

ORDINANCE NO. \_\_\_\_\_

ORDINANCE OF THE CITY OF CHULA VISTA ADDING  
CHAPTER 5.19 OF THE CHULA VISTA MUNICIPAL CODE  
TO REGULATE COMMERCIAL CANNABIS

WHEREAS, the Adult Use of Marijuana Act (AUMA), adopted by the voters of the State of California in November 2016, decriminalized non-medicinal cannabis and established a regulatory system for non-medicinal cannabis businesses in California; and

WHEREAS, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), enacted by the California State Legislature in June 2017, established a comprehensive set of laws regulating both individual and commercial medicinal and non-medicinal cannabis activity throughout the State of California; and

WHEREAS, under California Business and Professions Code section 26200(a)(1), local jurisdictions are authorized to either permit and regulate or prohibit the operation of cannabis businesses within their boundaries; and

WHEREAS, the California Attorney General's 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use ("Guidelines") recognizes that the concentration of cannabis in any location or premises without adequate security increases the risk that nearby homes or businesses may be impacted negatively by nuisance activity or more significant levels of crime; and

WHEREAS, the City of Chula Vista has experienced the negative impacts and secondary effects associated with the operation of unlawful cannabis businesses within its corporate boundaries; and

WHEREAS, unregulated businesses remain a source of danger and disruption for City residents and businesses; and

WHEREAS, in response to changes in California law, and in an effort to mitigate the negative impacts brought by unregulated cannabis businesses, the City now desires to permit, license, and fully regulate commercial cannabis activity in the City; and

WHEREAS, California voters have recognized the danger of cannabis use among youth by making the sale of cannabis to those under age 21 illegal (Cal. Bus. & Prof. Code § 26140(a)(1)-(3)) and by prohibiting the possession of cannabis or cannabis products by minors (Cal. Health & Safety Code §11357); and

WHEREAS, youth exposure to advertising of products such as alcohol, tobacco, and food has been shown to create positive attitudes, brand identification, and increased likelihood of initiation and use of these products; and

WHEREAS, the City of Chula Vista has a substantial interest in promoting compliance with state and local laws intended to regulate cannabis sales and use; in discouraging the illegal purchase of cannabis products by youth; in promoting compliance with laws prohibiting sales of cannabis and cannabis products to youth; and in protecting youth from being coerced and enticed into engaging in illegal activity; and

WHEREAS, pursuant to its police powers, including but not limited to California Constitution Article XI, Section 5(b) authority over municipal affairs, the City of Chula Vista has general authority over the public health, safety, and welfare of its citizens; and

WHEREAS, it is the intent of the City Council to adopt a comprehensive set of requirements, restrictions, and robust enforcement procedures with regard to cannabis activity within the City in order to protect public safety, health, and other law enforcement interests.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

**Section I. Environmental Findings**

The City Council finds that the adoption of this ordinance is exempt from environmental review under the California Environmental Quality Act ("CEQA") pursuant to the following provisions of the CEQA Guidelines, 14 Cal. Code of Regulations, Chapter 3:

1. The Ordinance is exempt under Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Further, there is no possibility that this Ordinance would create cumulative impacts that are significant because this Ordinance does not authorize a total number of businesses in the City than would otherwise be authorized; there are no other significant impacts that could occur as a result of this ordinance, and there are no unusual circumstances that would cause any such significant impacts;

2. The Ordinance is also exempt under Section 15183 (Projects Consistent with a Community Plan or Zoning) since the types of businesses permitted by the Ordinance are consistent with those contemplated by general plan and zoning;

3. The Ordinance is also exempt under CEQA Guidelines Section 15301 (Existing Facilities) since permitted cannabis business under the Ordinance may locate in existing facilities, and any additions to structures would be expected to be also exempt under 15301; and

4. The Ordinance is exempt under Section 15303 (New Construction or Conversion of Small Structures). The businesses will be established in an urban area, and given the build out of the existing City, and sufficient existing leasable property, the amount of construction that would occur is minimal to non-existent, and any such construction would be less than the thresholds established in Section 15303.

**Section II.** Chapter 5.19 is added to the Chula Vista Municipal Code to read as follows:

## Chapter 5.19

### COMMERCIAL CANNABIS

Sections:

- 5.19.010 Purpose.
- 5.19.020 Definitions.
- 5.19.030 City License Required.
- 5.19.040 Maximum Number and Type of Authorized City Licenses.
- 5.19.050 City License Application Process.
- 5.19.060 Location Requirements for Cannabis Businesses.
- 5.19.070 Limitations on City's Liability.
- 5.19.080 Operating and Conduct Requirements for All Licensees and Individuals.
- 5.19.090 Operating Requirements for Storefront Retailers.
- 5.19.100 Operating Requirements for Non-Storefront Retailers.
- 5.19.110 Operating Requirements for Cultivators.
- 5.19.120 Operating Requirements for Manufacturers.
- 5.19.130 Operating Requirements for Distributors.
- 5.19.140 Operating Requirements for Testing Laboratories.
- 5.19.150 Recordkeeping.
- 5.19.160 Security Measures.
- 5.19.170 Community Relations.
- 5.19.180 Promulgation of Regulations, Standards, and Other Legal Duties.
- 5.19.190 Compliance With Laws.
- 5.19.200 Right of Access & Testing.
- 5.19.210 Restrictions on Transfer, Change, or Alteration of City License or City Licensee.
- 5.19.220 Restrictions on Transfer, Change, or Alteration of Location.
- 5.19.230 Expiration of City License.
- 5.19.240 Renewal of City License.
- 5.19.250 Effect of State License Suspension, Revocation, or Termination.
- 5.19.260 Suspension or Revocation of City License.
- 5.19.270 Advertising and Marketing of Cannabis.
- 5.19.280 Enforcement and Penalties.
- 5.19.290 Effectiveness Conditioned on Passage of Tax Measure.

#### **5.19.010 Purpose**

The Adult Use of Marijuana Act (AUMA), adopted by the voters of the State of California in November 2016, decriminalized non-medicinal cannabis and established a regulatory system for non-medicinal cannabis businesses in California. The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), enacted by the California Legislature in June 2017, established a comprehensive set of laws regulating both individual and commercial medicinal and non-medicinal cannabis activity throughout the State of California. Under California law,

local jurisdictions are authorized to either permit or prohibit the operation of cannabis businesses within their boundaries.

The City has experienced the negative impacts and secondary effects associated with the operation of unlawful cannabis businesses within its corporate boundaries. Unregulated businesses remain a source of danger and disruption for City residents and businesses. In response to changes in California law, and in an effort to mitigate the negative impacts brought by unregulated Commercial Cannabis Activity, the City now desires to permit, license, and fully regulate Commercial Cannabis Activities within the City.

**5.19.020 Definitions.**

When used in this Chapter, the following words and phrases shall have the meanings ascribed to them below. Words and phrases not specifically defined below shall have the meanings ascribed to them elsewhere in this Code, or shall otherwise be defined by common usage. For definitions of nouns, the singular shall also include the plural; for definitions of verbs, all verb conjugations shall be included. Any references to State Laws, including references to any California statutes or regulations, is deemed to include any successor or amended version of the referenced statute or regulations promulgated thereunder consistent with the terms of this Chapter.

“A-License” means a State License for Commercial Cannabis Activity related to products for individuals 21 years of age and over without the need for a physician’s recommendation.

“A-Licensee” means a Person holding an “A-License.”

“Adult-Use Cannabis” or “Adult-Use Cannabis Product” means Cannabis or Cannabis Products for individuals 21 years of age and over without the need for a physician’s recommendation.

“Advertise” means to publish or disseminate an Advertisement.

“Advertisement” means any written or verbal statement, illustration, or depiction which is calculated to induce sales of Cannabis or Cannabis Products, including without limitation: any written, printed, graphic, or other material; billboard, sign, or other outdoor, digital, indoor or point-of-sale display; individual carrying a display; public transit card, other periodical, literature or publication, or in any similar media; except that such term shall not include:

A. Any label affixed to any Cannabis or Cannabis Products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling.

B. Any editorial story, or other information (e.g., news release) in any periodical, publication or newspaper either in print or electronic format, for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any City Licensee or Person engaged in Commercial Cannabis Activity, and which is not written by or at the direction of a City Licensee or Person engaged in Commercial Cannabis Activity.

“Applicant” means the Owner or Owners applying for a City License pursuant to this Chapter.

“Attractive to Youth” means products, packaging, labeling, or Advertisements that are reasonably likely to encourage individuals under age 21 to initiate cannabis consumption or

otherwise to accidentally or purposely consume Cannabis or Cannabis Products. Attractive to Youth items include:

A. Products that resemble a non-Cannabis consumer product of a type that is typically consumed by, or marketed to Youth, such as a specific candy or baked treat.

B. Packaging or labeling that resembles packaging or labeling of a non-Cannabis consumer product of a type that is typically consumed by or marketed to Youth.

C. Packaging or labeling that contains images, characters, or phrases that closely resemble images, characters, or phrases popularly used to advertise to Youth.

D. Advertising that mimics Advertising of a non-cannabis consumer product of a type that is typically consumed by, or marketed to Youth.

E. Advertising that contains images, characters, or phrases that closely resemble images, characters, or phrases popularly used to advertise to Youth.

“Cannabis” means all parts of the *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this definition, “Cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.

“Cannabis Concentrate” means Cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. Cannabis Concentrate does not include any product intended for oral ingestion by the final consumer. A Cannabis Concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or drug, as defined by Section 109925 of the Health and Safety Code.

“Cannabis Product” means Cannabis that has undergone a process whereby the plant material has been concentrated and, with or without the addition of ingredients, been transformed into a product for sale. Cannabis products include but are not limited to: Cannabis Concentrate, Edible Cannabis Products, Topical Cannabis, or an inhalant containing Cannabis or Cannabis Product.

“Canopy” means the designated area(s) at a City Licensed Premises, except nurseries, that contain growing or mature Cannabis plants at any point in time. The Canopy for each Premises shall be calculated in square feet and measured using clearly identifiable boundaries of all area(s) that will contain growing or mature plants at any point in time, including any and all space(s) within such boundaries. The Canopy for any Premises may be noncontiguous provided that each unique area included in the total Canopy calculation for any Premises shall be separated by an identifiable boundary. Identifiable boundaries may include, but are not limited to: interior walls,

shelves, greenhouse walls, hoop house walls, or fencing. If plants are being cultivated using a shelving system, the surface of each level shall be included in the total Canopy calculation.

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

“City” means the City of Chula Vista, California.

“City Attorney” means the City Attorney of the City of Chula Vista, or his/her designee.

“City License” means the regulatory license issued by the City pursuant to this Chapter to a Commercial Cannabis Business that must be obtained prior to the commencement of any Commercial Cannabis Activity in the City.

“City Licensee” means any Person holding a City License.

“City Manager” means the City Manager of the City of Chula Vista, or his/her designee.

“Code” means The City of Chula Vista Municipal Code.

“Commercial Cannabis Activity” means the commercial cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of Cannabis or Cannabis Products.

“Commercial Cannabis Business” or “Cannabis Business” means any Person lawfully engaged in a Commercial Cannabis Activity.

“Council District” means any of four political subdivisions within the City by which City Council members are elected.

“Crime of Moral Turpitude” means a crime involving deceit; fraud; a readiness to do evil; or an act of moral depravity of any kind that has a tendency in reason to shake one’s confidence in the perpetrator’s honesty.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of Cannabis, other than for personal use. A City License is required for the Cultivation of Cannabis pursuant to 5.19.030.

“Cultivator” means a Person engaged in Cultivation.

“Customer” means an individual 21 years of age or over, or an individual 18 years of age or older who possesses a physician’s recommendation.

“Day Care Center” has the same meaning as in Section 1596.76 of the California Health and Safety Code.

“Delivery” means the commercial transfer of Cannabis or Cannabis Products from a Non-Storefront Retailer Premises to a Customer at a physical address. Delivery also includes the use by a Non-Storefront Retailer of any technology platform to facilitate Delivery.

“Delivery Employee” means an employee of a Non-Storefront Retailer who conducts Deliveries.

“Development Services Director” means the Director of the City’s Development Services Department, or his/her designee.

“Distribution” means the procurement, sale, and transport of Cannabis and Cannabis Products between Commercial Cannabis Businesses. A City License is required for Distribution pursuant to 5.19.030.

“Distributor” means a Person engaged in Distribution.

“Edible Cannabis Product” means a Cannabis Product that is intended to be used, in whole or in part, for human consumption, including, but not limited to chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the California Food and Agricultural Code. Edible Cannabis Product has the same meaning as California Business and Professions Code section 26001.

“Existing Residential Use” means a residential Pipeline Project or lawfully constructed structure or project intended for residential use within a Residential Zone.

“Finance Director” means the Director of the Chula Vista Finance Department, or his/her designee.

“Fire Chief” means the Chief of the Chula Vista Fire Department, or his/ her designee.

“Labor Peace Agreement” means an agreement between a licensee and any bona fide labor organization that is required by State Laws and this chapter and that, at a minimum, protects public interests with the following provisions: (1) a prohibition on labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with a City Licensee’s Cannabis Business; (2) an agreement by the City Licensee not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the City Licensee’s employees; access for a bona fide labor organization at reasonable times to areas in which the City Licensee’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.

“Licensee” means any Person holding a State License and a City License.

“Liquid Assets” means assets that can be readily converted into cash. Liquid Assets include, but are not limited to, the following: funds in checking or savings accounts, certificates of deposit, money market accounts, mutual fund shares, publicly traded stocks, and United States savings bonds. Liquid Assets does not mean household items, furniture and equipment, vehicles, Cannabis plants or products, business inventory, or real property and improvements thereto.

“Live Plants” means living Cannabis flowers and plants including seeds, immature plants, and vegetative stage plants.

“M-License” means a State License for Commercial Cannabis Activity involving Medicinal Cannabis.

“M-Licensee” means a Person holding an M-License.

“Manager” means any individual Person(s) designated by a Commercial Cannabis Business to manage day-to-day operations of the Commercial Cannabis Business or any Person acting with apparent management authority. Evidence of management authority includes, but is not limited to, evidence that the Person has the power to direct, supervise, or hire and dismiss employees, control hours of operation, create policy rules, or purchase supplies.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a Cannabis Product. A City License to Manufacture is required pursuant to 5.19.030.

“Manufacturer” means a Person engaged in Manufacturing.

“Marketing” means any act or process of promoting or selling Cannabis or Cannabis Products, including, but not limited to, sponsorship of events, offers such as tickets to events, point-of-sale advertising, branded merchandise, pamphlets or product promotion materials.

“Medicinal Cannabis” or “Medicinal Cannabis Product” means Cannabis or a Cannabis Product for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code, by a medicinal cannabis patient in California who possesses a physician’s recommendation.

“Minor” means an individual under 18 years of age.

“Non-Storefront Retailer” means a Person that offers Cannabis, Cannabis Products, or devices for the use of Cannabis or Cannabis Products, either individually or in any combination, for retail Sale to Customers exclusively by Delivery. A City License is required to operate a Non-Storefront Retailer Business pursuant to 5.19.030..

“Officer” means any of the following:

- A. The chief executive officer of an entity engaged in a Commercial Cannabis Business.
- B. A member of the board of directors of an entity engaged in a Commercial Cannabis Business.
- C. A Person participating in the direction or control of an Applicant for a City License or any Owner of a Commercial Cannabis Business within the City.

“Owner” means any of the following:

A. In the context of a Commercial Cannabis Business, a Person with an aggregate ownership interest, direct or indirect, of ten percent (10%) or more in a Commercial Cannabis Business, whether a partner, shareholder, member, or the like, including any security, lien, or encumbrance in an ownership interest that, upon default, could become an ownership interest of 10% or more in a Commercial Cannabis Business.

B. In the context of a Premises, a Person with an aggregate ownership or long-term lease interest, direct or indirect, of ten percent (10%) or more in the Premises, whether as a partner, shareholder, member, joint tenant or the like.



“Operation” means any act for which licensure is required under the provisions of this Chapter or State Laws, or any commercial transfer of Cannabis or Cannabis Product.

“Patient or Qualified Patient” means a person who is entitled to the protections of California Health & Safety Code Section 11362.5 as further provided in California Health & Safety Code Section 11362.7.

“Person” means any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination of persons acting as a unit.

“Pipeline Project” means a proposed use or project for which the City has received all required applications, and required supporting information and documents, and which has been entered into the City’s project tracking system.

“Police Chief” means the Chief of the Chula Vista Police Department, or his/her designee.

“Premises” for Commercial Cannabis Activity means the designated structure or structures and land, or portions thereof, specified in an application for a City License or, if a City License is issued, that is owned, leased, or otherwise held under the control of the City Licensee, and is designated as the structure or structures and land, or portions thereof where the Commercial Cannabis Activity will be or is conducted.

“Private Parks” means privately owned outdoor premises, available for community use, containing recreational areas or playground equipment, including tot-lots, swings, or similar equipment, designed for use by Minors. Where a Private Park is located within a parcel containing other uses, the Private Park premises shall be defined as the area within which all recreational areas or playground equipment designed for use by Minors is contained.

“Public Parks” means outdoor premises containing existing or proposed parks, including community parks, neighborhood parks, mini-parks, and urban parks that are currently or proposed to be owned or operated by the City or other governmental agency.

“Public Street” is any public right-of-way designated for vehicular use.

“Purchaser” means the Customer who is engaged in a transaction with a Commercial Cannabis Business for purposes of obtaining Cannabis or Cannabis Products.

“Residential Zone” means an R-1, R-2, or R-3 zone, or an equivalent residential zone within a City approved Sectional Planning Area plan or Specific Plan, in each case within which residential uses are allowed by right and commercial uses are allowed only as accessory uses.

“Sell” and “Sale” mean any transaction whereby, for any consideration, title to Cannabis or Cannabis Products is transferred from one person to another, and includes the Delivery of Cannabis or Cannabis Products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same.

“State” means the State of California.

“State Laws” means the laws of the State of California, which includes, but are not limited to, California Health and Safety Code Sections 11000, *et seq.*; California Health and Safety Sections 11362.1 through 11362.45; California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California Health and Safety Code Sections 11362.7, *et seq.*(Medical Marijuana Program); California Health and Safety Code Sections 26000, *et seq.*(Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”)); the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General; California Labor Code Section 147.5; California Revenue and Taxation Code Sections 31020 and 34010 through 34021.5; California Fish and Game Code Section 12029; California Water Code Section 13276; all State regulations adopted pursuant to MAUCRSA; and all other applicable laws of the State of California.

“State License” means a license issued by the State of California, or one of its departments or divisions, under State Laws to engage in Commercial Cannabis Activity. License includes both an “A-license” (adult use) and an “M-license” (medicinal use), as defined by States Laws, as well as a testing laboratory license.

“State Licensee” means any Person holding a State License.

“Storefront Retailer” means a Person that offers Cannabis, Cannabis Products, or devices for the use thereof, either individually or in any combination, for retail sale to Customers exclusively at Premises providing access to the public. A City License is required to operate a Storefront Retailer Business pursuant to 5.19.030.

“Testing Laboratory” means a laboratory, facility, or entity in the State that offers or performs tests of Cannabis or Cannabis Products and that is both of the following:

A. Accredited by an accrediting body that is independent from all other persons involved in Commercial Cannabis Activity in the State; and

B. Licensed by the State.

A City License is required to operate a Testing Laboratory pursuant to 5.19.030.

“Testor” means a Licensee that offers or performs tests of Cannabis or Cannabis Products at a Testing Laboratory.

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

“Transport” means transfer of Cannabis or Cannabis Products from the Premises of one Licensee to the Premises of another Licensee, for the purposes of conducting Commercial Cannabis Activity authorized by State Laws and this Chapter.

“Treatment Center” means a medical treatment or counseling facility licensed by the California Department of Health Care Services and located outside of a residential zone that treats five or more persons with substance abuse conditions in one calendar year.

“Youth” means an individual under 21 years of age.

“Youth Center” means any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

“Youth-Oriented Business” means any for-profit or non-profit business where the majority of individuals who patronize, congregate, or assemble at the business location are less than 21 years old.

**5.19.030 City License Required.**

A. No Person may engage in any Commercial Cannabis Business and/or in any Commercial Cannabis Activity within the City unless that Person: (1) has a valid State License authorizing such business or activity; (2) has a valid City License authorizing such business or activity; and (3) is currently in compliance with all other applicable state and local laws and regulations pertaining to such business or activity. No City License will be available for issuance until, at the earliest, January 1, 2019. Except as expressly authorized in this Chapter, all Commercial Cannabis Businesses and Commercial Cannabis Activities are prohibited within the City.

B. Notwithstanding the foregoing, the Delivery of Cannabis or Cannabis Product originating from a Commercial Cannabis Business licensed in accordance with California Business and Professions Code section 26050(a)(17) is permitted without a City License, so long as the Delivery originates from a licensed Commercial Cannabis Business outside the City of Chula Vista, and is conducted in accordance with all codified and administrative state and local laws and regulations, including but not limited to the requirements of section 5.19.100.C below.

**5.19.040 Maximum Number and Types of Authorized City Licenses.**

Commencing January 1, 2019, the authorized number of City Licenses for each type of Commercial Cannabis Business available for issuance within the City shall be as follows:

A. Storefront and Non-Storefront Retailer Licenses: Twelve (12) total, with no more than three (3) City Licenses available for Operation within each Council District. Of the three (3) City Licenses available for Operation within each Council District, no more than two (2) City Licenses shall be available for Storefront Retailers.

B. Indoor Cultivator: Ten (10) total City Licenses. Each Cultivator License shall be limited to a maximum of 20,000 total square feet of Canopy.

C. Other License Types: The City is also authorized to issue, without numerical limit, City Licenses for the following Commercial Cannabis Businesses:

1. Manufacturer;
2. Distributor; and
3. Testing Laboratory.

D. Storefront Retailer City Licenses shall be limited to A-Licensees only. All other City License types may be available to A-Licensees and M-Licensees.

E. No City License shall issue for any Commercial Cannabis Business type other than those identified in subsections (A) through (C) above.

F. The City shall take no action to increase the maximum number of authorized Storefront Retail Licenses until July 1, 2020. After July 1, 2020, the City Council may consider increasing the maximum number of authorized Storefront Retail Licenses, but only after receiving and considering a report from the City Manager regarding any observed or projected adverse impacts on the community from such businesses.

G. The City Council may make a referral to the City Manager at any time for a recommendation on if and how the City should decrease the total number of City Licenses for any or all types of Commercial Cannabis Businesses, or to impose a cap on previously uncapped license types. If the City Council proceeds with a decrease in the total number of City Licenses for any or all types of Commercial Cannabis Businesses within the City, any such action shall include provisions for determining which, if any, existing City Licenses shall be eliminated and when Operations for eliminated City Licenses shall cease.

**5.19.050 City License Application Process.**

The following procedures shall govern the application process for the issuance of any City License under this Chapter.

**A. Phase One Application Process**

1. **Application Requirements.** Any Applicant seeking to obtain a City License to operate a Commercial Cannabis Business within the City shall submit a Phase One Application to the City, signed under penalty of perjury, using the form adopted by the City for that purpose. Among other information, each Phase One Application must contain the following:

- a. Applicant's name, address, telephone number, and e-mail address;
- b. Names and addresses of all Owners, Officers, and Managers.
- c. If any Applicant or Owner is a business entity or any other form of entity, the entity's legal status, formation documents, and proof of registration with, or a certificate of good standing from, the California Secretary of State, as applicable.
- d. The type of City License the Applicant is seeking.
- e. A description of any and all Commercial Cannabis Activity engaged in as an owner, manager, lender, employee, volunteer, or agent by the Applicant and all Owners, Officers, and Managers over the previous 5 years, including, but not limited to, the location of such activity and a copy of any permits, licenses, or other written forms of permission for such activity by a local or state government entity. An Applicant for a Storefront Retailer, Non-Storefront Retailer, Manufacturer, or Cultivator City License must demonstrate each of the following:
  - i. That at least one Manager has had managerial oversight or been directly engaged in the day-to-day operation of a Commercial Cannabis Business for a minimum of twelve (12) consecutive months, within the previous 5 years, in a jurisdiction permitting such Commercial Cannabis Activity. The 12 consecutive months of lawful Commercial Cannabis Activity

demonstrated must be of a type substantially similar to that allowed by the City License for which the Applicant is applying; and

ii. That at least one Owner has one of the following types of experience:

(A) a minimum of twelve (12) consecutive months as an Owner of a Commercial Cannabis Business, within the previous 5 years, in a jurisdiction permitting such Commercial Cannabis Activity. The 12 consecutive months of lawful Commercial Cannabis Business ownership demonstrated must be of a type substantially similar to that allowed by the City License for which the Applicant is applying; or

(B) a minimum of thirty-six (36) consecutive months as an owner with an aggregate ownership of 30% or more in a lawful alcohol or pharmaceutical business licensed and regulated by a state or the federal government. The 36 months of experience demonstrated must be of a type substantially similar to that allowed by the City License for which the applicant is applying; or

(C) a minimum of thirty-six (36) consecutive months as an owner with an aggregate ownership interest of 30% or more in a lawful, properly licensed business with an average of ten (10) or more employees located within the City, thereby demonstrating a record of experience, familiarity and compliance with City rules and regulations.

f. Documentation demonstrating a minimum of \$250,000 in Liquid Assets available under the Applicant's control.

g. A business plan that contains, at a minimum, the following: a defined scope of planning and capital improvements; estimated revenues and expenses; and a demonstrated ability to operate in a highly regulated industry.

h. An operating plan that contains, at a minimum, the following: provisions for adequate staffing, security, employee training, consumer education, and compliance with State and local laws and regulations.

i. Submission by each individual Applicant, Owner, Officer, and Manager of fingerprints and other information deemed necessary by the Police Chief for a background check by the Chula Vista Police Department. If the Applicant or any Owner or Manager is an entity, the Police Chief, in his/her discretion, may require individual employees, officers, members, representatives, or partners of each entity to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the Chula Vista Police Department.

j. A statement, under penalty of perjury, by each individual Applicant, Owner, Officer, and Manager, that all information provided thereby is true and correct and that he/she has not conducted, facilitated, caused, aided, abetted, suffered, or concealed unlawful Commercial Cannabis Activity in the City or any other jurisdiction.

k. If an individual Applicant, Owner, Officer, or Manager, or any entity such individual has been associated with in such capacity, has been denied authorization to conduct Commercial Cannabis Activity in any jurisdiction and/or such Person's authorization to conduct Commercial

Cannabis Activity in any jurisdiction has been suspended or revoked at any time, a description of each denial, suspension and/or revocation and documentation demonstrating a material change in circumstances since such denial, suspension, or revocation.

1. For an Applicant with 10 or more employees, a statement that the Applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a Labor Peace Agreement.

m. The Finance Director or Police Chief may request such additional information, as he/she deems necessary including documents, from the Applicant to evaluate Applicant's qualifications. If the Applicant fails to provide such additional information in the time allotted, the Application shall be considered abandoned.

2. Site Identification. Phase One Applicants must also identify and submit a proposed site for its proposed Commercial Cannabis Business. Such submittal shall include the address and a general description of the proposed site location. In the event the site will be leased or acquired from another Person, the Applicant shall be required to provide a signed and notarized statement from the Owner(s) of the site on a form approved by the City acknowledging that the Owner(s) of the site: (a) has read this Chapter; (b) acknowledges and agrees to comply with all Premises Owner requirements set forth herein; and (c) the site is available for the operation of the Commercial Cannabis Business on terms already agreed to or to be negotiated with the Applicant that are or shall be consistent with the requirements of this Chapter.

3. Application Fee. The Phase One Application shall be accompanied by a nonrefundable application fee established by resolution of the City Council.

4. Initial Application Review by Finance Director. The Phase One Application shall be reviewed by the Finance Director for completeness and to determine if City's minimum City License qualifications have been satisfied. Phase One Applications may be rejected by the Finance Director for any of the following reasons in his/her discretion:

a. The application is received after the designated time and date;

b. The application is not in the required form and/or is incomplete. A Phase One Application shall not be considered complete until the Finance Director has: (i) determined that all requirements of the application have been provided to the city; (ii) received the nonrefundable Phase One application fee; and (iii) obtained all other information the Finance Director determines necessary to make a decision whether the Application meets the requirements of State Laws or this Code.

c. The Applicant has failed to pay the application fee required by this Chapter and specified by City Council resolution;

d. The Applicant has failed to demonstrate the financial capacity to operate its proposed Commercial Cannabis Business and to fulfill its obligations under this Chapter.

e. The Applicant has made a false, misleading or fraudulent statement or omission of fact in the application or in the application process.

- f. The Applicant, an Owner, Officer, or Manager is under twenty-one years of age.
- g. The Applicant or any Owner is an entity that is incorporated outside of the United States.
- h. The Applicant has failed to demonstrate the minimum experience required in accordance with section 5.19.050.A.1.e, above.
- i. The Applicant, or any Owner, Officer, or Manager, has had his/her/its authorization to conduct Commercial Cannabis Activity in any jurisdiction suspended or revoked at any time, and such person has not demonstrated a material change in circumstances or corrective action since such suspension, and/or revocation.

5. Application Review by Police Chief. Phase One applications accepted by the Finance Director as minimally qualified shall be forwarded to the Police Chief for review and completion of any and all required background checks. Phase One Applications may be rejected by the Police Chief for any of the following reasons in his/her discretion:

- a. The Applicant has made a false, misleading or fraudulent statement or omission of fact in the application or in the application process;
- b. The Applicant, any Owner, Manager, or Officer, or any other individual identified pursuant to 5.19.050.A.1.i has failed to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the Chula Vista Police Department.
- c. The Applicant or any Owner, Officer, or Manager has been convicted of a felony.
- d. The Applicant or any Owner, Officer, or Manager has been convicted of any Crime of Moral Turpitude or any offense involving the use of a weapon.
- e. There are charges pending against the Applicant, or any Owner, Officer, or Manager for a felony offense, a Crime of Moral Turpitude, or an offense involving the use of a weapon.
- f. The Applicant, or any Owner, Officer, or Manager has been adversely sanctioned or penalized by the City, or any other city, county, or state, for a material violation of state or local laws or regulations related to Commercial Cannabis Activity or to pharmaceutical or alcohol licensure.
- g. The Applicant, or any Owner, Officer, or Manager has conducted, facilitated, caused, aided, abetted, suffered, or concealed unlawful Commercial Cannabis Activity in the City or any other jurisdiction.

6. Notice of Decision. The Finance Director or Police Chief shall serve the Applicant, either personally or by first class mail addressed to the address listed on the application, with dated written notice of the decision to approve or reject the Phase One Application. This notice shall state the reasons for the action, the effective date of the decision, and the right of the Applicant to appeal the decision to the City Manager. The City Manager's determination regarding the Phase One Application shall be final. The City Manager shall provide dated written notice to the Applicant, either personally or by first class mail addressed to the address listed on the application, of the City Manager's determination and the right of the Applicant to seek judicial review of the City Manager's determination.

7. Invitation to Submit Phase Two Application; Merit-Based System. Applicants who are approved by the Finance Director and Police Chief under the Phase One Application process, or by the City Manager upon appeal, shall be deemed qualified to submit a Phase Two Application. If the number of deemed “qualified” Phase One Applicants for Storefront Retail or Non-Storefront Retail Licenses exceeds the number of available City Licenses for those license types, a merit-based system established by the City shall be used to determine which of the qualified Applicants is invited to submit a Phase Two Application.

8. Phase One Approvals Valid for Six Months. Phase One approvals shall be valid for a maximum period of six (6) months in order to allow the Applicant to complete the Phase Two process. City regulations issued pursuant to this Chapter, may provide for extensions of this time periods in limited, defined circumstances.

B. Phase Two Application Process

1. Application Requirements. The Phase Two Application shall be submitted in writing, signed under penalty of perjury, using the form adopted by the City for that purpose. Among other information, each Phase Two Application must contain the following:

- a. Proposed Premises location and description.
- b. Information and diagrams demonstrating that the proposed Premises location complies with the applicable locational requirements of this Chapter, the City’s zoning code, and State Laws.
- c. Identification of all Owners of the proposed Premises location and a copy of all agreements for site control.
- d. Submission by each individual Owner of the proposed Premises location of fingerprints and other information deemed necessary by the Police Chief for a background check by the Chula Vista Police Department. If an Owner of the Proposed Premises location is an entity, the Police Chief, in his/her discretion, may require individual employees, officers, members, representatives, or partners of each entity to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the Chula Vista Police Department.
- e. Proposed emergency action and fire prevention plan that includes, at a minimum, employee roles and responsibilities; emergency notification and egress procedures; fire hazard identification, maintenance, and procedures; and fire and life safety system identification, maintenance, and procedures.
- f. Proposed security plan that includes, at a minimum, employee roles and responsibilities; entry/exit security and procedures; security guard coverage and duties; lighting, alarm, and camera placement and operation; limited-access area identification and procedures; cash handling processes and procedures, and demonstrates compliance with section 5.19.160.



g. Information required or necessary to demonstrate the ability to comply with the applicable operational requirements set forth in sections 5.19.080 through 5.19.140, as applicable.

2. Application Fee. The Phase Two Application shall be accompanied by a non-refundable application fee established by resolution of the City Council.

3. Site Approval. As part of the application process, the Applicant shall be required to obtain all required land use approvals from the City and/or any other governmental agency with jurisdiction, including a certification from the Development Services Director certifying that the business is an allowed use in the zone where it is located, and the proposed site meets all of the requirements of this Chapter and Title 19 of this Code.

4. Site Control. As a condition precedent to the City's issuance of a City License pursuant to this Chapter, in the event the Premises will be leased from another Person, the Applicant shall be required to provide a signed and notarized statement from the Owner(s) of the Premises on a form approved by the City acknowledging that the Owner(s) of the Premises: (a) has read this Chapter; (b) acknowledges and agrees to comply with all Premises Owner requirements set forth herein; and (c) the site is available for the operation of the Commercial Cannabis Business on terms agreed to with the Applicant that are consistent with the requirements of this Chapter.

5. Application Review by Development Services Director, Fire Chief, and Police Chief. Phase Two Applications shall be reviewed and are subject to approval by the Development Services Director, the Fire Chief and the Police Chief. A Phase Two Application may be rejected by the Development Services Director, Fire Chief, and/or Police Chief for any of the following reasons:

a. The application is received after the designated time and date;

b. The application is not in the required form and/or is incomplete. A Phase Two Application shall not be considered complete until the Development Services Director, Fire Chief, and Police Chief have: (i) determined that all requirements of the application have been provided to the city; (ii) received the nonrefundable Phase Two application fee; and (iii) obtained all other information the Development Services Director, Fire Chief, and Police Chief determine is necessary to make a decision whether the application meets the requirements of State Laws or this Code.

c. The application fails to demonstrate that the proposed Premises location complies with this Chapter, the City's zoning code, and State Laws.

d. The Applicant has made a false, misleading or fraudulent statement or omission of fact in the application or in the application process;

e. An Owner of the proposed Premises location or any other individual identified pursuant to 5.19.050.B.1.d has failed to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the Chula Vista Police Department.

f. An Owner of the proposed Premises location has been convicted of a felony.

g. An Owner of the proposed Premises location has been convicted of any Crime of Moral Turpitude or any offense involving the use of a weapon.

h. There are charges pending against an Owner of the proposed Premises location for a felony offense, a Crime of Moral Turpitude, or an offense involving the use of a weapon.

i. An Owner of the proposed Premises location has been adversely sanctioned or penalized by City, or any other city, county, or state, for a material violation of state or local laws related to Commercial Cannabis Activity.

j. An Owner of the proposed Premises location has conducted, facilitated, caused, aided, abetted, suffered, or concealed unlawful Commercial Cannabis Activity in the City or any other jurisdiction.

6. Notice of Decision. The Development Services Director, Fire Chief, or Police Chief shall serve the Applicant, either personally or by first class mail addressed to the address listed on the application, with dated written notice of the decision to approve or reject the Phase Two Application. This notice shall state the reasons for the action, the effective date of the decision, and the right of the Applicant to appeal the decision to the City Manager. The City Manager's determination regarding the Phase Two Application shall be final. The City Manager shall provide dated written notice to the Applicant, either personally or by first class mail addressed to the address listed on the application, of the City Manager's determination and the right of the Applicant to seek judicial review of the City Manager's determination.

7. Conditional City Approval Valid for Six Months. Upon obtaining final approval of a Phase Two Application, an applicant shall be issued a conditional City approval. The conditional City approval shall be valid for a period of six (6) months to allow the Applicant to take all necessary actions to open its Commercial Cannabis Business. If the business is not fully permitted and operating by the end of this six (6) month period (the "Conditional Approval Period"), the conditional City approval will be void without the need for further action by the City. Notwithstanding the foregoing, if the only remaining action necessary for an Applicant holding a conditional City approval is the State's determination on such Applicant's pending State License application, the validity of the conditional City approval shall be extended until the earlier to occur of: (a) the State's determination on the issuance of the pending State License application, or (b) the date falling 6 months after the expiration of the Conditional Approval Period. City regulations issued pursuant to this Chapter may provide for other extensions of the Conditional Approval Period in limited, defined circumstances.

8. Pipeline Projects; Priority Regulations to be Issued. Prior to commencing the application process for City Licenses, City will develop and issue regulations to establish and clarify development rights priorities between, on the one hand, Commercial Cannabis Businesses, and, on the other hand, uses and businesses with separation requirements with respect to Commercial Cannabis Businesses. Regulations shall include, among other things, provisions applicable to Pipeline Projects and Existing Residential Uses.

C. Requirements Prior to Commencement of Operation. Prior to commencing Operations under a City License, in addition to any and all other applicable State and local requirements, a City Licensee must comply with the following requirements:

1. Fees and Charges. Pay in full all fees and charges required for the Operation of a Commercial Cannabis Activity. Fees and charges associated with the Operation of a Commercial Cannabis Business shall be established by resolution of the City Council which may be amended from time to time.

2. Business License Tax. Pay to the City a business license tax as required by Code Chapter 5.02.

3. Permits and Approvals. Obtain all applicable planning, zoning, building, and other applicable licenses, permits, and approvals from the relevant City department or division that may be applicable to the Premises and the zoning district in which such business will be located.

4. Final Security Plan Approval. Obtain final security plan approval from the Police Chief for the Premises and Operation of the Commercial Cannabis Business.

5. Final Emergency Action and Fire Prevention Plan Approval. Obtain final safety approval from the Fire Chief for the Premises and Operation of the Commercial Cannabis Business.

6. Employee Work Permits. Obtain from the Police Chief work permits for each employee of the Commercial Cannabis Business whose name did not appear on an Application for a City License. Each employee shall submit their application for such work permit to the Police Chief, which application shall be under oath and shall include, among other things, the name, address, proposed job title, and past criminal record, if any, of the employee and shall be accompanied by the fingerprints of the employee. An application for an employee work permit shall be accompanied by the required fee(s) or the required renewal fee(s). The work permit, when issued, shall be valid for one year. The Police Chief may revoke, deny, or not renew any employee work permit upon finding that any of the factors outlined in sections 5.19.050.A.3 through A.4 and/or sections 5.19.270.F through .H apply.

7. State License. Submit proof that the necessary State License has been obtained and that Applicant remains in good standing thereunder.

8. Agreement. Submit a fully executed agreement as required by section 5.19.070.

9. Insurance. Submit proof of insurance at coverage limits and with conditions thereon determined necessary and appropriate by the City's insurance and claims administrator.

10. Operational Requirements. Demonstrate compliance with any and all pre-opening operational requirements that may apply as specified in section 5.19.080 through 5.19.140, below, and the ability to comply with and all applicable and ongoing operational requirements.

#### D. General Rules.

1. If a Phase One or Phase Two application is denied or a corresponding conditional City License expires, no Applicant or Person named therein will be qualified to submit a new Phase One application until the passage of one year from the date of the denial or expiration.

2. Phase One and Phase Two applications shall include such supplemental materials as required by the rules and regulations adopted pursuant hereto. The City may, at the City Manager's

discretion, require additional documentation associated with any application as may be necessary to enforce the requirements of State Laws and this Code.

3. Applicants shall have no right to operate under a City License until a City License is actually issued thereto by the City. Each Applicant assumes the risk that, at any time prior to the issuance of a license, the City Council may terminate or delay the program created under this Chapter.

4. Issuance of a City License does not create a land use entitlement. Furthermore, no City License will be officially issued and no Applicant awarded a City License may begin operations until the City Licensee is fully in compliance with all state and local laws and regulations, including but not limited to State Laws.

5. The City reserves the right to reject or approve any and all applications and conditional licenses based on the standards set forth in this Chapter, or otherwise in its sole discretion, taking into account the health, safety and welfare of the community, and in accordance with its general police powers authority.

E. Limits on Number of Applications Per Applicant/Owner. The number of applications allowed to be filed by each Applicant/Owner shall be determined by regulations promulgated by the City Council or the City Manager. Limits imposed, if any, may be applied on an overall basis, per license type, and/or per Council District.

#### **5.19.060 Location Requirements for Cannabis Businesses**

As set forth above in Code Section 5.19.030, a limited number of City Licenses for Commercial Cannabis Businesses shall be authorized and issued by the City. In locating such businesses, City Licensees shall be further subject to the following requirements.

A. In General. The licensed Premises of a Commercial Cannabis Business shall be a contiguous, fully enclosed area and shall be occupied only by one Licensee.

#### **B. Storefront Retailers**

1. Allowed Zones. Subject to the separation requirements set forth below, Storefront Retailers shall only be allowed in the following zones: (a) C-0 Administrative and Professional Office; (b) C-N Neighborhood Commercial; (c) C-C Central Commercial; (d) C-V Visitor Commercial; (e) C-T Thoroughfare Commercial; (f) other Commercial Zones in Specific Plans or Sectional Planning Area Plans that allow retail sales uses (including such zones that allow mixed commercial and residential uses); and (g) with a Conditional Use Permit, in the following Industrial Zones: I-L Limited Industrial; I-R Research Industrial; I General Industrial; and equivalent Industrial Zones in Specific Plans or Sectional Planning Area Plans that allow industrial uses.

2. Special Rules for Storefront Retailers in Industrial Zones. In addition to any and all other applicable Code requirements, Storefront Retailers proposed to be located in Industrial Zones (a) must be located in buildings with entrances that face, and are within 100 feet of a Public Street; and (b) must comply with parking and sign regulations applicable to retail sales businesses in commercial zones.

3. Separation Requirements.

- a. Storefront Retailers shall not be located within 1,000 feet of any Day Care Center or any public or private school providing instruction for kindergarten or any grades 1 through 12.
- b. Storefront Retailers shall not be located within 600 feet of any Treatment Facility, Youth Center, Youth-Oriented Business, Public Park, or Private Park.
- c. Storefront Retailers shall not be located within 150 feet of any Residential Zone.

4. Retail Sales Requirements Apply. Storefront Retailers are retail sales uses for purpose of the Code. Except as otherwise provided in this Chapter, all retail sales use requirements for the allowed zone in which the business is located shall apply.

C. Non-Storefront Retailers.

1. Allowed Zones. Subject to the separation requirements set forth below, Non-Storefront Retailers shall only be allowed in following Industrial Zones: I-L Limited Industrial; I-R Research Industrial; I General Industrial; and equivalent Industrial Zones in Sectional Planning Area Plans that allow industrial uses.

2. Separation Requirements. Non-Storefront Retailers shall not be located within 150 feet of any Residential Zone.

3. Industrial Use Requirements Apply. Non-Storefront Retailers are industrial uses for the purpose of the Code. Except as otherwise provided in this Chapter, all industrial use requirements for the allowed zone in which the business is located shall apply.

D. Manufacturers; Distributors; Testing Laboratories; and Cultivators.

1. Allowed Zones. Subject to the separation requirements set forth herein, below, Manufacturers, Distributors, Testing Laboratories, and Cultivators shall be allowed in following Industrial Zones: I-L Limited Industrial; I-R Research Industrial; I General Industrial; and equivalent Industrial Zones in Sectional Planning Area Plans that allow industrial uses.

2. Separation Requirements. No Manufacturer, Distributor, Testing Laboratory or Cultivator shall be located within 150 feet of any zone allowing residential uses.

3. Industrial Use Requirements Apply. Manufacturers, Distributors, Testing Laboratories, and Cultivators are industrial uses for the purpose of the Code. Except as otherwise provided in this Chapter, all industrial use requirements for the allowed zone in which the business is located shall apply.

E. Standards for Measurement of Separation Distances. For purposes of this Section, separation distances between uses shall be measured as follows:

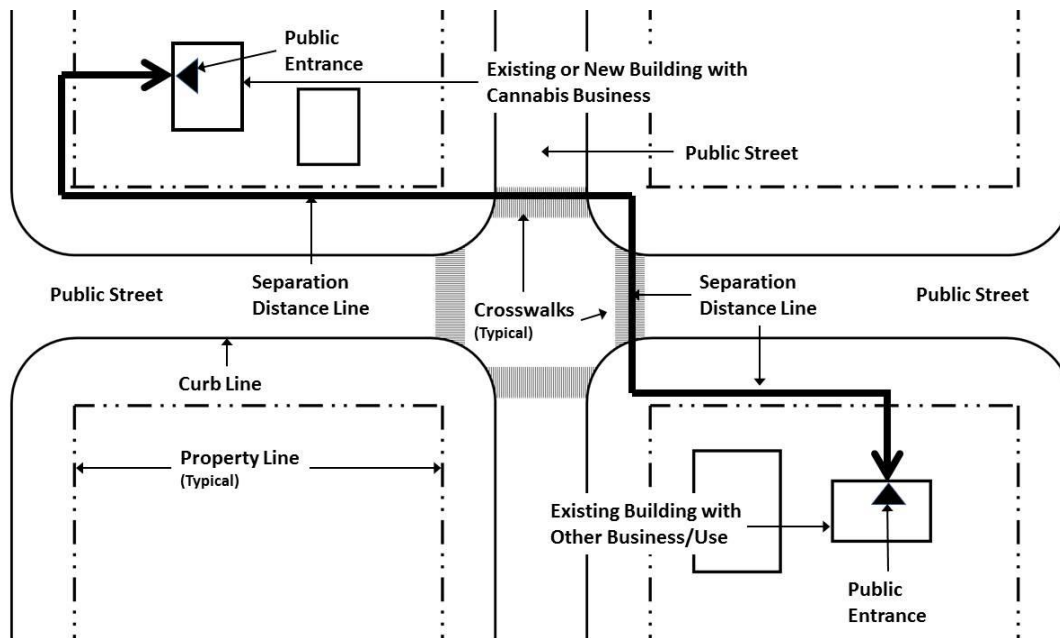
1. Measuring Points Established. Separation distance between uses shall be measured horizontally in a continuous series of straight lines that connect the two closest “measuring points” of each business or use as set forth herein, below.

a. For a Commercial Cannabis Business, the “measuring point” shall be the center point of the public entrance closest to a Public Street.

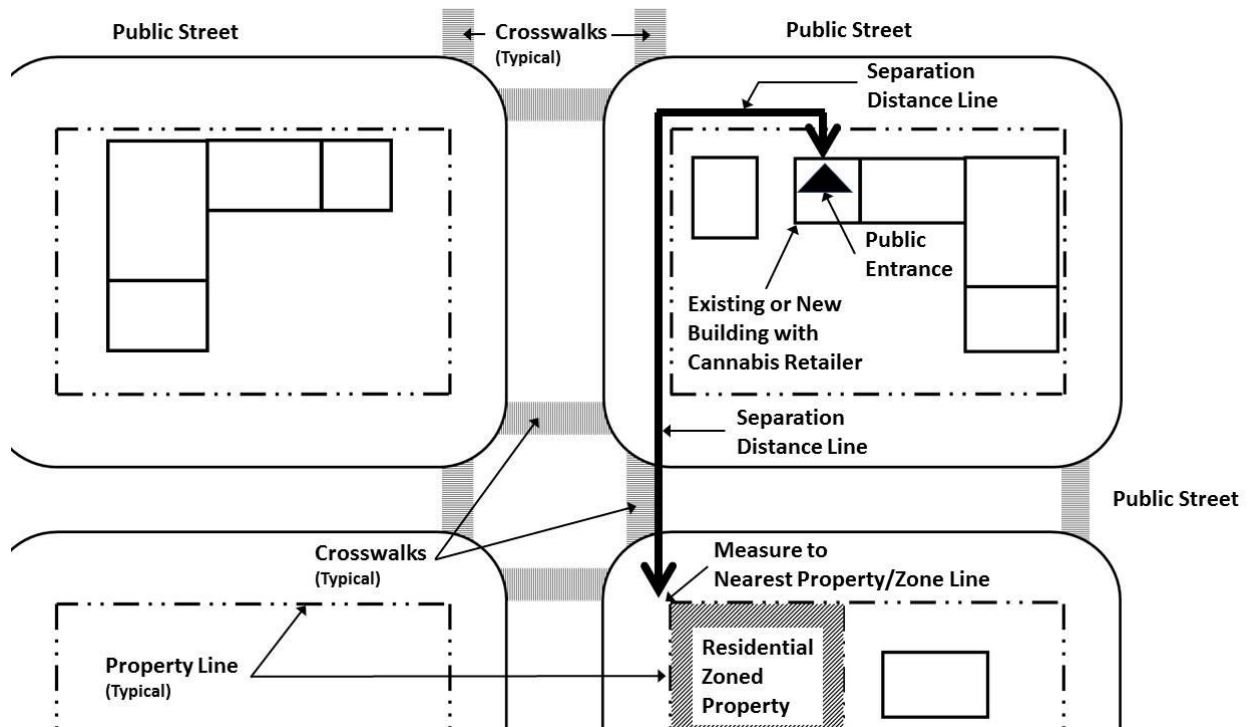
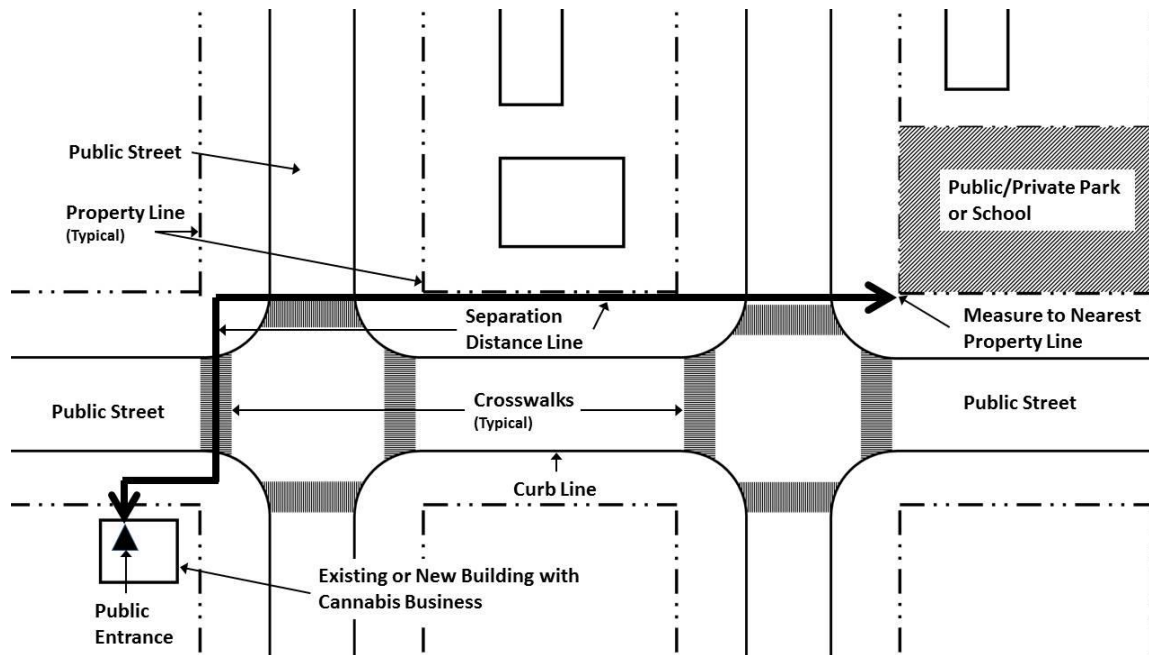
b. For a Day Care Center, Youth Center, Youth Oriented Business, or Treatment Facility, the “measuring point” shall be the center point of the public entrance closest to a Public Street.

c. For a public or private school, Public Park, Private Park, or Residential Zone, the “measuring point” shall be the point located on the legal parcel boundary line abutting a Public Street or zone line, as applicable, that is closest to the “measuring point” of the Commercial Cannabis Business at issue.

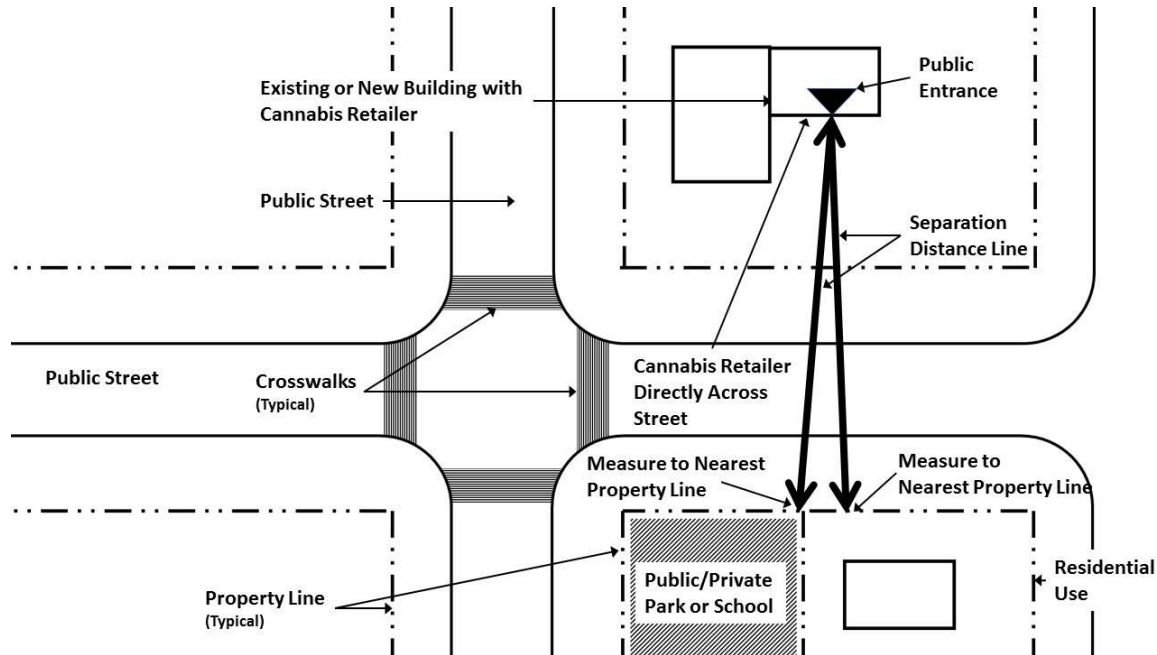
2. Measurement Paths; Examples. Measurements between public entrances shall start at the “measuring point” of Commercial Cannabis Business and proceed in a continuous line to the closest property line of the Public Street, measured perpendicular to the Public Street. The measurement shall then continue along the property lines of the Public Street fronts, and in a direct line across intersections along the shortest pedestrian route toward the “measuring point” of the separated use until it reaches such “measuring point”. See illustrations below.



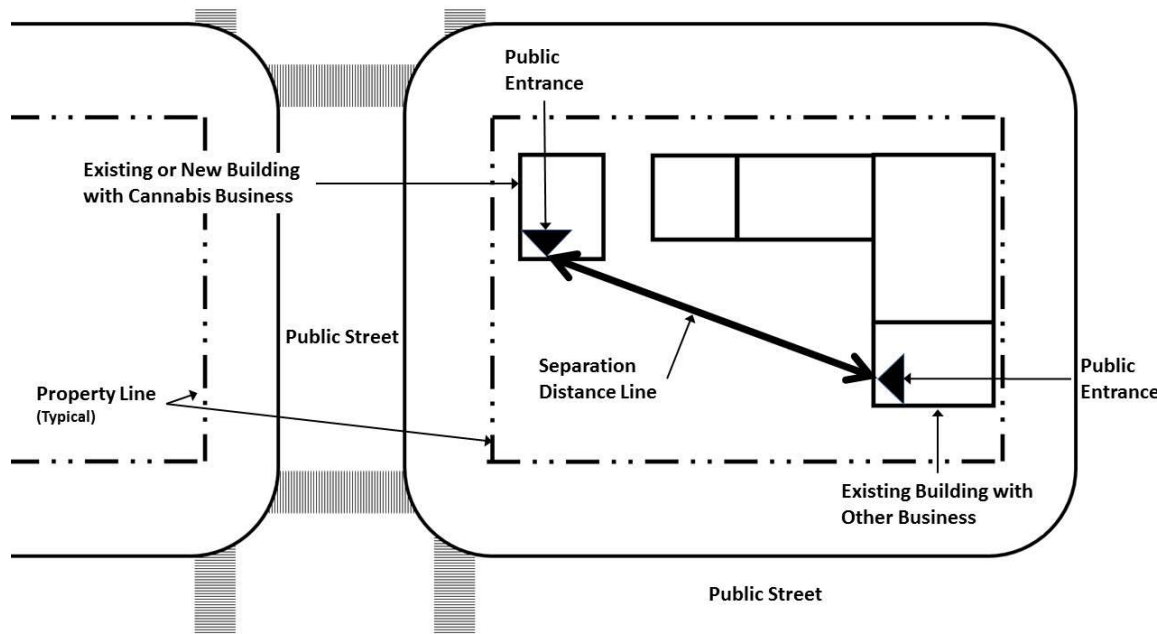
Measurements between public entrances and legal parcel boundary lines shall start at “measuring point” of the Commercial Cannabis Business and proceed in a continuous line to the closest property line of the Public Street, measured perpendicular to the Public Street. The measurement shall then continue along the property lines of the public street front(s), and in a direct line across intersections along the shortest pedestrian route towards the “measuring point” of the separated use until it reaches such “measuring point”. See illustration below.



Where a public or private school, Public Park, Private Park, or residential use or Residential Zone are directly adjacent to or across a Public Street from a Storefront Retailer or Non-Storefront Retailer, the separation distance shall be measured between the respective “measuring points” without regard to a Public Street or intersections. See illustration below.



Where a Commercial Cannabis Business and a Day Care Center, Youth Center, Treatment Facility, Youth-Oriented Business or existing residential use are on the same parcel, or contiguous parcels, the separation distance shall be measured in a straight line connecting their “measuring points”. See illustration below.





3. Interpretations, Determinations Made by Development Services Director. Interpretations and determinations of compliance with the requirements of this section and the calculation of separation distances shall be made by the Development Services Director. Exhibits from a Licensed Land Surveyor may be required by the City to make a final decision on compliance with the separation requirements of this subsection.

**5.19.070 Limitations on City’s Liability; Licensee’s Indemnity Obligations**

To the maximum extent allowed by law, the City shall not incur or assume any direct or indirect liability to any Applicant, government agency, or third party as a result of having issued a City License pursuant to this Chapter, or otherwise approving the Operation of any Commercial Cannabis Business. As a condition to the issuance of any City License, the Applicant shall be required to enter into and fulfill all requirements of an agreement, in a form approved by the City Attorney, whereby all Owners agree to (a) indemnify, protect, defend (at Owner’s sole cost and expense), and hold harmless the City, and its officers, officials, employees, representatives, and agents from any and all claims, losses, damages, injuries, liabilities or losses that arise out of, or that are in any way related to, the City’s issuance of the City License, the City’s decision to approve the Operation of the Commercial Cannabis Business or Activity, the process used by the City in making its decision, City Licensee’s Operation of its Commercial Cannabis Business, or the alleged violation of any federal, state or local laws by the Commercial Cannabis Business or any of its officers, employees or agents; and (b) provide evidence of and maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the City Risk Manager.

**5.19.080 Operating and Conduct Requirements for All Licensees and Individuals.**

A. No person shall consume Cannabis and/or Cannabis Products on the Premises of a Commercial Cannabis Business.

B. No person shall cause or license the sale, dispensing, or consumption of alcoholic beverages or tobacco products on the Premises of a Commercial Cannabis Business.

C. No Cannabis or Cannabis Products shall be visible from the exterior of any Premises issued a City License, or on any of the vehicles owned or used as part of a Commercial Cannabis Business. No outdoor storage of Cannabis or Cannabis Products is permitted at any time.

D. Each Commercial Cannabis Business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the Commercial Cannabis Business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary 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 Finance Director prior to being used by the City Licensee.

E. All Cannabis and Cannabis Products sold, tested, distributed or manufactured shall be cultivated, manufactured, and transported by Commercial Cannabis Businesses that maintain operations in full conformance with State Laws, State regulations, local laws, and local regulations.

F. All Commercial Cannabis Businesses shall have a Manager on the premises at all times during hours of operation.

G. Each Commercial Cannabis Business shall provide the City Manager with the name, telephone number (both land line and mobile, if available) of an on-site Manager or Owner to whom emergency notice may be provided at any hour of the day.

H. Each Commercial Cannabis Business premises shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the Premises or in the areas adjacent to the Commercial Cannabis Business is prohibited.

I. Persons under the age of twenty-one (21) years shall not be allowed and are not allowed on the Premises of a Commercial Cannabis Business, and shall not be allowed and are not allowed to serve as a driver for a Non-Storefront Retailer.

J. It shall be unlawful and a violation of this Chapter for any Person to employ an individual at a Commercial Cannabis Business who is not at least twenty-one (21) years of age.

K. Odor Control. Odor control devices and techniques shall be incorporated in the Premises of all Commercial Cannabis Businesses to ensure that odors from Cannabis are not detectable off-site. Commercial Cannabis Businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the Commercial Cannabis Business that is distinctive to its Operation is not detected outside of the Premises, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the Commercial Cannabis Business. As such, Commercial Cannabis Businesses must install and maintain the following equipment, or any other equipment which the Development Services Director determines is a more effective method or technology:

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.

L. Safety and Security Plans. Each Commercial Cannabis Business must comply with all requirements of the security plan approved by the Police Chief and with all safety requirements of the Emergency Action and Fire Prevention Plan approved by the Fire Chief.

M. Display of City License and City Business License. The original copy of the City License and the City Business License shall be posted inside the Premises of the Commercial Cannabis Business in a location readily-visible to the public.

N. Employee Identification. Each and every employee of a City Licensee must, at all times when present on a Premises and while conducting a Delivery, wear an identification badge containing their photograph, age, the name of the City Licensee for whom they are employed, and, if the employee is a Manager, the employee's job title.

O. Delaying or Lingerin Prohibited. The City Licensee shall take reasonable steps to prevent individuals from delaying or lingering on the Premises without a lawful purpose.

P. Cannabis Use on Premises Prohibited. The City Licensee shall take reasonable steps to prevent the use and consumption of Cannabis or Cannabis Products on the Premises.

Q. Licenses and other Approvals. Throughout the Operation of a Commercial Cannabis Business, the City Licensee must maintain all applicable planning, zoning, building, and other applicable licenses, permits, and approvals from the relevant City department or division that may be applicable to the zoning district in which the Commercial Cannabis Business Premises is located.

R. Persons with Disabilities. Nothing in this Chapter exempts a Commercial Cannabis Business from complying with all applicable local, State and federal laws and regulations pertaining to persons with disabilities.

S. Discrimination. No Commercial Cannabis Business may discriminate or exclude patrons in violation of local, State and federal laws and regulations.

T. Fees and Charges.

1. No Person may conduct Commercial Cannabis Activity without timely paying in full all fees and charges required associated with the Operation of a Commercial Cannabis Activity. Fees and charges associated with the Operation of a Commercial Cannabis Activity shall be established by resolution of the City Council which may be amended from time to time.

2. City Licensees authorized to Operate under this Chapter shall pay all sales, use, business 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 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, including but not limited to a verification of the amount of taxes required to be paid during any period.

U. Training Requirements. City reserves the right to impose training requirements on Managers, employees, and others involved in the Operation of a Commercial Cannabis Business, with the specific requirements to be determined and implemented through regulations.

#### **5.19.090 Operating Requirements for Storefront Retailers.**

A. A Storefront Retailer shall not Sell Medicinal Cannabis or Medicinal Cannabis Products.

B. A Storefront Retailer shall not conduct Deliveries.

C. A Storefront Retailer shall operate in compliance with state and local laws and regulations, including but not limited to State Laws, at all times. Such laws and regulations shall include, but are not limited to:

1. A Storefront Retailer shall Sell no more than 28.5 grams of non-concentrated Cannabis in a single day to a single customer.

2. A Storefront Retailer shall Sell no more than 8 grams of Cannabis Concentrate, including Cannabis Concentrate contained in Cannabis Products, in a single day to a single customer.

3. A Storefront Retailer shall Sell no more than 6 immature Cannabis plants in a single day to a single customer.

4. A Storefront Retailer shall not Sell edible Cannabis Products containing more than 10 milligrams of THC per serving.

5. A Storefront Retailer shall not Sell edible Cannabis Products containing more than 100 milligrams of THC per package.

6. A Storefront Retailer shall not Sell Cannabis Products that is in the shape of a human being, either realistic or caricature, animal, insect, or fruit.

7. A Storefront Retailer shall not Sell Cannabis-infused beverages or powder, gel, or other concentrate with instruction for the preparation of Cannabis-infused beverages.

8. A Storefront Retailer shall not provide free Cannabis or Cannabis Products to any Person.

9. A Storefront Retailer shall notify Customers of the following verbally (or by written agreement) and by posting of a notice or notices in a minimum of 24-point font conspicuously within the Storefront Retailer Premises:

a. "The sale or diversion of cannabis or cannabis products without a license issued by the City of Chula Vista is a violation of State law and the Chula Vista Municipal Code."

b. "Secondary sale, barter, or distribution of cannabis or cannabis products purchased from [Insert Name of Licensee] is a crime and can lead to arrest."

c. "Patrons must immediately leave the premises and not consume cannabis or cannabis products until at home or in an equivalent private location. Staff shall monitor the location and vicinity to ensure compliance."

10. All restroom facilities on the Premises shall remain locked and under the control of management.

**5.19.100 Operating Requirement for Non-Storefront Retailers.**

A. From a public right-of-way, there should be no exterior evidence of Non-Storefront Retailer Premises except for any signage authorized by this Code.

B. The general public is not permitted on the Premises of a City Non-Storefront Retailer Licensee except for the agents, applicants, managers, and employees of the City Non-Storefront Retailer Licensee and any agents or employees of the City.

C. A Non-Storefront Retailer shall operate in compliance with state and local laws and regulations, including but not limited to State Laws, at all times. Such laws and regulations shall include, but are not limited to:

1. Delivery Regulations.

a. All Deliveries of Cannabis or Cannabis Product shall be made by and individual person to an individual person. A Delivery of Cannabis or Cannabis Product shall not be made through the use of an unmanned vehicle.

b. A Delivery Employee conducting a Delivery shall only travel in an enclosed motor vehicle operated by a Delivery Employee.

c. Delivery of Cannabis or Cannabis Product shall only be made to a physical address (e.g., not to a P.O. Box or a street intersection).

d. Delivery of Cannabis or Cannabis Products shall not be made to any public or private school providing instruction for kindergarten or any grades 1 through 12, Day Care Center, Youth Center, Treatment Facility, Youth Center, Youth-Oriented Business, Public Park, or Private Park. Deliveries to any workplace shall remain subject to any employer's right to limit or prohibit such activity.

e. While conducting a Delivery, a Delivery Employee shall ensure the Cannabis or Cannabis Products are not visible to the public.

f. A vehicle used for Delivery shall be outfitted with a dedicated Global Positioning System (GPS) device for identifying the geographic location of a Delivery vehicle.

g. A Delivery Employee shall, during Deliveries, carry a copy of the Non-Storefront Retailer's current City License, the Delivery Employee's government-issued identification, an identification badge issued by the Police Chief, and a Delivery invoice.

h. While making a Delivery, a Delivery Employee shall not carry Cannabis and/or Cannabis Goods worth in excess of \$3,000 at any time. This value shall be determined using the current retail price of all Cannabis and/or Cannabis Products carried by the Delivery Employee.

## 2. Product Regulations and Restrictions.

a. A Non-Storefront Retailer shall Sell no more than 28.5 grams of non-concentrated Adult-Use Cannabis in a single day to a single customer.

b. A Non-Storefront Retailer shall Sell no more than 8 grams of Adult-Use Cannabis Concentrate, including Cannabis Concentrate contained in Cannabis Products, in a single day to a single customer.

c. A Non-Storefront Retailer shall Sell no more than 6 immature Cannabis plants in a single day to a single customer.

d. A Non-Storefront Retailer shall not Sell edible Cannabis Products containing more than 10 milligrams of THC per serving.

e. A Non-Storefront Retailers shall not Sell edible Cannabis Products containing more than 100 milligrams of THC per package.

f. A Non-Storefront Retailer shall not Sell Cannabis Products that are in the shape of a human being, either realistic or caricature, animal, insect, or fruit.

g. A Non-Storefront Retailer shall not Sell Cannabis-infused beverages or powder, gel, or other concentrate with instruction for the preparation of Cannabis-infused beverages.

h. A Non-Storefront Retailer shall not provide free Cannabis or Cannabis Products to any Person.

**5.19.110 Operating Requirements for Cultivators.**

A. Outdoor Cultivation Prohibited. Commercial Cannabis Cultivation must occur indoors. Outdoor cultivation is prohibited.

B. From a public right-of-way, there should be no exterior evidence of Cultivation except for any signage authorized by this Code.

C. The general public is not permitted on the Premises of a City Cultivator Licensee except for the agents, applicants, managers, and employees of the City Cultivation Licensee and any agents or employees of the City of Chula Vista.

D. A Cultivator shall only be allowed to Cultivate the square feet of Canopy authorized by the Cultivator's State License and City Cultivation License issued for the Premises.

E. A Cultivator shall operate in compliance with state and local laws and regulations, including but not limited to State Laws, at all times. Such laws and regulations shall include, but are not limited to:

1. State and local laws related to electricity, water usage, water quality, discharges, and similar matters; and

2. Applicable federal, state and local laws and regulations regarding use, storage, and disposal of pesticides and fertilizers.

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

G. Cultivation shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the Commercial Cannabis Business, neighboring properties, and the end users of the Cannabis being Cultivated, to protect the environment from harm to waterways, fish, and wildlife; to ensure the security of the Cannabis being cultivated; and to safeguard against the diversion of Cannabis.

H. Cultivators shall provide a fire and life safety technical report to the Fire Department, prepared by a licensed professional engineer, to evaluate the totality of the cannabis operation, including the certification of any equipment. Said report shall be approved by the Fire Department prior to Operation.

I. All applicants for a City Cultivation License shall submit the following in addition to the information generally otherwise required for a City License:

1. A Cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of

the Cultivation activities and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season harvesting.

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

3. Identification of the source of electrical power and plan for compliance with applicable building codes and related codes as adopted and amended by the City.

4. Plan for addressing odor and other public nuisances that may derive from the Cultivation Premises.

**5.19.120 Operating Requirements for Manufacturers.**

A. From a public right-of-way, there should be no exterior evidence of Manufacturing except for any signage authorized by this Chapter.

B. The general public is not permitted on the Premises of a City Manufacture Licensee except for the agents, applicants, Owners, Officers, Managers, employees, and volunteers of the City Manufacture Licensee and any agents or employees of the City of Chula Vista.

C. All Manufacturing shall comply with the standards set by State Laws and regulations.

D. Any compressed gases used in the manufacturing process shall not be stored on any property within the City of Chula Vista in containers that exceeds the amount that is approved by the Fire Chief and authorized by the City Manufacture License. The Premises of a City Manufacture Licensee shall be limited to a total number of tanks as authorized by the Fire Chief on the Premises at any time.

E. Manufacturers may use the hydrocarbons N-butane, isobutane, propane, or heptane or other solvents or gases exhibiting low to minimal potential human-related toxicity approved by the Fire Chief. These solvents must be of at least ninety-nine percent purity and any extraction process must use them in a professional grade closed loop extraction system designed to recover the solvents and work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

F. If an extraction process uses a professional grade closed loop CO<sub>2</sub> gas extraction system every vessel must be certified by the manufacturer for its safe use. Closed loop systems for compressed gas extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

G. Certification from an engineer licensed by the State of California must be provided to the Fire Chief for a professional grade closed loop system used by any Manufacturer to certify that the system was commercially manufactured, is safe for its intended use, and was built to codes of recognized and generally accepted good engineering practices, including but not limited to:

1. The American Society of Mechanical Engineers (ASME);
2. American National Standards Institute (ANSI);
3. Underwriters Laboratories (UL);

4. The American Society for Testing and Materials (ASTM); or
5. Intertek ETL

The certification document must contain the signature and stamp of the professional engineer and serial number of the extraction unit being certified.

H. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the Fire Chief and meet any required fire, safety, and building code requirements specified in the California Building and Fire Codes, as adopted by the City.

I. Manufacturers may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

J. Manufacturers may use food grade glycerin, ethanol, and propylene glycol solvents to create or refine extracts. Ethanol should be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

K. Manufacturers creating Cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.

L. Any person using solvents or gases in a closed looped system to create Cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

M. Parts per million for one gram of finished extract cannot exceed State standards for any residual solvent or gas when quality assurance tested.

N. Manufacturers shall provide a fire and life safety technical report to the Fire Department, prepared by a licensed professional engineer, to evaluate the totality of the cannabis operation, including the certification of equipment. Said report shall be approved by the Fire Department prior to Operation.

O. A Manufacturer shall operate in compliance with state and local laws and regulations, including but not limited to State Laws, at all times.

**5.19.130 Operating Requirements for Distributors.**

A. From a public right-of-way, there should be no exterior evidence of Distributing except for any signage authorized by this Chapter.

B. A Distributor shall operate in compliance with state and local laws and regulations, including but not limited to State Laws, at all times. Such laws and regulations shall include, but are not limited to:

1. The general public is not permitted on the Premises of the City Distributor Licensee except for the agents, applicants, managers, employees, and volunteers of the City Distributor Licensee and any agents or employees of the City.



2. A Distributor shall only procure, sell, or transport Cannabis or Cannabis Products that is packaged and sealed in tamper-evident packaging that uses a unique identifier, such as a batch and lot number or bar code, to identify and track the Cannabis or Cannabis Products.

3. A Distributor shall maintain a database and provide a list of the individuals and vehicles authorized to conduct transportation on behalf of the Distributor to the City.

4. Individuals authorized to conduct transportation on behalf of the Cannabis Distribution licensee shall have a valid California Driver's License.

5. Individuals transporting Cannabis or Cannabis Products on behalf of the Distributor shall maintain a physical copy of the transportation request (and/or invoice) and shall make it available upon request of agents or employees of the City requesting documentation.

6. During transportation, the individual conducting transportation on behalf of the Distributor shall maintain a copy of the City Distributor License and shall make it available upon request of agents or employees of the City requesting documentation.

7. A Distributor shall only transport Cannabis or Cannabis Products in a vehicle that is (i) insured at or above the legal requirement in California, (ii) capable of securing (locking) the Cannabis or Cannabis Products during transportation, and (iii) capable of being temperature controlled if perishable Cannabis Products are being transported.

**5.19.140 Operating Requirements for Testing Laboratories.**

A. The general public is not permitted on the Premises of a City Testing Laboratory Licensee except for the agents, applicants, managers, and employees of the City Testing Laboratory Licensee and any agents or employees of the City.

B. Testing Laboratory activity shall take place within an enclosed locked structure.

C. From a public right-of-way, there should be no exterior evidence of a Testing Laboratory except for any signage authorized by this Chapter.

D. A Testing Laboratory shall provide a fire and life safety technical report to the Fire Department, prepared by a licensed professional engineer, to evaluate the totality of the cannabis operation, including the certification of any equipment. Said report shall be approved by the Fire Department prior to Operation.

E. A Testing Laboratory shall operate in compliance with state and local laws and regulations, including but not limited to State Laws, at all times.

**5.19.150 Recordkeeping.**

A. Each City Licensee shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities. On no less than an annual basis at or before the time of the renewal of a City License issued pursuant to this Chapter, or at any time upon reasonable request of the City, each City Licensee shall submit to the City, in a form approved thereby, a statement, sworn as to accuracy, detailing their 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 on a per-month basis.

The statement shall also include gross revenues for each month, and all applicable taxes paid or due to be paid.

B. On an annual basis, each City Licensee shall submit to the City Manager a financial audit of the business' operations conducted by an independent certified public accountant. Each City Licensee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager.

C. Each City Licensee shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in each Commercial Cannabis Business, and separately of all the Owners, Officers, Managers, employees, agents and volunteers currently employed or otherwise engaged by the Commercial Cannabis Business. The register required by this paragraph shall be provided to the City Manager promptly upon request.

D. All records collected by a City Licensee pursuant to this Chapter shall be maintained for a minimum of seven years and shall be made available by the City Licensee to the agents or employees of the City of Chula Vista upon request, except that private medical records shall be made available only pursuant to a properly executed search warrant, subpoena, or court order.

E. All City Licensees shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all Cannabis and Cannabis Products for all stages of the growing, production, manufacturing, laboratory testing, and distribution processes until purchase as set forth under State Law.

F. Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) regulations, each City Licensee shall allow City officials to have access to each Commercial Cannabis Business's books, records, accounts, together with any other data or documents relevant to its Commercial Cannabis Activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than 24 hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

**5.19.160 Security Measures.**

A. All City Licensees shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing Cannabis or Cannabis Products, and to deter and prevent the theft of Cannabis or Cannabis Products at the Premises of the Commercial Cannabis Business. Except as may otherwise be determined by the Police Chief, these security measures 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 Operations of the Commercial Cannabis Business.

2. Establishing limited access areas accessible only to authorized Commercial Cannabis Business personnel.

3. All Cannabis and Cannabis Products, including Live Plants, shall be kept in a secure manner so as to prevent diversion, theft, and loss. All Cannabis and Cannabis Products that are being stored must be stored in a secured and locked room, safe, or vault. All Cannabis and Cannabis Products on display for Sale shall be displayed in a secure case.

4. Installing 24-hour security surveillance cameras of at least HD-quality to monitor areas on the Premises including, but not limited to: entrances and exits to and from the Premises; all interior spaces 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; all areas where the purchase, Sale, Distribution, or Transfer of Cannabis or Cannabis Products take place; and all interior spaces where diversion of Cannabis could reasonably occur. The City Licensee shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the Police Chief, and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the Police Chief. Video recordings shall be maintained for a minimum of 60 days, and shall be made available to the Police Chief upon request. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the Premises of the Commercial Cannabis Business.

5. Sensors shall be installed to detect entry and exit from all secure areas.

6. Panic buttons shall be installed in all Commercial Cannabis Businesses.

7. A professionally installed, maintained, and monitored alarm system, with the required City alarm permit under Chapter 9.06.150 of this Code.

8. Security personnel shall be on the Premises 24 hours a day or alternatively, as authorized by the Police Chief. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the Police chief, with such approval not to be unreasonably withheld.

9. Each Commercial Cannabis Business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

B. Each Commercial Cannabis Business shall identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the Police Chief regarding any security related measures or and operational issues.

C. As part of the application and licensing process, each Commercial Cannabis Business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all Cannabis, Cannabis Products, and any currency.

D. Each Commercial Cannabis Business shall cooperate with the City whenever the City Manager makes a request, upon reasonable notice to the Commercial Cannabis Business, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.

E. A Commercial Cannabis Business shall notify the Police chief within 24 hours after discovering any of the following:

1. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the Police chief.
2. Diversion, theft, loss, or any criminal activity involving the Commercial Cannabis Business or any Owner, Officer, Manager, agent, or employee of the Commercial Cannabis Business.
3. The loss or unauthorized alteration of records related to Cannabis, registering qualifying patients, primary caregivers, or employees or agents of the Commercial Cannabis Business.
4. Any other breach of security.

**5.19.170 Community Relations.**

A. Each Commercial Cannabis Business shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the Commercial Cannabis Business can be provided in addition to applicable City and State enforcement divisions. Each Commercial Cannabis Business shall also provide the above information to all businesses located within one hundred (100) feet of the Premises of the Commercial Cannabis Business and to all residences located within three hundred (300) feet of the Premises of the Commercial Cannabis Business.

B. During the first year of Operation pursuant to this Chapter, the Owner, Manager, and community relations contact from each Commercial Cannabis Business shall attend a quarterly meeting with the City Manager and other interested parties as deemed appropriate by the City Manager, to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of Operation, the Owner, Manager, and community relations contact from each such Commercial Cannabis Business shall meet with the City Manager when and as requested by the City Manager.

**5.19.180 Promulgation of Regulations, Standards, and Other Legal Duties.**

A. In addition to any regulations adopted by the City Council, the City Manager is authorized to establish, consistent with the terms of this Chapter, any additional administrative rules, regulations and standards governing the issuance, denial or renewal of City Licenses; the City's oversight of the ongoing operation of Commercial Cannabis Businesses; and any other subject determined to be necessary to carry out the purposes of this Chapter.

B. Regulations shall be published on the City's website and maintained and available to the public in the Office of the City Clerk.

C. Regulations promulgated by the City Council or the City Manager shall become effective and enforceable upon date of publication on the City's website or with respect to existing City Licensees, upon the date specified in a written notice to the City Licensee.

**5.19.190 Compliance With All Applicable Laws Required.**

A. Nothing in this Chapter shall be construed as authorizing or condoning any actions that violate federal, state or local law with respect to the operation of a Commercial Cannabis Business.

B. It shall be the responsibility of the City Licensees, Owners, Officers, and Managers of a Commercial Cannabis Business to ensure that a Commercial Cannabis Business is, at all times,

operating in a manner compliant with all applicable federal, state, and local laws and regulations, including any subsequently enacted state or local law or regulatory, licensing, or certification standards or requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of a State License or a City License.

C. Except as otherwise specifically provided herein, this Chapter incorporates the requirements and procedures set forth in State Laws. In the event of a conflict between the provisions of this Chapter and the provisions of State Laws or any other applicable state or local law, the more restrictive provision shall control. To the extent allowed by State Law, the City shall have the right, but not the obligation, to enforce all applicable State Laws.

**5.19.200 Right of Access & Testing.**

A. City officials, employees, and their designees authorized to enforce the provisions of the Code shall have full access to the Premises and records of every Commercial Cannabis Business in order to:

1. Inspect the Premises for compliance with the Code and State Laws.
2. Test any equipment possessed by, in control of, or used by a City Licensee, Owner, Officer, or Manager, and any other employee, agent, or volunteer of a City Licensee.
3. Test any Cannabis or Cannabis Product possessed by, in control of, or used by a City Licensee, Owner, Officer or Manager, and any other employee, agent, or volunteer of a City Licensee.
4. Copy any materials, books, or records of any City Licensee, Owner, Officer, or Manager, and any other employee, agent, or volunteer of a City Licensee.

B. Failure by any City Licensee, Owner, Officer or Manager to cooperate and participate in any City inspection or investigation under this section shall itself be a violation of this Chapter.

C. City officials, employees, and their designees authorized to enforce the provisions of the Code shall have rights of access under subsection (A) during any inspection, investigation, review, audit, or as otherwise allowed by law.

D. Prior notice of an inspection, investigation, review, or audit is not required.

E. Any inspection, investigation, review, or audit of a City Licensed Premises shall be conducted anytime the City Licensee is exercising privileges under the City License, or as otherwise agreed to by the City or its Manager.

F. This subsection shall not be construed to deprive a City Licensee, Owner, Officer, or Manager, or any other employee, agent, or volunteer of a City Licensee of any privileged guaranteed by the Constitutions of the United States and/or the State of California, or any other statutory privileges.

**5.19.210 Restrictions on Transfer, Change, or Alteration of City License or City Licensee.**

A. A City License is valid only as to the City Licensee. No City Licensee is allowed to sell, transfer, pledge, assign, grant an option, or otherwise dispose of (“Transfer”) its City License to any Person except pursuant to the terms of this section. Except as permitted, any such Transfer

or attempted Transfer shall be deemed to constitute a voluntary surrender of the City License and such City License shall thereafter be null and void, except as set forth in this Chapter.

B. A City Licensee may Transfer less than 50% ownership or control of a City License with prior written approval of the City Manager after submission of all required application materials, payment of applicable fees as set by resolution of City Council, and a determination that the applicants meet the requirements of this Chapter such as to be entitled to the issuance of an original City License.

C. A City Licensee may change the form of business entity without applying to the City Manager for a new City License, if the ownership of the new business entity is the same as the original City Licensee business entity. Although a new City License is not required, the City Licensee shall notify the City in writing of the change within 30 days of the change, and obtain an amendment to the original City License after paying the applicable fee set by resolution of the City Council.

D. A City Licensee may change the name of the business entity without applying to the City Manager for a new City License. Although a new City License is not required, the City Licensee shall notify the City in writing of the change at least 30 days prior to the change, and obtain an amendment to the original City License after paying the applicable fee set by resolution of the City Council.

E. No City Licensee shall be allowed to Transfer all or any portion of its City License prior to twelve (12) months after the City Licensee has opened and continuously operated its Commercial Cannabis Business authorized thereunder.

F. No City Licensee shall operate, conduct, manage, engage in, or carry on the business of a Commercial Cannabis Business under any name other than the name of the Commercial Cannabis Business specified in the City License.

G. No City Licensee may avail themselves of the provisions of this Section if the City Manager has notified the City Licensee that the City License has been or may be suspended, revoked, or not renewed.

H. For purposes of this section, the Transfer of all or any portion of a licensed Commercial Cannabis Business shall constitute the Transfer of the underlying City License.

I. Failure to comply with this section constitutes grounds for suspension or revocation of a City License.

**5.19.220 Restrictions on Transfer, Change, or Alteration of Location.**

A. A City License issued under this Chapter is valid only as to the Premises approved in accordance with the City License, and is therefore nontransferable to other locations except as authorized in this section. No City Licensee is authorized to relocate to other areas or units within a building structure without first obtaining written approval from the City Manager, regardless of any possessory interest or right to possession to such additional space.

B. No City Licensee shall change the location of the Premises approved in accordance with the City License until any such change of location is approved by the City Manager or his/her

designee. The City Manager shall adopt a process (to include any necessary forms and procedures) for Premises relocation that includes, but is not limited to, the following:

1. The City Licensee shall submit a change of location application to the City at least 90 days prior to the proposed change.
2. The proposed location shall meet all of the requirements under this Code, including but not limited to this Chapter and Title 19.
3. The proposed location shall be reviewed and evaluated using review criteria as referenced in Section 5.19.060.
4. The relocation of a City Licensee's Premises shall be subject to the prior review and approval by the Development Services Director and any and all other licenses, approvals, or permits required under State Law and the Code.

C. All required state and City approvals, plan approvals, permits, and licenses must be obtained before causing, allowing, or licensing alterations to, and/or extensions or expansions of, the existing Premises building(s), structure(s), or portions thereof, approved as a location for a Commercial Cannabis Business. Said alterations, extensions, or expansions shall comply with all applicable laws, regulations and standards, including those concerning building safety and occupancy.

**5.19.230 Expiration of City License.**

A City License issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. City Licenses may be renewed as provided in Section 5.19.240.

**5.19.240 Renewal of City License.**

- A. An application for renewal of a City License shall be filed with the City Manager's office at least 60 calendar days prior to the expiration date of the current City License.
- B. Any City Licensee submitting an application less than 60 days before its expiration shall be required to pay a late renewal application fee, as established by resolution of the City Council. Any renewal application filed less than 30 business days before its expiration may be rejected by the City on that basis alone.
- C. The renewal application shall be submitted on a form issued or approved by the City.
- D. The applicant shall pay a fee in an amount to be set by the City Council to cover the costs incurred by the City to administer the program created under this Chapter.
- E. An application for renewal of a City License may be denied if any of the following grounds exists:
1. Any of the grounds for suspension or revocation under section 5.19.260;
  2. The City License has been suspended or revoked at the time of the application.
  3. The Commercial Cannabis Business has not been in regular and continuous operation in the four months prior to the renewal application.

4. The City Licensee fails to or is unable to renew its State License.

5. The City Licensee has made a false, misleading or fraudulent statement or omission of fact as to any information provided to City pursuant to this Chapter.

F. The City Manager is authorized to make all decisions concerning the issuance of a renewal license. In making the decision, the City Manager is authorized to impose additional conditions on a renewal license, if it is determined to be necessary to ensure compliance with State or local laws and regulations or to preserve the public health, safety or welfare.

G. The City Manager shall serve the City Licensee, either personally or by first class mail addressed to the address listed on the renewal application, with dated written notice of the City Manager's decision to approve or deny the renewal, and the right of the City Licensee to seek judicial review of the City Manager's decision.

H. If a City Licensee submits the required renewal application, but a written approval from the City has not been received prior to the expiration of the subject City License, such license shall be deemed conditionally renewed until service of the City Manager's written renewal decision.

I. If a renewal application is denied, the City License shall no longer be effective and all related Commercial Cannabis Activity must cease immediately. A Person denied a renewal may file a new application pursuant to this Chapter no sooner than one year from the date of the rejection.

**5.19.250 Effect of State License Suspension, Revocation, or Termination.**

A. Suspension of a State License shall immediately suspend the ability of a Commercial Cannabis Business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State License.

B. Should the State, or any of its departments or divisions, revoke or terminate a State License, such revocation or termination shall also revoke or terminate the City License and City Licensee's ability to operate a Commercial Cannabis Business within the City.

**5.19.260 Suspension and Revocation of City License.**

The following may constitute grounds for suspension or revocation of a City License:

A. Failure of a City Licensee to comply with any requirement imposed by the provisions of this Code (or successor provision or provisions) including any rule, regulation, condition or standard adopted pursuant to this Chapter, or any term or condition imposed on the City License, or any provision of local or State Laws and/or regulations. Any act or omission of any Owner, Officer, Manager, or employee of a City Licensee constituting a violation of the provisions of this Chapter shall be deemed the act or omission of the City Licensee for purposes of determining whether the City License shall be suspended and/or revoked.

B. Any change in the ownership of a City Licensee that does not have City's prior written approval, if required under this Chapter.

C. Revocation of a City Licensee's State License.

D. City is denied access to the Premises or records of a City Licensee.



E. The City Licensee, or any of its Owners, Officers, or Managers has been adversely sanctioned or fined for, charged with, or found guilty of or plead guilty or no contest to a charge of operating a Commercial Cannabis Business without the necessary licenses and approvals from the applicable state and/or local jurisdictions.

F. Conviction of a City Licensee, Owner, Officer, or Manager for any felony offense.

G. Any City Licensee, Owner, Officer or Manager is charged with any of the following:

1. A violent felony, as specified in Section 667.5(c) of the Penal Code.
2. A serious felony, as specified in Section 1192.7(c) of the Penal Code.
3. A felony involving fraud, deceit, or embezzlement.
4. A felony for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
5. A felony for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8 of the Health and Safety Code.
6. A felony or misdemeanor involving the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance occurring after January 1, 2016.

If the City Manager determines that a ground for suspension and/or revocation of a City License exists, the City Manager shall give notice of suspension and/or revocation by dated written notice to the City Licensee. The City Manager shall cause the City Licensee to be served, either personally or by first class mail addressed to the address listed on the application, with the written notice suspending or revoking the City License. This notice shall state the reasons for the action, the effective date of the decision, and the right of the City Licensee to appeal the decision.

**5.19.270 Advertising and Marketing of Cannabis.**

A. It is illegal to Market or Advertise within the City Cannabis or Cannabis Products that are not permitted to be sold in the City under State Law or this Chapter.

B. Advertising or Marketing is prohibited in the City on any sign located within 1,000 feet of a Day Care Center; school providing instruction in kindergarten or any grades 1 through 12; Youth Center; Youth-Oriented Facility; or Private or Public Park.

C. Advertising or Marketing is prohibited in the City on any sign within 1,000 feet of a Treatment Center.

D. Advertising or Marketing in the City shall not contain a depiction of an individual under 21 years of age consuming Cannabis or Cannabis Products.

E. Advertising or Marketing in the City shall not be Attractive to Youth.

F. Advertising or Marketing in the City in a manner that is false or untrue or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression, is prohibited.

G. Advertisements or Marketing in the City shall not contain any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

**5.19.280 Enforcement and Penalties.**

A. It is unlawful to:

1. Operate, conduct, or direct Commercial Cannabis Activity in the City without a valid City License authorizing such Activity;

2. Own, set up, operate, or maintain a Commercial Cannabis Business in the City without a valid City License;

3. Participate as an employee, contractor, agent, volunteer, or in any other capacity in a Commercial Cannabis Business in the City without a valid City License;

3. Use any parcel or any portion of parcel of land as a Commercial Cannabis Business without a valid City License;

4. Lease, rent to, or otherwise allow a Commercial Cannabis Business to occupy any parcel or portion of parcel of land in the City without a valid City License.

B. It shall be unlawful for any person to violate any provision, or to fail to comply with the requirements, of this Chapter or any regulation adopted hereunder. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Chapter or any regulation adopted hereunder shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for a period of not more than six months, or by both a fine and imprisonment. Each day that a violation continues is deemed to be a new and separate offense. No proof of knowledge, intent, or other mental state is required to establish a violation.

C. Any condition caused or allowed to exist in violation of any of the provisions of this Chapter or any regulation adopted hereunder is a public nuisance and may be abated by the City, or by the City Attorney on behalf of the people of the State of California, as a nuisance by means of a restraining order, injunction, or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City, or the City Attorney on behalf of the people of the State of California, may seek injunctive relief to enjoin violations of, or to compel compliance with this Chapter or seek any other relief or remedy available at law or equity, including the imposition of monetary civil penalties. Each day that a violation continues is deemed to be a new and separate offense and subject to a maximum civil penalty of \$10,000 for each and every offense.

D. Whenever in this Chapter any act or omission is made unlawful, it shall include causing, aiding, abetting, suffering, or concealing the fact of such act or omission.

E. The remedies specified in this Section are cumulative and in addition to any other remedies available under State or local law for a violation of this Code.

F. Nothing in this Section shall be construed as requiring the City to allow, permit, license, authorize, or otherwise regulate Commercial Cannabis Activity, or as abridging the City's police power with respect to enforcement regarding Commercial Cannabis Activity.

**5.19.290 Effectiveness Conditioned on Passage of Tax Measure.**

The effectiveness of the ordinance enacting this Chapter is contingent upon voter approval and the continuous legal validity of a tax measure anticipated to be submitted to voters in November 2018. The tax measure would impose an excise tax, in an amount and form yet to be determined, on all Commercial Cannabis Businesses. In the event the proposed tax measure is not approved by the voters, or is suspended or invalidated for any reason, the provisions of this ordinance permitting Commercial Cannabis Businesses shall be void without any further action required by the City.

**Section III. Severability**

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional. Notwithstanding the foregoing, the City Council reserves the right to modify or repeal this Ordinance, in its sole discretion, if all or any portion of it is invalidated on its face or as applied.

**Section IV. Construction**

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

**Section V. Effective Date**

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

**Section VI. Publication**

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

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Gary Halbert  
City Manager

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Glen R. Googins  
City Attorney