

## Chapter 5.19

### **\*DRAFT\* COMMERCIAL CANNABIS BUSINESSES**

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#### **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 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 in the City. Unregulated businesses remain a source of danger and disruption for residents and businesses owners throughout the City. 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 the operation of cannabis businesses 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 thereto elsewhere in this Code, or shall

be otherwise defined by common usage. Any reference to California statutes is deemed to include any successor or amended version of the referenced statute and any regulations promulgated thereunder consistent with the terms of this Chapter.

“A-License” means a State License for Commercial Cannabis Activity intended for adults 21 years of age and over who do not possess a physician’s recommendation.

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

“Applicant” means a Person applying for a City License pursuant to this Chapter.

“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 division, “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 transformed into a concentrate, including, but not limited to, Cannabis Concentrate, an Edible Cannabis Product, Topical Cannabis, and an inhalant containing Cannabis or Cannabis Product.

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

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

“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.

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

“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 pursuant to 5.19.xxx.

“Cultivator” means a Person engaged in Cultivation.

“Customer” means a natural person 21 years of age or over, or a natural person 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 Health and Safety Code, as it may be amended.

“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.

“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 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 Food and Agricultural Code. Edible Cannabis Product has the same meaning as Business and Professions Code section 26001, as it may be amended.

“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.

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

“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 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 individual has the power to direct, supervise, or hire and dismiss employees, controls hours of operations, creates policy rules, or purchases supplies.

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

“Manufacturer” means a Person engaged in Manufacturing.

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

“Owner” means any of the following:

A. A Person with an aggregate ownership interest of ten percent (10%) or more in a Commercial Cannabis Business, whether a partner, shareholder, member, or the like, unless the interest is solely a security, lien, or encumbrance.

B. The chief executive officer of an entity engaged in a Commercial Cannabis Business.

C. A member of the board of directors of an entity engaged in a Commercial Cannabis Business.

D. A Person participating in the direction or control of an Applicant for a City License or any Owner a Commercial Cannabis Business within the City.

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

“Patient or Qualified Patient” has the same meaning as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.

“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 acting as a unit, and the plural as well as the singular.

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

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

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

“Responsible Person” means all Owners and operators of a Commercial Cannabis Business, including the Licensee and all officers, directors, Managers, or partners, and all persons with authority, including apparent authority, over the Premises of the Commercial Cannabis Business.

“State License” means a license issued by the State of California, or one of its departments or divisions, under State Cannabis 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 Cannabis 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 pursuant to 5.19.030.

“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 pursuant to 5.19.030.

“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, but does not include the return of Cannabis or Cannabis Products by a Licensee to the Licensee from whom the Cannabis or Cannabis product was purchased.

“State Cannabis Laws” means the laws of the State of California, which includes, but is 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.

“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 of California.

A City License is required pursuant to 5.19.xxx.

“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 Cannabis Laws.

“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 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 minors.

#### **5.19.030 City License Required.**

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. Except as expressly authorized in this Chapter, all Commercial Cannabis Businesses and Commercial Cannabis Activities are prohibited within the City.

#### **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 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 Operations within each Council District. Of the three (3) City Licenses available for Operations within each Council District, no more than two (2) City Licenses shall be available for Storefront Retailers.

B. 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;
3. Testing Laboratory; and
4. Indoor Cultivation.

C. 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.

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

E. 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.

F. The City Council may make a referral to the City Manager to decrease the total number of City Licenses for any or all types of Commercial Cannabis Businesses at any time. If the total number of City Licenses for any or all types of Commercial Cannabis Businesses within the City is decreased, any and all previously issued City Licenses shall continue to be valid for the remainder of the time for which each City License was granted.

#### **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. 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 information:

- a. Entity name and address (if any);
- b. Names and addresses of all proposed Owners, Managers, and Responsible Persons.
- c. A description of any and all Commercial Cannabis Activity engaged on by owner 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.
- d. Applicant/Owner financial information demonstrating Applicant's financial capacity to operate the proposed Commercial Cannabis business and to fulfill its obligations under this Chapter, in forms determined by the City's Finance Director.
- e. Applicant/Owner's agreement to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the Chula Vista Police Department

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

3. 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 designated time and date;
- b. The application is not in the required form and/or is incomplete;
- c. The Applicant has failed to pay the application fee as required by this Chapter and 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, a Manager, or any Responsible Person is under twenty-one years of age.

4. 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, an Owner, a Manager, or any Responsible Person has been convicted of a felony.
- c. The Applicant, an Owner, a Manager, or any Responsible Person has been arrested for any offense involving moral turpitude or the use of a weapon.
- d. The Applicant, an Owner, a Manager, or any Responsible Person has been cited by any city, county, or state, including the City, for unlawful Commercial Cannabis Activities.

5. A determination made by the Finance Director or the Police Chief to reject a Phase One Application is appealable to the City Manager. The City Manager's determination regarding the Phase One Application shall be final.

6. 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 then available City Licenses for those license types, a lottery system established by the City shall be used to determine which of the qualified Applicants is invited to submit a Phase Two Application.

7. 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.

#### B. Phase Two Application Process

1. 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 information:

- a. Proposed Premises location.
- b. Proposed safety plan.

c. Proposed security plan.

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

3. Phase Two Applications shall be reviewed and are subject to approval by the Director of Development Services, the Fire Chief and the Chief of Police. Determinations made thereby are appealable to the City Manager. The City Manager's determination regarding the Phase Two Application shall be final.

4. Upon obtaining final approval of a Phase Two Application, an applicant shall be issued a conditional City License. The conditional City License shall be valid for a period of \_\_\_\_\_ 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 \_\_\_\_\_ month period, the conditional City License will be void, ab initio.

C. General Rules

1. If a Phase One or Phase Two application is denied, a new Phase One application may not be filed for one year from the date of the denial.

2. As part of the application process, the Applicant shall be required to obtain all required land use approvals from the City's Development Services Department, 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.

3. As a condition precedent to the City's issuance of a City License pursuant to this Chapter, any person intending to operate a City License on a site located in the City shall provide sufficient evidence of the legal right to occupy and to use the Premises. 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 property owner of the Premises, acknowledging that the property owner has read this Chapter and consents to the operation of the Commercial Cannabis Business on the Premises.

4. Applicants shall have no right to a City License until a City License is actually issued. 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.

5. 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 Cannabis Laws.

6. 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.

**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 their Commercial Cannabis Businesses, City Licensees shall be further subject to the following requirements.

A. The Premises of a Commercial Cannabis Business shall be a contiguous area and shall only be occupied 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 Sectional Planning Area Plans that allow retail sales 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 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 50 feet of, a fully-improved public right-of-way; and (b) must comply with parking and sign regulations applicable to retail businesses in commercial zones.

3. Separation Requirements.

a. Storefront Retailers shall not be located within 1,000 feet of any Day Care Center, Youth 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, or any public or private park or facility with recreational or playground equipment intended for use by minors, including tot-lots, swings, or similar equipment.

c. Storefront Retailers shall not be located within 150 feet of any existing residential use or zone allowing residential uses.

C. Non-Storefront Retailers.

1. Allowed Zones. Subject to the separation requirements set forth below, Non-Storefront Retailers 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. Non-Storefront Retailers shall not be located within 150 feet of any zone allowing residential uses.

D. Manufacturer; Distributor; Testing Laboratory; and Cultivator

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.

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

1. For purposes of this Section, the distance between uses shall be measured horizontally in a straight line between the two closest points of (a) with respect to the Commercial Cannabis Business, the delineating line for the licensed Premises that encompass the use; and (b) with respect to the third party "sensitive receptor" uses, as follows: (i) for existing residential uses, the parcel line; (ii) for residential zones, the zone boundary; (iii) for all other sensitive receptors with outside activities, the parcel line and (iv) for all other sensitive receptors with fully enclosed activities the exterior edge of the walls surrounding such activities.

2. Measurements shall be made without regard to natural or constructed physical barriers or impediments.

**5.19.070 Limitations on City's Liability.**

To the fullest extent Licensed by law, the City shall not assume any liability whatsoever with respect to 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 execute and fulfill all requirements of an agreement, in a form approved by the City Attorney, whereby all owners agree to (a) indemnify, 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 which arise out of, or which 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, to process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the Commercial Cannabis Business or any of its officers, employees or agents; (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; and (c) reimburse the City for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's City License, or related to the City's approval of the applicant's Commercial Cannabis Activity. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

**5.19.080 Requirements Prior to Commencement of Operation.**

A. Prior to commencing operations, a City Licensee shall timely 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.

B. Prior to commencing operations, a City Licensee shall pay to the City a business license tax as required by Code Chapter 5.02.

C. Prior to commencing operations, a Commercial Cannabis Business shall be subject to a mandatory inspection of the Premises, and must obtain all required building permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone.

D. Prior to commencing operations, a City Licensee must first 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 zoning district in which such the Commercial Cannabis Business Premises will be located.

E. Prior to commencing operations, a City Licensee must submit to the Police Chief a proposed security plan for the Premises and Operation of the Commercial Cannabis Business and obtain approval from the Police Chief of such plan.

F. Prior to commencing operations, a City Licensee must submit to the Fire Chief a proposed security plan for the Premises and Operation of the Commercial Cannabis Business and obtain approval from the Fire Chief of such plan.

**5.19.090 Operating Requirements for All Licensees.**

A. Cannabis and/or Cannabis Products shall not be consumed 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 or about the Premises of a Commercial Cannabis Business.

C. No Cannabis or Cannabis Products shall be visible from the exterior of any property 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 Cannabis Laws, 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. Signage and Notices.

1. In addition to the requirements otherwise set forth in this section, business identification signage for a Commercial Cannabis Business shall conform to the requirements of state law and the Chula Vista Municipal Code, including, but not limited to, the requirements for a City sign permit.

2. 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 on the Premises of a Commercial Cannabis Business, and shall not be 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 any person 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 safety 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. Loitering. The City Licensee shall prohibit loitering by persons outside on the Premises.

O. 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.

P. 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.

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

R. 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.

**5.19.100 Operating Requirements for Storefront Retailers.**

A. A Storefront Retailer shall not Sell Medicinal Cannabis.

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 Cannabis 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 plants in a single day to a single customer.

4. A Storefront Retailer shall sell no Cannabis Product that is in the shape of a human being, either realistic or caricature, animal, insect, or fruit.

5. A Storefront Retailer shall not provide free Cannabis or Cannabis Products to any person.

6. 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 dispensary 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."

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

**5.19.110 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 of Chula Vista.

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

1. All Deliveries of Cannabis or Cannabis Product shall be made in person. A Delivery of Cannabis or Cannabis Product shall not be made through the use of an unmanned vehicle.

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

3. A Delivery Employee shall only deliver Cannabis or Cannabis Products to a physical address.

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

5. 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.

6. 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.

7. 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.

**5.19.120 Operating Requirements for Cultivators.**

A. Outdoor Cultivation Prohibited. Commercial Cannabis Cultivation must occur indoors, and 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 space 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 Cannabis 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.

#### **5.19.130 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, Managers, Responsible Persons, 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 law.

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 Cannabis Laws, at all times.

#### **5.19.140 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 Cannabis 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 of Chula Vista.

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 of Chula Vista 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 of Chula Vista 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.

**5.19.150 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 of Chula Vista.

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 Cannabis Laws, at all times.

**5.19.160 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 file a sworn statement 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, Managers, Responsible Persons, 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 upon a reasonable 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 MAUCRSA.

F. Subject to any restrictions under the Health Insurance Portability and Accountability Act (HIPAA) regulations, each City Licensee shall allow City of Chula Vista 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.

**5.19.170 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. Except for live growing plants which are being cultivated at a Cultivation Premises, all Cannabis and Cannabis Products shall be stored in a secured and locked room, safe, or vault. All Cannabis and Cannabis Products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss,
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 Chula Vista alarm license under Chapter xxx 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 of Chula Vista, 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, Manager, Responsible Person, 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.

#### **5.19.180 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. 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.

#### **5.19.190 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 any additional 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 Manager shall become effective upon date of publication. Commercial Cannabis Businesses shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.

#### **5.19.200 Compliance With All Applicable Laws Required.**

Nothing in this Chapter shall be construed as authorizing any actions that violate federal, state law or local law with respect to the operation of a Commercial Cannabis Business. It shall be the responsibility of the City Licensees and Responsible Persons 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 for as long as applicable, all State Cannabis Laws, 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 the City License.

**5.19.210 Right of Access & Testing.**

A. The City Manager, Police Chief, Fire Chief, or Persons authorized to enforce the provisions of the Chula Vista Municipal Code shall have full access to inspect and:

1. Enter onto any Premises of a City Licensee.
2. Test any equipment possessed by, in control of, or used by a City Licensee, Responsible Persons, 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, Responsible Persons, and any other employee, agent, or volunteer of a City Licensee.
4. Copy any materials, books, or records of any City Licensee, Responsible Person, and any other employee, agent, or volunteer of a City Licensee.

B. Failure to cooperate and participate in any City investigation pending against the City Licensee may result in a City License violation.

C. The City Manager, Police Chief, Fire Chief or Persons authorized to enforce the provisions of the Chula Vista Municipal 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 and the City Licensee or its Responsible Persons.

F. This subsection shall not be construed to deprive a City Licensee, Responsible Person, 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.

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

A. A City License is valid only as to the City Licensee, and is therefore nontransferable to other persons or entities. Any City Licensee may not sell, transfer, pledge, assign, grant an option, or otherwise dispose of its City License. Any such sale, transfer, pledge, assignment, grant or attempted sale, transfer, pledge, assignment or grant 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 sell, transfer, pledge, assign, grant an option or otherwise dispose of no of more than 50% ownership or control of a Commercial Cannabis Business upon 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 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.

F. 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.

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

**5.19.230 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. Within 120 days of the effective date of this Chapter, 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.

C. All required 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.

**5.19.240 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 5.19.250.

**5.19.250 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 contain all the information required for new applications.

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 exists:

1. Any of the grounds for suspension or revocation under section 5.19.270;
2. The City License is 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 in the renewal application.

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 to 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. If a renewal application is denied, a person may file a new application pursuant to this Chapter no sooner than one year from the date of the rejection.

**5.19.260 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 of California, or any of its departments or divisions, revoke or terminate a State License, such revocation or termination shall also revoke or terminate the ability of a Commercial Cannabis Business to operate within the City of Chula Vista.

**5.19.270 Suspension and Revocation of 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 law and/or regulations, may be grounds for suspension and/or revocation of the City License.

B. Any change in the ownership interest of entity subject to a City License may be grounds for suspension or revocation of the City License.

B. Any act or omission of any 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.

C. Revocation of a State License shall be grounds for revocation of a City License.

D. A City License may be suspended and/or revoked if the City Licensee, its Owner, Manager or a Responsible Person has been sanctioned or fined for, enjoined from, or found guilty of or plead guilty or no contest to a charge of operating a Commercial Cannabis Business in the state without the necessary licenses and approvals from the applicable state and/or local jurisdictions.

E. Conviction of a City Licensee, an Owner, a Manager, or a Responsible Person for any felony offense shall be grounds for revocation of a City License.

F. A City License may be revoked if the City is denied access to the Premises of a City Licensee.

G. Arrest of a City Licensee, an Owner, a Manager, or a Responsible Person for any of the following may be grounds for suspension or revocation of a City License:

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.

H. 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.

I. 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.

#### **5.19.280 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.

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.

B. A violation of subsection A 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. Each day that a violation continues is deemed to be a new and separate offense and subject to a maximum civil penalty of \$2,500 for each and every offense.

C. Any person violating subsection A 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.

D. 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.

E. 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 of a tax measure anticipated to be submitted to voters in June 2018. The tax measure would impose an excise tax, in an amount and form yet to be determined, on all cannabis business.