) The applicant is not reasonably likely to commence operations within one year of the issuance of the license;
- (6) The applicant has failed to file any tax return as required by law in relation to the business for which the license is sought;
- (7) The applicant is overdue on his or her payment to the city of any taxes, interest, penalties, and collection costs assessed against or imposed upon such applicant or licensee in relation to the business for which the license is sought;
- (8) For good cause; or
- (9) A Certificate of Occupancy has not been issued by the City's Building Division for the use desired in the application.

(g) *Notice of denial.* If after investigation the local licensing authority determines that the application will be denied then the local licensing authority shall:

- (1) Deny the application based upon the information presented in the license application; and

- (2) **Notify the applicant of the local licensing authority's decision of denial and the reasons for the denial.**
- (h) ***Appeal.*** All decisions of the local licensing authority are final, subject only to an appeal and public hearing before the finance director if a petition for an appeal is received by the finance director within twenty (20) days of the date on the notice of denial. Every petition for appeal shall set forth in writing the legal and factual support for the appeal. The finance director shall only consider those issues specifically addressed in the petition for appeal.
- (i) ***Duty to supplement.*** If, at any time before or after a license is issued pursuant to this article, any information required by this article, the City Code, or any rule or regulation adopted pursuant thereto changes from that which is stated in the application the applicant or licensee shall supplement their application with the updated information within ten (10) days from the date upon which such change occurs.
- (j) ***Sample testing.*** All samples tested for THC concentrations shall be conducted in state designated agencies/laboratories.
- (k) ***No vested rights.*** Notwithstanding anything contained in this article, an applicant issued a license authorized by this article has no vested right to the license or the renewal of a license, and no property right in the license or the renewal of a license.
- (l) ***Notices by e-mail.*** All notices, orders and other communications required to be given to an applicant or a licensee under this article shall be sent via e-mail to the applicant or licensee at the e-mail address shown in the application on file with the local licensing authority of the city. The applicant or licensee has a duty to inform the local licensing authority of their current e-mail address and has an ongoing duty to notify the local licensing authority of any change in their e-mail address within twenty-four (24) hours of any change. The local licensing authority shall maintain a record of applicant's or licensee's e-mail address and shall store a copy of all e-mail communications with the applicant or licensee for a period of approximately two years. This storage record creates a presumption, and is prima facie proof, that any notice, order, or other communications was sent by the city and received by the applicant or licensee.

Section 6. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-406 which section shall read as follows;

Sec. 6-406. – The licensed premises.

- (a) ***Possession of licensed premises.*** The person licensed pursuant to this article must demonstrate proof of lawful possession of the premises to be licensed or the licensed premises. Evidence of lawful possession consists of properly executed deeds of trust, leases, or other written documents acceptable to the local licensing authority.
- (b) ***Location complies with the law.*** The location of any licensed premises for a license issued pursuant this article must comply with the zoning, location and

spacing requirements in the City Code. The licensed premises must comply with the building and fire code in the City Code and the requirements of the International Building Code and the International Fire Code.

- (c) *Transfer of ownership.* A license issued pursuant to this article is not transferrable in any manner.
- (d) *Control of odor.* The applicant and licensee must prevent the odor of hemp from being detected by any person at the exterior of the hemp manufacturing facility or perceptible at any adjoining use or business.
- (e) *Disposal of non-compliant product.* Non-compliant product means product that has THC levels of more than 0.3% on a dry-weight basis. Raw unprocessed hemp containing less than 0.3% THC when initially processed may contain a higher concentration of THC than 0.3%. Unfinished non-compliant products produced, regardless of the type of processing used, must undergo secondary processing to lower the THC concentrations to 0.3% or less before it can be sold to the general public. Unfinished non-compliant product may be sold to another licensed hemp manufacturer for secondary processing. Non-compliant product that will not undergo secondary processing must be rendered unusable and unrecognizable prior to leaving the licensed premises.

Section 7. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-407 which section shall read as follows:

Section 407. – Change of location.

Relocating or changing the location of a license premises to another geographical location requires filing a change of location application and obtaining approval from the local licensing authority. Licensees are not permitted to sublet any portion of the licensed premises. No change of location shall be approved if the new proposed location does not comply with the zoning, location and spacing requirements set forth in the City Code.

Section 8. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-408, which section shall read as follows:

Sec. 6-408. – Term and Renewal.

Each license issued pursuant to this article shall be valid for a period of one year from the date of issuance. All licenses issued pursuant to this article must be renewed on an annual basis. Any license not renewed on or before the expiration date will terminate on the expiration date.

Section 9. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-409 which section shall read as follows:

Sec. 6-409. - Fees.

- (a) **An applicant for a new license authorized by this article shall pay to the city an licensing fee when the application is filed. The purpose of the fee is to cover the direct and indirect costs to the city of the administration, regulation, and implementation of this article. The city shall also collect license renewal fees, change of location fees, and all other fees necessary for the administration, regulation, and implementation of this article. Such fees shall be established by the city manager in accordance with the provisions of section 2-587 of this Code.**
- (b) **At least annually, the amount of fees charged pursuant to this section shall be reviewed and, if necessary, adjusted to reflect the direct and indirect costs incurred by the city in connection with the administration, regulation, and enforcement of this article, including costs of random inspections.**

Section 10. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-411 which section shall read as follows:

Sec. 6-411. - Inspections.

Every applicant, licensee, employee, or agent of a licensee shall permit the local licensing authority, and any agent of the local licensing authority, or any other person authorized to inspect the premises, the licensed premises, and the location for compliance with the City Code and any of the rules and regulations adopted pursuant thereto. Every licensee shall also provide upon request a copy of all records required to be maintained by this article or records required to be maintained by any state or federal regulatory agency. Licensee shall also provide access to all security footage upon request.

Section 11. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-412 which section shall read as follows:

Sec. 6-412. – Unlawful acts.

It is unlawful for a licensee to fail to:

- (a) **Ensure their finished hemp product(s) contains 0.3% or less delta-9 tetrahydrocannabinol (“THC”). This prohibition does not apply to unfinished hemp product being sold for the purpose of undergoing secondary processing to lower the THC concentrations.**
- (b) **Ensure any finished consumable hemp product contains 0.3% or less delta-9 tetrahydrocannabinol;**
- (c) **Maintain for inspection all THC concentration tests performed on finished hemp product for a minimum of three years;**
- (d) **Maintain all shipping manifests of hemp and hemp product delivered for a minimum of three years;**

- (e) **Maintain all invoices of purchased or shipped hemp, hemp products or finished hemp products for a minimum of three years;**
- (f) **Maintain all information regarding the farm on which the hemp is grown;**
- (g) **Maintain copies of all records and reports required by any state or federal regulatory agency for a minimum of three years;**
- (h) **Process, store or manufacture hemp in the city without a license issued pursuant to this article;**
- (i) **Process, store or manufacture hemp or hemp products when not done in compliance with all applicable federal, state and local laws, and all rules and regulation promulgated thereunder, including any and all necessary permits; or**
- (j) **Exercise a level of care that a reasonably prudent person would exercise in a similar situation in the processing or manufacturing of hemp or hemp products.**

Section 12. That the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered 6-413, which section shall read as follows:

Sec. 6-413. – Disciplinary actions; sanctions; penalties.

- (a) **The finance director has the power and authority to impose disciplinary actions, sanctions, penalties upon a licensee that may include additional terms and conditions on the license, a fine, a suspension or a revocation of a license issued by the city's local licensing authority for any violation by the licensee or by any of the agents or employees of the licensee of any provision of the City Code, state statute, any rule or regulation adopted pursuant thereto, any building, fire, health rule or regulation, in addition to any other penalties prescribed by the City Code.**
- (b) **The finance director also has the authority to impose disciplinary actions, sanctions, penalties on the licensee if the finance director finds that:**
 - 1. **The licensee has failed to pay all required fines, costs and fees.**
 - 2. **The licensee has failed to file tax returns when due as required by the City Code, or the licensee is overdue on his or her payment to the city of taxes, fines, interest, or penalties assessed against or imposed upon such licensee in relation to the licensed business.**
 - 3. **The licensee has made a false statement, falsified any information, or misrepresented any material fact submitted in the license or renewal application.**
 - 4. **The licensee has failed to operate in accordance with their operations plan.**

5. The licensee has failed to operate in accordance with the City Code or any special term or condition placed upon a license by the local licensing authority.
 6. The licensee has knowingly or unreasonably permitted, facilitated, encouraged, or failed to prevent an act constituting a public nuisance as defined in Chapter 62 of the City Code from occurring in or about the licensed premises.
 7. The licensee engaged in any form of business or commerce involving the processing, extraction, manufacturing, storage, distribution, transportation, testing, research and development other than the privileges granted under their license.
 8. The odor of hemp is perceptible at the exterior of the licensed premises or is perceptible at any adjoining business or use of the property.
 9. Having any final product in the business that has a delta-9 tetrahydrocannabinol ("THC") concentration of more than three-tenths of one percent (0.3%) on a dry-weight basis.
 10. Committed any unlawful act as prescribed by this article.
 11. Any fact or condition exists which, if it had been known to exist at the time of the application for such license, would have warranted the refusal to issue such license.
- (c) Any suspension of a license shall not be for a period longer than six months.
- (d) Any fine imposed by the finance director shall not be less than \$500.00 and not more than \$5,000.00. Payment of any fine or costs pursuant to this section shall be in the form of cash or in the form of a certified check or cashier's check made payable to the city.
- (e) If the finance director finds that the license should be suspended or revoked or a fine imposed the licensee shall be provided written notice of such fine, suspension or revocation and the reasons therefore within 20 days following the date of the hearing.
- (f) If the finance director suspends or revokes a license or imposes a fine the licensee may appeal the fine, suspension or revocation to the district court. The licensee's failure to timely appeal the decision is a waiver of the licensee's right to contest the fine imposed, the suspension or the revocation of the license.
- (g) The finance director has the authority to impose the costs to conduct a public hearing upon a licensee who has violated any of the provisions prescribed by this article. The costs to conduct such a public hearing shall be established in accordance with the provisions of section 2-587 of this City Code.
- (h) No fee previously paid by a licensee in connection with a license shall be refunded if the licensee's license is suspended or revoked.

Section 13. That section 22-138.2 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 22-138.2. - Occupancy classification for marijuana ~~establishments~~ **businesses and hemp manufacturing facilities.**

Section 306.2 of the IBC adopted in section 22-131 is amended by adding the following:

Marijuana cultivation facilities, marijuana product manufacturers, **hemp manufacturing facilities**, marijuana testing facilities, the licensed premises for marijuana transporters and licensed research businesses will be classified for plan review, permitting and inspection purposes as an occupancy classification (F-1) factory/industrial, moderate-hazard occupancy and be required to meet IBC chapter 3 requirements based upon the use and occupancy classification requirements of IBC section 306.2.

Section 14. That section 22-146.1 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 22-146.1. - Use of hazardous materials by marijuana ~~establishments~~ **businesses and hemp manufacturing facilities.**

Section 414.1 of the IBC adopted in section 22-131 is deleted in its entirety and amended to read as follows:

The provisions of IBC sections 414.1 through 414.7 shall apply to buildings and structures occupied for the manufacturing, processing, dispensing, use or storage of hazardous materials, including all marijuana ~~establishments~~ **businesses and hemp manufacturing facilities.**

Each marijuana cultivation facility, marijuana product manufacturer, **hemp manufacturing facility**, licensed research business, and marijuana testing facility shall submit to the city:

- (1) A plan that specifies all means to be used for extracting, heating, washing, or otherwise changing the form of the marijuana plant **or hemp plant** or for testing any marijuana or marijuana product, including a verification that such plan is in compliance with all applicable federal, state, and local laws and regulations governing ventilation and safety measures for each such process;
- (2) A report from a certified industrial hygienist verifying that the plan submitted pursuant to subsection (1) and the improvements to be constructed adequately protects the facility and adjacent properties and persons, and complies with all applicable federal, state, and local laws and regulations;
- (3) A description of all toxic, flammable, or other materials regulated by a federal, state, or local government that will be used, kept, or created at the facility, the quantities and location of such materials, and the manner in which such materials will be stored; and
- (4) A description of the processes used to extract or distill marijuana derivatives **or hemp derivatives, extracts, cannabinoids, isomers, acids salts and salts of isomers (“derivative”)** from their source and the processes used to incorporate marijuana derivatives into all retail marijuana products produced,

and hemp derivative in products produced including a verification that such processes are in compliance with all applicable federal, state, or local laws or regulations.

Section 15. That section 22-146.2 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 22-146.2. - Fire barriers for marijuana ~~establishments~~ **businesses and hemp manufacturing facilities.**

Section 508.4.4 of the IBC adopted in section 22-131 is amended by adding the following:

Unless higher performance is required by applicable law, there must be a minimum of a one-hour fire separation in accordance with IBC section 707 between a marijuana ~~establishment~~ **business, a hemp manufacturing facility** and any adjacent occupancy regardless of occupancy classification.

Section 16. That section 22-147.1 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 22-147.1. - Required separation of marijuana ~~establishments~~ **businesses and hemp manufacturing facilities.**

Table 508.4 of the IBC adopted in section 22-131 is amended by adding the following:

For all marijuana ~~establishments~~ **businesses and hemp manufacturing facilities** Table 508.4 shall show a required one-hour separation between B, F-1, M, and S.

Section 17. That section 22-279.1 of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

Sec. 22-279.1. - Ventilation of marijuana ~~establishments~~ **businesses and hemp manufacturing facilities.**

Section 403.1 of the IMC adopted in section 22-276 is amended by adding the following:

A plan for ventilation of a marijuana ~~establishment-business, except for a retail marijuana store,~~ **and hemp manufacturing facilities** that describes the ~~ventilation~~ **odor mitigation** systems that will be used to prevent any odor of marijuana ~~or hemp~~ off the premises of the ~~establishment business or facility~~ must be submitted to the city **for review**. No ~~ventilation odor mitigation~~ plan is required for a retail marijuana store unless the odor of marijuana can be detected on the exterior of the licensed premises, then the retail marijuana store must take steps, up to and including ~~a ventilation an odor mitigation plan,~~ to prevent any detection of the odor of marijuana on the exterior of the license premises. For marijuana cultivation facilities and licensed research businesses, such plan shall also include all ventilation systems used to control the environment for the plants and describe how such systems operate. ~~with the systems preventing any odor leaving the premises.~~

~~If a ventilation plan is required the~~ **The outdoor ventilation rate required for each marijuana establishment business and hemp manufacturing facility will be as follows:**

- (1) For marijuana cultivation facilities and licensed research businesses, eight persons per 1,000 square feet with a ventilation rate of 60 cubic feet per minute per person;
- (2) For the licensed premises for marijuana transporters, marijuana product manufacturers, **hemp manufacturing facilities**, marijuana testing facilities, and licensed research businesses, eight persons per 1,000 square feet with 15 cubic feet per minute per person.

Section 18. That section 22-729.2 of the City Code of the City of Aurora, Colorado, to read as follows:

Sec. 22-279.2. - Mitigation of noxious gases produced by marijuana ~~establishments~~ **businesses and hemp manufacturing facilities.**

Section 510.2 of the IMC adopted in section 22-276 is amended by adding the following:

Where hazardous exhaust is warranted for marijuana cultivation facilities, marijuana product manufacturers, **hemp manufacturing facilities**, marijuana testing facilities and licensed research businesses, plans shall include all ventilation systems used to mitigate noxious gases or other fumes used or created as part of the production process in accordance with this chapter.

Section 19. That Table 3.2-1 in section 146-3.2 of the City Code of Aurora, Colorado, is hereby amended to add hemp processing, manufacturing, and storage facilities as new uses which table shall read as follows:

Table 3.2-1		P = Permitted																T = Temporary use												
Permitted Use Table		C = Conditional use																V = Permitted if structure vacant for 5 years or more												
		A = Accessory to primary use																												
Industrial																														
		Residential						Mixed-Use										Special Purpose												
Zoned District And Subarea or Subdistrict			R-1		R-2					MU-N				MU-OA						MU - TOD										
Land Use		R - R	A & B	C	A & B	C	R - 3	R - 4	R - M H	A & B	C	M U - O I	M U - C	O A - R 1	O A - R 2	O A - R M U	O A - M S	A F - G	M U - F B	C o r e	E d g e	M U - R	M U - A	A D	A P Z	I - 1	I - 2	P O S	USE SPECIFIC STANDARD	
Hemp Processing, Manufacturing or Storage Facilities																						.		P		P	P		3.3.5.YY	

Section 20. That section 146-3.3.5 of the City Code of the City of Aurora, Colorado, is hereby amended to add a new section to be numbered YY, which section shall read as follows:

146-3.3.5. Commercial and Industrial Uses

YY. Hemp Processing, Manufacturing and Storage Facilities

The following standards shall apply to hemp manufacturers:

1. Prohibited Uses

The outdoor processing, outdoor manufacturing or outdoor storage of hemp and hemp products is not permitted in the City.

2. Location Restrictions

Where this Section 146-3.3.5.YY imposes distance restrictions, and an existing lot or parcel does not conform to the distance requirements, no lot or parcel shall be subdivided for the purpose of creating a new lot or parcel that complies with the distance requirements, unless all lots and parcels resulting from the subdivision will be lots or parcels capable of accommodating development that complies with all applicable requirements of this UDO for the zone district in which the property is located.

3. Hemp Processing, Manufacturing and Storage Facilities

- a. No hemp processing, manufacturing, fabrication, packaging, or storage facility shall be permitted within 300 feet of an existing conforming residential use of any Residential or POS zone district, or any park or city owned recreation center. This distance shall be measured from the nearest property boundary of such use or distance to the nearest property boundary of such facility.**
- b. Additional restrictions on location of this use may be applied through permitting and licensing of the use.**

4. Best Management Practices

Best management practices are mitigation measures applied to hemp facilities to promote processing, manufacturing, fabrication, packaging and storage of hemp in an environmentally sensitive manner. Licensed hemp facilities are required to employ best management practices to ensure mitigation of land use impacts from such facilities on the surrounding area, including, but not limited to, the installation of air scrubbing and filtration systems.

Section 21. That subsection 146-4.3.18(A)(f) of the City Code of the City of Aurora, Colorado, is hereby amended to read as follows:

146-4.3.18. School, Park, and other Lands for Public Facilities

- A. Schools Lands and Fees-in-Lieu**

1. Location
 Sites designated or dedicated for schools shall meet the following location standards to the maximum extent practicable:
 - f. Not be located near sources of loud noise, hazardous uses, or potentially offensive odors, such as those that may be emitted by gas compression facilities, landfills, ~~and~~ marijuana-related facilities **and hemp processing, manufacturing and storage facilities**; and

Section 22. That section 146-4.6.3(C) and Table 4.6-1 of the City Code of the City of Aurora, Colorado, is hereby amended to add a hemp manufacturer to the minimum required parking which use shall read as follows:

146-4.6.3(C). Minimum Required Parking

Unless otherwise provided in this UDO, off-street parking shall be provided in the amounts shown in Table 4.6-1, Required Off-Street Parking below:

Table 4.6-1 Required Off-Street Parking		sf.= square feet gfa = gross floor area
Number Required	Category	Required Parking
1	Brewery, Distillery, or Winery Catering Service Bulk Commodity Storage Facility Outdoor Storage Heavy Manufacturing Light Manufacturing Marijuana Cultivation Facility, Marijuana Product Manufacturing Facility, or Licensed Premises for a Marijuana Transporter Marijuana Testing Facility Hemp Manufacturing, Processing or Storage Facilities Specialty Food Manufacturing Intermodal Cargo Transfer Yard Locomotive and Railcar Yard and Repair Facility Motor Freight Terminal Electric Power Generator Station Motor Vehicle Towing, Savage, and Dismantling Vehicle Fleet Operations Center Recycling Collection Facility Sewage Disposal Plant Solid Waste Transfer Facility Slaughterhouse, Small	1 space per peak-time employee

Section 23. That section 146-6.2 of the City Code of the City of Aurora, Colorado, is hereby amended to add the following definitions.

Sec. 146-6.2 Definitions and Terms of Measurement

Hemp-Related Definitions

As used in the context of regulating hemp-related uses in Section 146-3.3.5.YY, the following terms have the following meanings:

1. ***Hemp or Industrial Hemp***
The plant species *Cannabis sativa* L. and any part of the plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol (“THC”) concentration of no more than three-tenths of one percent (0.3%) on a dry-weight basis.
2. ***Hemp Processing and Hemp Manufacturing***
Uses engaged in the manufacturing, processing, fabrication, preparation, treatment, assembly, packaging, incidental storage, sales and distribution of any derivative, extract, cannabinoid, isomer, acid, salt, and salts of isomers from the hemp plant, including preparation, compounding or converting any part of the hemp plant, including removing or extracting oil from the plant.
3. ***Hemp Storage***
The storage of hemp or hemp products in a warehouse, structure, or hangar for the intake of hemp or hemp products, individually or in bulk, the short-term holding or storage of hemp or hemp products, and/or the breaking up into lots or parcels and subsequent shipment off-site of such goods and merchandise.

Section 24. The definition of “Home Occupation.” “Light Manufacturing” and “Specialty Food Production” in section 146-6.2 of the City Code of the City of Aurora, Colorado, are hereby amended to read as follows:

Sec. 146-6.2 Definitions and Terms of Measurement

Home Occupation

A business, profession, occupation, or trade that is conducted within a residential dwelling unit for the economic gain or support of a resident of the dwelling and is incidental and secondary to the residential use of the lot and that does not adversely or perceptively affect the character of the lot or surrounding area. This use shall not include an animal hospital, barbershop, beauty parlor, day care, health clinic, hospital, kennel, tearoom, **or hemp fabrication, manufacturing, or processing.**

Light Manufacturing

Uses engaged in the manufacture, processing, fabrication, treatment, assembly, packaging, incidental storage, sales and distribution of finished products or parts, predominately from previously prepared materials such as cloth, plastic, metal, paper, leather, precious or semiprecious stones, including without limitation the manufacture of electronic instruments or pharmaceuticals, the manufacture of custom medical and dental implants, the preparation of food products, blueprinting and commercial printing services (but not consumer photocopying and shipping stores), and other activities that do not create nuisances to surrounding properties and do not require delivery or shipping by railroad cars. This use does not include the manufacturing of products from raw minerals **or raw products (including hemp)**, the processing or treatment of raw minerals, **raw products (including hemp)**, or any manufacturing involving hazardous materials.

Specialty Food Production

Small-scale production or preparation of food made on site with minimal use of automated processes, and where packaging and sales of the goods produced on site to the public may occur. This definition includes uses such as bakeries, coffee roasters, candy making, and cheese making, but does not include any use involving marijuana or otherwise meeting the definition of a marijuana cultivation, product manufacturing, and testing facility. **This definition does not include any use involving hemp, hemp product or otherwise meeting the definition of hemp processing or hemp manufacturing.** This use may or may not have outdoor seating or patio as an accessory use depending on the zoning district in which it is located.

Section 25. Severability. The provisions of this Ordinance are hereby declared to be severable. If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable by a court of competent jurisdiction, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance.

Section 26. All acts, orders, resolutions, ordinances, or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof, heretofore repealed.

Section 27. Pursuant to Section 5-5 of the Charter of the city of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this 18th day of May, 2020.

PASSED AND ORDERED PUBLISHED BY REFERENCE this 21st day of May, 2020.



MIKE COFFMAN, Mayor

ATTEST:


STEPHEN J. RUGER, City Clerk

APPROVED AS TO FORM:


TIM JOYCE, Assistant City Attorney