

Chapter 5.95

Commercial Adult Use Cannabis Businesses

Sections:

- 5.95.010 Purpose and Intent**
- 5.95.020 Legal Authority**
- 5.95.030 Operation Prohibited Without a Valid License**
- 5.95.040 Compliance with the Law**
- 5.95.050 Definitions**
- 5.95.060 Authorized Commercial Adult Use Cannabis Businesses**
- 5.95.070 Co-Location of Medical Cannabis Dispensary and Commercial Adult Use Cannabis Businesses**
- 5.95.080 Expiration of a Commercial Adult Use Cannabis Business License**
- 5.95.090 Revocation of a Commercial Adult Use Cannabis Business License**
- 5.95.100 Effect of Suspension, Revocation or Termination of Any State License**
- 5.95.110 Renewal of a Commercial Adult-Use Cannabis Business License**
- 5.95.120 Change in Location**
- 5.95.130 Change in an Applicant or Licensee’s Information**
- 5.95.140 Transferability of Adult Use Cannabis Business License**
- 5.95.150 General Operating Standards and Restrictions**
- 5.95.160 Violations and Penalties**
- 5.95.170 Prohibited Operations and Nonconforming Use**
- 5.95.180 Taxes**
- 5.95.190 Appeals**
- 5.95.200 Severability**
- 5.95.210 Consistency with Statewide Regulation of Cannabis**
- 5.95.220 Consistency with the Chapter 5.94**
- 5.95.230 Amendments and Administration**

Section 5.95.010 Purpose and Intent

The purpose of this chapter is to establish a comprehensive set of regulations with attendant regulatory permits applicable to the operation of commercial adult use cannabis businesses. The regulations are intended to implement the provisions of the Medical and Adult Use Cannabis Regulation and Safety Act (hereinafter “MAUCRSA”) to provide access to adult use cannabis for persons over the age of 21 as authorized by the Control, Regulate and Tax Adult Use Marijuana Act (“AUMA” or “Proposition 64” passed by California voters in 2016). Further, it is the intent of this chapter to regulate the sale of adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City; to impose regulations on the use of land; and to enforce rules and regulations consistent with state law.

(Ord 2021-8, Added, 6/22/21)

5.95.020 Legal Authority

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the MAUCRSA, and any and all state legislation and/or regulations regarding the same, the City is authorized to adopt laws that establish standards, requirements and regulations for the licensing of commercial adult use cannabis business within the limits of its municipal boundaries. Any standards, requirements, and regulations regarding health and safety, security,

and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City to all commercial adult use cannabis business.

This chapter is not intended to permit activities that are otherwise illegal under state or local law. This chapter is not intended to conflict with federal or state law.

(Ord 2021-8, Added, 6/22/21)

5.95.030 Operation Prohibited Without a Valid License

This chapter requires all adult use commercial cannabis operators to obtain and hold a valid license to operate within the City. The provisions of this chapter are in addition to any other licenses, licenses and approvals which may be required, now or in the future, to conduct business in the City and the State of California.

(Ord 2021-8, Added, 6/22/21)

5.95.040 Compliance with the Law

It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of an adult use cannabis dispensary, or to participate as an employee, contractor, agent, volunteer, or in any manner or capacity other than as provided in this chapter. The general prohibition contained in this section shall include renting, leasing, or otherwise permitting an adult use cannabis business to occupy or use a location, vehicle, or other mode of transportation.

It shall be the sole responsibility of the owners and the operators of all adult use commercial cannabis businesses to ensure that the adult use commercial cannabis business they own and/or operate is, at all times, operating in a manner compliant with all current and future applicable federal, state and local laws, regulations, licensing requirements, certification requirements, and/or any additional operating procedures and/or requirements which may be imposed as conditions of approval of the commercial adult use cannabis business license.

Every adult use cannabis business shall submit to periodic compliance checks by the City in order for the City to ensure all adult use cannabis businesses have complied and are complying with all applicable federal, state and local laws, regulations, licensing requirements and certification requirements. The City's compliance checks will be conducted during the normal business hours of an adult use cannabis business. The City's compliance checks may be conducted with or without advance notice to an adult use cannabis business.

(Ord 2021-8, Added, 6/22/21)

5.95.050 Definitions

The following definitions shall apply to this chapter unless the context clearly denotes otherwise.

a. "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.

b. "Adult Use Cannabis Business" means a location where cannabis is provided to individuals who are 21 years or older.

c. "Adult Use Cannabis Business License" means a license issued to an adult use cannabis business pursuant to the provisions of Chapter 5.95.

d. "Applicant" means a person or legal entity who is required to file an application for a license under this chapter.

e. "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs of the State of California.

f. "Business" means all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to that employee's employer.

g. "Business Licensing Division" as used in this chapter is defined to mean the department within the City that reviews, issues, and manages business licenses.

h. "Cannabis" means, except as specified herein, 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 Chapter, "Cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the California Health and Safety Code.

i. "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.

j. "Cannabis Dispensing Room" means the location in an adult use cannabis business where cannabis is stored and eventually provided to customers as opposed to a lobby area within the business.

k. "City" means the City of Vista.

l. "City Manager" means the City Manager of the City or the City Manager's designee.

m. "Commercial adult use cannabis business license" means a regulatory license issued by the City pursuant to Chapter 5.95 to an adult use commercial cannabis business and is required before any adult use commercial cannabis business may be conducted in the City.

n. "Concentrated Cannabis" shall have the same definition as given such term in California Health and Safety Code § 11006.5, as may be amended, and which defines

“Concentrated Cannabis” as the separated resin, whether crude or purified, obtained from cannabis.

o. “Dispensing” means any activity involving the retail sale of cannabis or cannabis products from a retailer.

p. “Edible” shall have the same definition as set forth in Health and Safety Code Section 113781, until such time that MMRSA or the Department of Public Health sets forth a new definition.

q. “Employee” includes any person who renders any service, with or without compensation, to an adult use cannabis business or any person performing some or all of the functions of an employee of an adult use cannabis business. The term “Employee” shall include part-time, full-time, temporary, and permanent employees.

r. “Licensee” means any person holding a license under this chapter.

s. “Limited-access area” means an area in which cannabis goods are stored or held and is only accessible to a licensee, its employees and/or authorized individuals.

t. “Location” means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

u. “Live scan” means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice (DOJ) which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.

v. “Marijuana” has the same definition as set forth in Health and Safety Code section 11018 and includes cannabis.

w. “Reasonable Compensation” means compensation commensurate with wages and benefits paid to officers and employees of other not-for-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked, including without limitation, the proportionate cost of materials, time, experience, and other expenditures reasonably related to the cultivation, transportation, treatment, and storage of cannabis.
(Ord 2021-8, Added, 6/22/21)

5.95.060 Authorized Commercial Adult Use Cannabis Businesses

In accordance with section 5.95.070, a validly licensed medical cannabis dispensary licensee may, in the same physical space as the medical cannabis dispensary, co-locate a retail commercial adult use cannabis business. Other than co-location with a medical cannabis dispensary by the same license holder, per section 5.95.070, all other retail commercial adult use cannabis businesses are prohibited within the City.
(Ord 2021-8, Added, 6/22/21)

5.95.070 Co-Location of Medical Cannabis Dispensary and Commercial Adult Use Cannabis Businesses

An adult use cannabis business can only be co-located at and within the same physical premises as a medical cannabis dispensary that has been approved as such by the City pursuant to Chapter 5.94. A City issued licensed is required to operate a co-located adult use cannabis business.

An adult cannabis business co-location application shall be accompanied by a non-refundable application fee established by resolution of the City Council. Prior to acting on the application, the City Manager shall conduct environmental review pursuant to the California Environmental Quality Act. The City Manager may act on the application if any of the following occurs: (1) the City determines the project is exempt from environmental review; (2) the City determines there is no substantial evidence that the project, as proposed or as mitigated, may have a significant impact on the environment; or (3) the City adopts a statement of overriding considerations for the project. In such cases, the City Manager shall issue a co-location commercial adult use cannabis business license after determining that a medical cannabis dispensary is in good standing with all local, state, and federal laws and regulations, and that the co-location applicant demonstrates compliance with all the standards and provisions of Chapter 5.95 and any additional performance and operating standards promulgated by the City Manager to carry out the purposes of Chapter 5.95. The City Manager shall further condition the license on compliance with any mitigation measures resulting from the environmental review.

Upon issuance by the City of a co-location commercial adult use cannabis business license, a medical cannabis dispensary validly licensed pursuant to Chapter 5.94 may conduct a commercial adult use cannabis business at the same physical site and as part of the medical cannabis operation currently operating at said location.

A co-location facility shall maintain both a City and state license for medical cannabis dispensary at all times the facility is in operation. Failure to maintain a City and/or state medical cannabis licenses shall result in the automatic revocation of the companion commercial adult use cannabis business license. The commercial adult use cannabis business license shall be deemed suspended or revoked contemporaneously with the suspension or revocation of either the medical cannabis licensee's City license or state license.

The authorization to conduct both a medical cannabis dispensary and a co-located adult use cannabis business does not relieve the licensee from fulfilling all its applicable tax obligations, including paying the separate and distinct tax rate for sales of products related to medical cannabis and the separate and distinct tax rate for sales of products related to adult use cannabis.

(Ord 2021-8, Added, 6/22/21)

5.95.080 Expiration of a Commercial Adult Use Cannabis Business License

A commercial adult use cannabis business license, issued pursuant to this Chapter, shall expire concurrently with the medical cannabis dispensary license issued to the medical cannabis dispensary co-located at the adult use cannabis business or twenty-four (24) months after the date of its issuance, whichever is shorter. Commercial adult use cannabis business licenses may be renewed as provided in section 5.95.110.

(Ord 2021-8, Added, 6/22/21)

5.95.090 Revocation of a Commercial Adult Use Cannabis Business License

A commercial adult use cannabis business licenses may be revoked if any owner or operator of said business is convicted of a federal or state felony and/or is in violation of any local rule, ordinance, regulation, or operational procedure, and/or standards promulgated or adopted pursuant to this chapter. For purposes of this provision, a conviction is complete upon entry of judgment after a finding of guilt, upon entry of a plea of guilty, upon entry of a plea of nolo contendere or “no contest,” and regardless of the pendency of any appeal, or expungement pursuant to California Penal Code Sections 1203.4, 1203.4a or 1203.41.

(Ord 2021-8, Added, 6/22/21)

5.95.100 Effect of Suspension, Revocation or Termination of Any State License

A suspension of any license issued to an adult cannabis business by the State of California, or by any of its departments or divisions, shall immediately and automatically suspend the privilege of said adult use cannabis business to operate within the City as of the same date and time the state license was suspended. Said adult use cannabis business’ ability to sell and/or distribute adult use cannabis products shall remain suspended unless and until the State of California, or its respective department or division, reinstates or reissues the suspended state license.

Should the State of California, or any of its departments or divisions, revoke or terminate the state license of an adult use cannabis business, such revocation or termination shall automatically terminate the adult use cannabis business license issued by the City to said business as of the same date and time the state license was revoked and/or terminated.

(Ord 2021-8, Added, 6/22/21)

5.95.110 Renewal of a Commercial Adult-Use Cannabis Business License

An application for renewal of a commercial adult-use cannabis business license shall be filed at least sixty (60) calendar days prior to the expiration date of the current license. The renewal application shall contain all the information required for a new application for license under this chapter. The applicant shall pay a fee in an amount to be set by the City Council designed to cover the costs of processing the renewal license application, together with any costs incurred by the City to administer and monitor the program. The City Council, from time to time, may modify this fee in order to ensure that the City is recovering all its costs.

An application for renewal of a commercial adult use cannabis business license shall be rejected if any of the following exists:

1. The application is filed less than sixty (60) days before the expiration of the term of applicant’s current license.
2. The commercial adult use cannabis business license is suspended or revoked at the time the application is filed.
3. The commercial adult-use cannabis business has violated any of the requirements of Chapter 5.95 or of any regulations adopted pursuant to Chapter 5.95.

4. The licensee fails or is unable to renew its required State of California cannabis license by the date the renewal would need to take effect.

5. The licensee is not or will not be operating a medical cannabis dispensary at the location listed in the application.

The City Manager is authorized to make all decisions concerning any application for renewal of a license, including the decision to approve or deny the application. In making decisions on applications, the City Manager is authorized to impose additional conditions upon renewal of a license if the City Manager deems it necessary to ensure compliance with any laws, regulations and/or to preserve the public health, safety and/or welfare. Appeals from the decision of the City Manager shall be handled pursuant to section 5.95.190.

If a renewal application is rejected, the then current commercial adult use cannabis business license shall no longer be effective as of the end of its then current term and all related commercial adult use cannabis business activity must cease at the location identified in the license. An applicant that is denied a renewal may file a new application pursuant to Chapter 5.95 no sooner than one (1) year from the date of the rejection.
(Ord 2021-8, Added, 6/22/21)

5.95.120 Change in Location

An adult use cannabis business may only operate at the location specified on its license. An adult use cannabis business shall not change or expand the location it operates from without the City's express written approval. If an adult use cannabis business wishes to change or expand the location it operates its adult use cannabis from, it shall file an application with the City. The applicant shall also pay a fee in an amount to be set by the City Council designed to cover the costs of processing the change of location application. The City Council, from time to time, may modify this fee to ensure that the City is recovering all said costs.

The City Manager is authorized to make all decisions concerning any application for change or expansion of an existing licensee's location, including the decision to approve or deny an application. In making decisions on applications, the City Manager is authorized to impose additional conditions upon the approval of any application if the City Manager deems it necessary to ensure compliance with any laws, regulations and/or to preserve the public health, safety and/or welfare. Appeals from the decision of the City Manager shall be handled pursuant to section 5.95.190.
(Ord 2021-8, Added, 6/22/21)

5.95.130 Change in an Applicant or Licensee's Information

All applicants for an adult use cannabis business license and adult use cannabis business licensees shall have an ongoing and continuing obligation to update the City of any changes to information contained in their then pending or already approved adult use cannabis business license application. Applicants and licensees must update the City of any changes to their information within seven (7) calendar days of the event that causes the change to said information.
(Ord 2021-8, Added, 6/22/21)

5.95.140 Transferability of Adult Use Cannabis Business License

An adult use cannabis business license is transferable only if: (1) the holder of the co-located medical cannabis dispensary license contemporaneously applies to transfer the co-located medical cannabis license pursuant to the provisions of Chapter 5.94, (2) the proposed transferee identified in the medical cannabis dispensary transfer application and the adult use cannabis transfer application is the same individual/entity in both applications, and, (3) the proposed transferee successfully completes all of the requirements that a new applicant would otherwise need to meet under both Chapter 5.94 for the medical cannabis dispensary license and Chapter 5.95 for the adult use cannabis business license.
(Ord 2021-8, Added, 6/22/21)

5.95.150 General Operating Standards and Restrictions

An adult use cannabis business shall operate in conformance with the following minimum standards, and such standards shall be deemed to be part of the conditions of approval of a license for an adult use cannabis business so as to ensure that its operation is in compliance with all relevant local and state laws and regulations, and to mitigate any potential adverse impacts of the adult use cannabis business on the public health, safety or welfare.

a. Security

1. At least one (1) security guard, armed or unarmed, who is licensed by the State of California shall be present at the location of the adult use cannabis business during all business hours. This security guard may be the same security guard providing security for the co-located medical cannabis dispensary. The security guard shall only be engaged in activities related to providing security for the cannabis business, except on an incidental basis. Each security guard shall possess a "Security Guard Card" at all times.

2. Security cameras shall be installed and maintained in good condition and used in an on-going manner with at least ninety (90) days of digitally recorded documentation.

3. The location of the adult use cannabis business shall be alarmed with a centrally monitored fire and burglar alarm system and monitored by an alarm company.

b. Records

Adult use cannabis businesses shall continuously maintain records reflecting:

1. The full name, address, and telephone number(s) of the owner and/or lessee of the property.

2. The full name, address, and telephone number(s) of all employees.

3. The results of annual live scans of all employees.

4. A copy of the adult use cannabis business's commercial general liability insurance policy and all other insurance policies related to the operation of the adult use cannabis business.

5. Proof of a valid and current license issued by the City in accordance with this chapter.

c. Employees

An adult use cannabis business shall not have any employees, operators, or volunteers who have suffered a conviction for a felony offense having occurred within the past four (4) years. This requirement shall be confirmed through the results of a live scan being conducted annually by the adult use cannabis business on all employees, the written results of such live scans being maintained at the location of the adult use cannabis business.

d. Volume

An adult use cannabis business may dispense, store or transport cannabis in aggregate amounts that is reasonably tied to its customers' present needs. To that end, an adult use cannabis business shall ensure compliance with state law limits on the amount of dried cannabis and amount of cannabis plants allowed per person, if any.

e. Notification

The following signs in measurements of not less than eight (8) by ten (10) inches shall be clearly and legibly posted in a conspicuous location inside the medical cannabis business where they will be visible to all visitors in the normal course of a transaction, stating:

1. "Loitering on and around this cannabis business is prohibited by California Penal Code § 647(e) and patrons must immediately leave the site and not consume or use cannabis in the vicinity of the business, on the property or in the parking lot."

2. "Patrons may be subject to prosecution under federal marijuana laws."

3. "Use of marijuana may impair a person's ability to drive a motor vehicle or operate machinery."

4. "Smoking, ingesting or consuming marijuana anywhere on the premises is strictly prohibited."

5. "All cannabis products have been tested by an independent testing agency for content, mold, pesticides, and other harmful contaminants."

f. No Alcohol

Any adult use cannabis business shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages or to operate a business that sells alcoholic beverages on site. Additionally, there shall be no alcohol consumption on site.

g. Quality Control

All cannabis products shall be analyzed in representative samples of all strains that are to sold to the public. The representative samples shall be analyzed by an independent laboratory, holding a state license for testing (if and when such is available) for harmful

pesticides, molds, and other contaminants. Any cannabis, from which the representative sample tested positive for a harmful pesticide or other contaminant at a level that exceeds the local, state or federal regulatory or statutory standards, shall be destroyed forthwith and not sold or in any way distributed.

h. Labeling

Any cannabis sold to a consumer shall be properly labeled. A distinct and clearly legible label must be affixed onto all cannabis items which states:

1. This item contains cannabis.
2. Warning that the item is not a food product.
3. Warning that the item is to be kept away from children.
4. Warning if nuts or other known allergens are used.
5. Date of manufacture.
6. Any other or further labeling as may be made a requirement by any state or federal law or agency.

i. Edibles

All cannabis edibles shall comply with the California Sherman Food, Drug, and Cosmetic Law, as codified in section 109875 et seq. of Part 5 of Division 104 of the Health and Safety Code, and as amended from time to time. Further minimum requirements for all medical cannabis edibles include:

1. No edible marijuana products requiring refrigeration or hot holding shall be manufactured for sale or distribution at an adult use cannabis business due to the potential for food-borne illness. Baked products (i.e. brownies, bars, cookies, cakes), tinctures and other non-refrigerated type items are acceptable for sale at an adult use cannabis business.
2. Any such other or further requirements as propagated by any state or federal law or agency.
3. Any edible cannabis product that is made to resemble a typical food product (i.e. brownie, cake) must be in a properly labeled opaque (non-see through) package before it leaves the adult use cannabis business.

j. Signage

1. Signs on the premises shall not, in any way, obstruct the entrance or the video surveillance system. The size, location, and design of any signage must conform to the sign provisions in the Vista Municipal Code.
2. No signage, on or off premises, shall contain advertising or marketing material that a reasonably objective person would consider is targeted to persons under the age of twenty-one (21) years old.

3. The use of billboards in the City for any purpose is prohibited.

4. Business identification signage shall comply with the appropriate sign requirements with the applicable zoning district.

5. At all times, every adult use cannabis dispensary shall conspicuously display the license issued pursuant to the provisions of this chapter so that it may be readily seen by all persons entering the location of the business.

k. Employee Training

All employees of an adult use cannabis business shall receive appropriate training for their intended duties to ensure thorough understanding of the rules and procedures regarding maintaining compliance with all relevant state and local laws at all times.

l. Operating Hours

The maximum hours of operation for an adult use cannabis business shall be daily from 9:00 a.m. to 10:00 p.m.

m. Use Restrictions

Smoking, ingesting or consuming cannabis by customers at the location of the adult use cannabis business is prohibited.

n. No Minors

Except as allowed under Chapter 5.94, no one under twenty-one (21) years of age shall be permitted to enter an adult use cannabis business.

o. Odors

An adult use cannabis business shall have an air treatment system that ensures offsite odors shall not result from its operations. This requirement, at a minimum, means that the adult use cannabis business shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location of the adult use cannabis business is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the adult use cannabis business, if the adult use cannabis business only occupies a portion of a building.

p. Insurance

An adult use cannabis business shall have comprehensive commercial general liability insurance and comprehensive automotive liability insurance (if automobiles are used by the adult use cannabis business for any purpose) protecting the adult use cannabis business in an amount of not less than two million dollars (\$2,000,000.00) per occurrence, combined single limit, including bodily injury and property damage and not less than two million dollars (\$2,000,000.00) aggregate for each personal injury liability, products liability and each accident.

q. Site management

The adult use cannabis business shall make available to customers who purchase cannabis products a handout containing the rules and regulations governing marijuana use and consumption within the City and recommendations on sensible marijuana etiquette.

r. Parking

Each adult use cannabis business shall have at least one (1) dedicated parking space for every 1,000 square feet of the permitted building. The adult use cannabis business must also have shared access to at least one (1) handicap accessible parking space. The parking spaces required for the medical cannabis dispensary co-located at the same site can be used to satisfy the requirements of this section.

(Ord 2021-8, Added, 6/22/21)

5.95.160 Violations and Penalties

Any person, whether as principal, employee, agent, partner, officer, stockholder, trustee or otherwise, who violates or causes the violation of any of the provisions of this chapter shall be guilty of a misdemeanor or infraction pursuant to Section 1.16.010 of this Code.

(Ord 2021-8, Added, 6/22/21)

5.95.170 Prohibited Operations and Nonconforming Use

All adult use cannabis businesses shall operate in accordance with the provisions of all applicable state and local laws. It shall be unlawful for any adult cannabis business in the city, or any agent, employee, or representative of said adult cannabis business, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the adult use cannabis business, or to violate any state law, or this chapter.

(Ord 2021-8, Added, 6/22/21)

5.95.180 Taxes

a. Imposition of Tax

Every person or entity engaged in the operation of an adult cannabis business shall pay to the City an amount equal to seven percent (7%) of all gross adult use cannabis sales as a special use tax.

b. Payment Obligation

All taxpayers subject to this chapter must pay the full tax imposed by this chapter regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in this Code, except as required by state or federal law. Failure to pay the tax in full when due shall subject the taxpayer to penalties, interest charges, and other assessments as the City may establish from time to time. No provision in this Code shall lower the tax rate or reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

c. City Council Authorization to Impose Penalties, Interest and Other Assessments

The City Council may impose penalties, interest charges, or other assessments for the failure of a taxpayer to pay taxes in a timely manner.

d. Payment of Tax Does Not Authorize Activity

The payment of the tax required pursuant to this chapter shall not, under any circumstances, be construed as authorization to conduct or continue to conduct the sale of cannabis products without the requisite license and authorization from the City. Nothing in this chapter shall be deemed to imply or authorize any activity connected with the sale, distribution, or possession of cannabis that is not in conformance with all applicable local and state laws and regulations.

(Ord 2021-8, Added, 6/22/21)

5.95.190 Appeals

Any decision made by the City Manager with regard to the status of any application for a license or license authorized pursuant to this Chapter may be appealed by the applicant or licensee to the City Council. In order to file an appeal, a written notice of appeal must be filed with the City Clerk within ten (10) calendar days of the date of the decision being appealed. The notice of appeal shall, in a clear and concise manner, present the facts, reasons, and legal arguments why the appellant contends the decision of the City Manager was made in error. If such appeal is filed, the City Council shall set an informal hearing to review the appeal. The hearing shall be set within a reasonable time which shall be: (1) no sooner than fifteen (15) calendar days from the date of the notice of appeal; and (2) no longer than thirty (30) calendar days from the date of the notice of appeal unless a regular meeting of the City Council has been cancelled, in which case the hearing shall occur no later than sixty (60) calendar days following the date of the notice of appeal. The parties to the appeal may agree to shorten or waive any of these time requirements.

The appeal before the City Council shall constitute a de novo proceeding. The applicant may submit to the City Clerk any written materials, arguments, evidence, and declarations in support of its position. To allow for proper review and consideration, all submissions by the applicant or licensee must be received by the City Clerk no later than ten (10) calendar days prior to the scheduled hearing. Following the appeal, the City Council shall take action on the appeal. If the appeal is denied, the facts and reasons for the denial shall be set forth in writing.

If the issue on appeal to the City Council involves the revocation of a then current and valid license issued pursuant to this chapter, and the City Council affirms the decision of the City Manager to revoke the license, the revocation shall become effective ten (10) days from the date of the City Council's decision. An appeal to the City Council will not extend the term of any license beyond the date of that license's stated expiration date.

If a timely appeal is not filed, the decision of the City Manager shall become final and conclusive.

(Ord 2021-8, Added, 6/22/21)

5.95.200 Severability

If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this chapter is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining sections in this chapter.

(Ord 2021-8, Added, 6/22/21)

5.95.210 Consistency with Statewide Regulation of Cannabis

This chapter shall, at all times, be read to be consistent with all current and future state laws and regulations governing the sale, possession and/or use of cannabis products.

(Ord 2021-8, Added, 6/22/21)

5.95.220 Consistency with the Chapter 5.94

An adult use cannabis business must be co-located with a medical cannabis dispensary authorized pursuant to Chapter 5.94. With regard to the operational requirements of a cannabis business (i.e., store layout, security, parking, employee background checks), in Chapter 5.95, it is the intent of the City to mirror the requirements and procedures contained in Chapter 5.94 to the extent possible. Should there be any inconsistencies between similar requirements in Chapter 5.94 and Chapter 5.95 that cannot be harmonized and/or reconciled, the provision(s) contained in Chapter 5.94 shall control to resolve said inconsistencies.

(Ord 2021-8, Added, 6/22/21)

5.95.230 Amendments and Administration

The City Manager is hereby delegated authority by the City Council to promulgate any rules, regulations, and/or procedures necessary and consistent with this chapter in order to implement and administer the intent of this chapter, including any rules and regulations necessary to ensure the efficient and timely collection of the tax imposed by this chapter.

(Ord 2021-8, Added, 6/22/21)