

# Guadalupe Municipal Code

## Amendments

August 2017 to Current

### CHAPTER 9.21 CANNABIS REGULATIONS

#### Section 9.21.010. Purpose and Intent.

The purpose and intent of this Chapter is to comprehensively regulate cannabis within the City of Guadalupe, as authorized by State law.

#### Section 9.21.020. Definitions.

For purposes of this Chapter, the following definitions apply:

- (a) "Cannabis" and "marijuana" mean all parts of the plant *Cannabis sativa* L., *Cannabis Indica*, or *Cannabis Ruderalis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.
- (b) "Commercial marijuana activity" means the cultivation, harvesting, manufacture, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana or marijuana products.
- (c) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- (d) "Cultivation site" means any facility or location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
- (e) "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.
- (f) "Distribution" means the procurement, sale and transport of marijuana and marijuana products between parties to a transaction.
- (g) "Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.
- (h) "Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana or marijuana products into the human body.
- (i) "Marijuana dispensary" or "dispensary" means a facility or location, whether fixed or mobile, where marijuana or marijuana products are made available for sale, whether for medical purposes or otherwise.

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(j) "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

(k) "Nursery" means a producer of clones, immature plants, seeds and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.

(l) "Sell," "sale" and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of same and soliciting or receiving an order for same.

(m) "Smoke" and "smoking" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" and "smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(n) "Testing service" means a laboratory, facility or entity that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility or entity.

### **Section 9.21.030. Marijuana Dispensaries Prohibited.**

Marijuana dispensaries are prohibited in the City. No person shall operate or allow to be operated a marijuana dispensary in or upon any premises in the City.

### **Section 9.21.040. Commercial Marijuana Activity Prohibited.**

Commercial marijuana activities are prohibited in the City. No person shall operate or allow to be operated a commercial marijuana activity in or upon any premises in the City.

### **Section 9.21.050. Cultivation Prohibited.**

Cultivation of marijuana is prohibited in the City, except for cultivation of up to six (6) living plants for personal use as permitted by California Health and Safety Code section 11362(a)(3) and when located within a private residence or inside an accessory structure of a private residence located upon the grounds of a private residence that is fully enclosed and secure on the grounds of a private residence. Outdoor cultivation of marijuana for person use on the grounds of a private residence (e.g., in a garden area) is prohibited. No person shall operate or allow to be operated a cultivation site or nursery in or upon any premises in the City.

### **Section 9.21.060. Delivery Restricted.**

Delivery of marijuana or marijuana products is limited to the delivery for medical purposes to a qualified patient or primary caregiver pursuant to Health and Safety Code Section 11362.5 from dispensaries located outside of the City.

### **Section 9.21.070. Distribution Prohibited.**

The distribution of marijuana or marijuana products is prohibited in the City.

### **Section 9.21.080. Manufacture Prohibited.**

The manufacture of marijuana or marijuana products is prohibited in the City. No person shall manufacture or allow the manufacturing of marijuana or marijuana products in or upon any premises in the City.

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### **Section 9.21.090. Testing Services Prohibited.**

The provision of testing services of marijuana or marijuana products is prohibited in the City. No person shall operate or allow testing services of marijuana or marijuana products in or upon any premises in the City.

### **Section 9.21.100. Smoking Prohibited.**

Smoking marijuana and ingesting marijuana products are subject to the regulations contained in California Health and Safety Code section 11362.3.

### **Section 9.21.110. Public Nuisance.**

(a) The operation of a marijuana dispensary, commercial marijuana activities, cultivation sites and nurseries, distribution, provision of testing services, and manufacturing of marijuana and marijuana products from any property, structure or building in the City is declared to be a public nuisance.

(b) In addition to the penalties provided in Section 9.21.140, any violation of this Chapter shall constitute a public nuisance and may be abated by the City by administrative process, or by civil restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of a nuisance. All remedies herein are cumulative and non-exclusive.

(c) Any person, including the City, who prevails in an action or proceeding for the abatement of a public nuisance as provided herein shall be entitled to recover attorney's fees and costs incurred in any such action or proceeding.

### **Section 9.21.120. Confiscation of Marijuana and Marijuana Products.**

Any peace officer who issues a criminal citation under this Chapter shall confiscate any marijuana or marijuana products and store them according to law, pending the conclusion of the criminal case.

### **Section 9.21.130. Suspension or Revocation of Business License.**

No person or business holding a City business license and owning or operating a business in the City may use that business to operate a marijuana dispensary, conduct commercial marijuana activities, operate a cultivation site or nursery, distribute, provide testing services or manufacture of marijuana and marijuana products. A violation of this Chapter shall constitute grounds for suspension or revocation of a business.

### **Section 9.21.140. Penalties.**

(a) Failure to comply with this Chapter is a misdemeanor punishable by imprisonment in the County Jail for a period not exceeding six (6) months, or by fine not exceeding \$1,000.00, or by both, provided that where the City Attorney determines that such action would be in the interest of justice, he/she may specify in the accusatory pleading that the offense is an infraction.

(b) Each person committing, causing, or maintaining a violation of this Chapter, or failing to comply with the requirements set forth herein shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued, maintained, or permitted by such person and shall be punishable accordingly.

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### Section 9.21.150. Exclusions.

(a) Nothing in this Chapter is intended to prohibit individuals from cultivating not more than six (6) living marijuana plants and possessing the marijuana produced by the plants when in compliance with the restrictions set forth at Health and Safety Code Section 11362.2(a) and when located within a private residence or inside an accessory structure located upon the grounds of a private residence that is fully enclosed and secure.

(b) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without compensation, not more than 28.5 grams of marijuana and not in the form of concentrated cannabis, as set forth at Health and Safety Code Section 11362.1(a)(1).

(c) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, process, transport, purchase, obtain or give away to persons 21 years of age or older without any compensation, not more than eight (8) grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products, as set forth at Health & Safety Code Section 11362.1(a)(2).

(d) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without compensation, as set forth at Health and Safety Code Section 11362.1(a)(S).

(e) Marijuana and marijuana products involved in any way with conduct deemed lawful by this Section are not contraband and not subject to seizure. No conduct deemed lawful by this Section shall constitute the basis for detention, search or arrest.

### Section 9.21.160. Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction or preempted by State or Federal legislation, such decision or legislation shall not affect the validity of the remaining provisions of this Chapter.

### 15.14.010 Purpose.

The purpose of the Ordinance is to adopt an expedited, streamlined solar permitting process that complies with the Solar Rights Act and AB 2188 (Chapter 521, Statutes 2014) to achieve timely and cost-effective installations of small residential rooftop solar energy systems. The Ordinance encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City of Guadalupe, and expanding the ability of property owners to install solar energy systems. The Ordinance allows the City of Guadalupe to achieve these goals while protecting the public health and safety.

### 15.14.020 Definitions.

A. A "Solar Energy System" means either of the following:

1. Any solar collector or other solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating, space cooling, electric generation, or water heating.

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2. Any structural design feature of a building, whose primary purpose is to provide for the collection, storage, and distribution of solar energy for electricity generation, space heating or cooling, or for water heating.
- B.** A "small residential rooftop solar energy system" means all of the following:
1. A solar energy system that is no larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal.
  2. A solar energy system that conforms to all applicable state fire, structural, electrical, and other building codes as adopted or amended by the City of Guadalupe and all state and City of Guadalupe health and safety standards.
  3. A solar energy system that is installed on a single or duplex family dwelling.
  4. A solar panel or module array that does not exceed the maximum legal building height as defined by City of Guadalupe.
- C.** "Electronic submittal" means the utilization of one or more of the following:
1. Email;
  2. The Internet;
  3. Facsimile.
- D.** An "association" means a nonprofit corporation or unincorporated association created for the purpose of managing a common interest development.
- E.** A "common interest development" means any of the following:
1. A community apartment project.
  2. A condominium project.
  3. A planned development.
  4. A stock cooperative.
- F.** "Specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.
- G.** "Reasonable restrictions" on a solar energy system are those restrictions that do not significantly increase the cost of the system or significantly decrease its efficiency or specified performance, or that allow for an alternative system of comparable cost, efficiency, and energy conservation benefits.
- H.** "Restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance" means:
1. For Water Heater Systems or Solar Swimming Pool Heating Systems: an amount exceeding 10 percent of the cost of the system, but in no case more than one thousand dollars (\$1,000), or decreasing the efficiency of the solar energy system by an amount exceeding 10 percent, as originally specified and proposed.
  2. For Photovoltaic Systems: an amount not to exceed one thousand dollars (\$1,000) over the system cost as originally specified and proposed, or a decrease in system efficiency of an amount exceeding 10 percent as originally specified and proposed.

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### **15.14.030 Applicability.**

A. This Ordinance applies to the permitting of all small residential rooftop solar energy systems in the City of Guadalupe, California.

B. Small residential rooftop solar energy systems legally established or permitted prior to the effective date of this Ordinance are not subject to the requirements of this Ordinance unless physical modifications or alterations are undertaken that materially change the size, type, or components of a small rooftop energy system in such a way as to require new permitting. Routine operation and maintenance or like-kind replacements shall not require a permit.

### **15.14.040 Solar Energy System Requirements.**

A. All solar energy systems shall meet applicable health and safety standards and requirements imposed by the state and the City of Guadalupe's Building Division and Fire Department.

B. Solar energy systems for producing electricity shall meet all applicable safety and performance standards established by the California Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories and, where applicable, rules of the Public Utilities Commission regarding safety and reliability.

C. Solar energy systems for heating water in single-family residences and for heating water in commercial or swimming pool applications shall be certified by an accredited listing agency as defined by the California Plumbing and Mechanical Code.

### **15.14.050 Duties of the Building Department and Building Official.**

(a) All documents required for the submission of an expedited solar energy system application shall be made available on the publicly accessible City of Guadalupe Website.

(b) Electronic submittal of the required permit application and documents by email or the Internet shall be made available to all small residential rooftop solar energy system permit applicants.

(c) An applicant's electronic signature shall be accepted on all forms, applications, and other documents in lieu of a wet signature.

(d) The City of Guadalupe's Building Department shall adopt a standard plan and checklist of all requirements with which small residential rooftop solar energy systems shall comply to be eligible for expedited review.

(e) The small residential rooftop solar system permit process, standard plan(s), and checklist(s) shall substantially conform to recommendations for expedited permitting, including the checklist and standard plans contained in the most current version of the California Solar Permitting Guidebook adopted by the Governor's Office of Planning and Research.

(f) All fees prescribed for the permitting of small residential rooftop solar energy system must comply with Government Code Section 65850.55, Government Code Section 66015, Government Code Section 66016, and State Health and Safety Code Section 17951.

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### 9-18.06. Permit Review and Inspection.

(a) The City of Guadalupe's Building Department shall adopt an administrative, nondiscretionary review process to expedite approval of small residential rooftop solar energy systems within thirty (30) days of the adoption of this Ordinance. The Building Division shall issue a nondiscretionary building permit the same day for over-the-counter applications, if possible, or otherwise, within twenty-four (24) hours, or within three (3) business days for electronic applications, of receipt of a complete application that meets the requirements of the approved checklist and standard plan. The Building Official may require an applicant to apply for a use permit pursuant to Guadalupe Municipal Code Section 18.12.010 if the Building Official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the City of Guadalupe Planning Commission.

(b) Review of the application shall be limited to the Building Official's review of whether the application meets local, state, and federal health and safety requirements.

(c) If a use permit is required, the Building Official may deny an application for the use permit if the Building Official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the Planning Commission.

(d) Any condition imposed on an application shall be designed to mitigate the specific, adverse impact upon health and safety at the lowest possible cost.

(e) "A feasible method to satisfactorily mitigate or avoid the specific, adverse impact" includes, but is not limited to, any cost-effective method, condition, or mitigation imposed by the City of Guadalupe on another similarly situated application in a prior successful application for a permit. The City of Guadalupe shall use its best efforts to ensure that the selected method, condition, or mitigation meets the conditions of subparagraphs (A) and (B) of paragraph (1) of subdivision (d) of Section 714 of the Civil Code defining restrictions that do not significantly increase the cost of the system or decrease its efficiency or specified performance.

(f) The City of Guadalupe shall not condition approval of an application on the approval of an association, as defined in Section 4080 of the Civil Code.

(g) If an application is deemed incomplete, a written correction notice detailing all deficiencies in the application and any additional information or documentation required to be eligible for expedited permit issuance shall be sent to the applicant for resubmission.

(h) Only one inspection shall be required and performed by the Building Division for small residential rooftop solar energy systems eligible for expedited review. Notwithstanding the foregoing, the applicant may voluntarily waive the requirement for a single inspection and agree to multiple inspections on an agreed upon schedule. Any such waiver and agreed upon schedule shall be in writing.

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(i) The inspection shall be done in a timely manner and should include consolidated inspections. An inspection will be scheduled within two [2] business days of a request and provide a two (2) hour inspection window.

j) If a small residential rooftop solar energy system fails inspection, a subsequent inspection is authorized but need not conform to the requirements of this Ordinance.

### **18.20 R-1 SINGLE-FAMILY (LOW-DENSITY) RESIDENTIAL DISTRICT**

#### **18.20.020 Permitted uses.**

Permitted uses in the R-1 district include:

F. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.

### **18.21 R-1 (SP) RESIDENTIAL SINGLE-FAMILY - LOW DENSITY (SPECIFIC PLAN)**

#### **18.21.031 Uses permitted in the rear yard setback.**

The uses permitted in the rear yard setback are limited to the following:

D. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.

### **18.24 R-1-M SINGLE-FAMILY (MEDIUM DENSITY) RESIDENTIAL DISTRICT**

#### **18.24.090 Rear yard.**

In the R-1-M district, a rear yard setback of at least 15 feet shall be provided, except that an open patio awning will be permitted to be constructed with an eave to within 10 feet of the rear property line. (Ord. 196 §1, 1980; Ord. 189 Art. 3 §2.4(C), 1980) A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.

### **18.28 R-2 MULTIPLE DWELLING (MEDIUM-DENSITY) RESIDENTIAL DISTRICT**

#### **18.28.020 Permitted uses.**

Uses permitted in the R-2 district include:

F. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.

### **18.32 R-3 MULTIPLE DWELLING (HIGH-DENSITY) RESIDENTIAL DISTRICT**

#### **18.32.020 Permitted uses.**

Uses permitted in the R-3 district include:

E. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.



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### 18.60 OFF-STREET PARKING AND LOADING

#### 18.60.035 Residential zones - Parking in front, side, and rear yard setbacks.

B. Parking a vehicle or vehicles on any unpaved portion of a front yard, side yard, or rear yard, is prohibited. Such parking is also prohibited on any unpaved portion of a street side yard setback of corner lots. Notwithstanding the foregoing prohibition a vehicle may be parked on an unpaved portion of a front or street side yard setback for a period not exceeding one hour while actively being washed.

C. Vehicle parking may be allowed on a paved portion of a side or rear yard setback (or street side yard setback of corner lots) with a Zoning Clearance. Suitable paved surfaces include solid asphalt or concrete, concrete or brick pavers, or a concrete lattice supported surface such as grasscrete.

D. After the effective date of the ordinance adopting this section, any additional paving of the front yard setback, side yard setback, or rear yard setback (or street side yard setback of corner lots) shall require the approval of a Zoning Clearance.

F. A minimum of 60% of the rear yard area shall be retained for landscaping. Storage of RVs, boats, trailers and other vehicles shall be stored on a paved surface for which Zoning Clearance is required.