



**TO:** Mayor and Councilmembers

**FROM:** Michael Jenkins, City Attorney

**CONTACT:** Winnie Cai, Assistant City Attorney

**SUBJECT:** Amendments to Cannabis Business License Ordinance

**RECOMMENDATION:**

Conduct second reading, (by title only, waiving further reading) and adopt Ordinance No. 19-, entitled "An Ordinance the City of Goleta, California, Amending Chapter 5.09 of Title 5 of the Goleta Municipal Code to Establish Standards and Regulations for Commercial Cannabis Businesses".

**BACKGROUND:**

In July 2018, the City adopted licensing procedures and regulations to regulate commercial cannabis businesses. These regulations were codified Chapter 5.09 into the Goleta Municipal Code. After implementation, the City determined that amendments were necessary to the existing regulations to strengthen these regulations.

**DISCUSSION:**

On April 16, 2019, the City Council conducted the first reading of an ordinance that amends existing Chapter 5.09 with, among other requirements, a more robust application review process, noticing requirement for retail applications, and updates to existing regulations to conform with new State law since July 2018. The proposed ordinance on April 16, 2019, was conducted for first reading with the following minor revisions:

- a) Revise the maintenance of video recordings from 180 to 90 hours to conform with State law;
- b) Eliminate operating hours for businesses except for delivery and retail businesses; and
- c) Eliminate the requirement for applicants and employees to obtain a Background check but to maintain the requirement for LiveScan check.

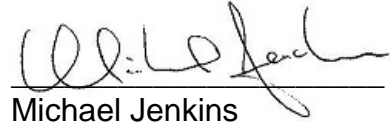
The attached ordinance with these revisions is attached.

The introduced ordinance is required to have a second reading before its adoption by the City Council. Council has the opportunity to adopt this ordinance, which would then be effective on the thirty-first day after adoption.

**FISCAL IMPACTS:**

There are no fiscal impacts associated with this report.

**Legal Review By:**



Michael Jenkins  
City Attorney

**Approved By:**



Michelle Greene  
City Manager

**ATTACHMENTS**

1. City Council Ordinance 19- : "An Ordinance the City of Goleta, California, Amending Chapter 5.09 of Title 5 of the Goleta Municipal Code to Establish Standards and Regulations for Commercial Cannabis Businesses".

## **ATTACHMENT 1**

City Council Ordinance 19- : “An Ordinance the City of Goleta, California, Amending Chapter 5.09 of Title 5 of the Goleta Municipal Code to Establish Standards and Regulations for Commercial Cannabis Businesses”



**ORDINANCE NO. 19-\_\_**

**AN ORDINANCE OF THE CITY OF GOLETA, CA AMENDING  
CHAPTER 5.09 OF TITLE 5 OF THE GOLETA MUNICIPAL  
CODE TO ESTABLISH STANDARDS AND REGULATIONS FOR  
COMMERCIAL CANNABIS BUSINESSES**

**THE CITY COUNCIL OF THE CITY OF GOLETA DOES HEREBY ORDAIN AS  
FOLLOWS:**

**SECTION 1: FINDINGS**

- A. In 1996, the California electorate approved Proposition 215, the Compassionate Use Act which allows a patient, with a doctor's recommendation, to use cannabis for medicinal purposes without the fear of prosecution or arrest; and
- B. In 2003, the California legislature passed Senate Bill 420 (Medical Marijuana Program Act) which amended the Health and Safety Code to permit the establishment of medicinal cannabis dispensaries for the distribution of cannabis for medicinal purposes; and
- C. In 2005, the California Board of Equalization began issuing seller's permits for sales consisting of medicinal cannabis; and
- D. In 2008, the California Attorney General issued guidelines for the security and non-diversion of cannabis grown for medical use; and
- E. In 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Marijuana Regulation and Safety Act ("MMRSA") further amended by Senate Bill 837 in 2016 as the Medicinal Cannabis Regulation and Safety Act ("MCRSA"), which established regulations and a state licensing system for medical cannabis cultivation, manufacturing, delivery, and dispensing; and
- F. In 2016, the voters of the State of California approved and passed Proposition 64 also known as the Adult Use of Marijuana Act ("AUMA"); and
- G. In 2017, the Governor signed into law Senate Bill 94 also known as Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA); and
- H. Pursuant their police power and land use authority under Article 11, Section 7 of the California Constitution, cities are free to adopt and enforce local ordinances that regulate the location, operation, or establishment of medicinal cannabis; and
- I. After studying various alternatives for the regulation of commercial cannabis considering input from stakeholders and a public hearing, and reviewing the legal status of cannabis under applicable law, the City Council finds that the regulation of commercial cannabis activities is necessary to protect the public health, safety, and welfare by mitigating the adverse secondary effects from the operations of these uses; and
- J. The City of Goleta ("City") has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which these uses may operate, and in providing access of cannabis to residents; and

- K. Chapter 5.09 of Title 5 of the Goleta Municipal Code regulates and requires licensure of cannabis businesses within the City.
- L. The City desires to amend Chapter 5.09 to add more requirements to the licensure of cannabis businesses within the City.
- M. The proposed Ordinance has been reviewed by City staff in accordance with the Environmental Checklist Form (Appendix G of the CEQA Guidelines) to determine if there would be any possibility that the proposed ordinance would create any significant environmental impacts, and the City has determined that the establishment of regulations for commercial cannabis businesses do not meet any of the thresholds contained in the Checklist that would trigger a significant environmental impact, and thus according to the "general rule exemption" (Section 15061 (b)(3) of the CEQA Guidelines, projects which have no potential for causing a significant effect on the environment are not subject to CEQA, no further environmental analysis is required.

## **SECTION 2: LAND USE REFERENCE**

This Chapter corresponds with City Ordinance 19-\_\_ (Cannabis Land Use Ordinance) and will be taken together with the provisions of the City Ordinance 19-\_\_ to determine whether a cannabis business is permitted. Any commercial cannabis business in the City must also operate in compliance with the City's zoning regulations.

## **SECTION 3: AUTHORITY**

This Ordinance is adopted pursuant to the authority granted by state law, including but not limited to, Article IX, Section 7 of the California Constitution, the Compassionate Use Act of 1996, as amended, (Health and Safety Code Section 11362.5), the Medical Marijuana Program, as amended, (Health and Safety Code Section 11362.7 et seq.), the Medical Marijuana Regulation and Safety Act, as amended, (Business and Professions Code Section 144, 2525, 2220.05, 2241 .5, 2242.1, 19302.1, 19319-19325, 19331, 19335, 19337, 19348 et seq.; AB 266, AB 243, and SB 643; hereafter "MMRSA"), the Adult Use of Marijuana Act (Business and Professions Code Section 14235.5, 11362.775, 26001, 26053, 26070, 26100, 26110, 26130; Proposition 64), and the Medicinal and Adult Use Cannabis Regulation and Safety Act (Fish and Game Code Section 1602 and 1617 et seq.; Business and Professions Code Section 26000-26220 et seq.; Food and Agricultural Code Section 37104, 54036, and 81010 et seq.; Health and Safety Code Section 11006.5-11553 and 109925 et seq.; Revenue and Taxation Code Section 34010-34021.5 et seq.; Vehicle Code Section 2429.7 et seq.; SB 94; hereafter "MAUCRSA"); and any other state statutes regulating cannabis (hereinafter collectively referred to as "State Law").

## **SECTION 4: AMENDMENT OF CHAPTER 5.09**

Chapter 5.09 is hereby amended as follows:

### **5.09.010 COMPLIANCE WITH STATE AND LOCAL LICENSING REQUIREMENTS**

Commercial cannabis activity as defined by the State of California or the City shall operate in conformance with all regulations and standards set forth in this Chapter

of the Municipal Code to assure that the operations of the retailer, cultivation facility, manufacturing facility, distribution facility, testing facility, microbusiness or any other commercial cannabis activity as defined by the State of California or allowed by the City are in compliance with local and state law and are established to mitigate any adverse secondary effects from its operations. Cannabis operators shall be required to obtain a State license and shall comply with any applicable State licensing requirements, such as operational standards and locational criteria. Multiple cannabis uses and licenses proposed on any one site shall occur only if authorized by the State and the City and only if all uses proposed are allowed under the City's zoning regulations.

#### **5.09.020 DEFINITIONS**

When used in this Chapter, the following words are defined as follows. If a word is not defined in this Section, other provisions of the Goleta Municipal Code, or City ordinance, the definitions shall be as in state law or, in case where a definition is not provided in state law, as determined by the Director of Neighborhood Services and Public Safety.

- A. "Cannabis Business" means a person operating any or all commercial activities relating to cannabis that requires a license under State law.
- B. "Cannabis Business License" ("CBL") means a license issued by the City under this Chapter.
- C. "City Manager" shall mean the City of Goleta City Manager, or designee.
- D. "Director" shall be the Director of Neighborhood Services and Public Safety or designee.
- E. "Fire Chief" shall mean the Santa Barbara County Fire Department Fire Chief, or designee.
- F. "Person" means any natural person, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- G. "Police Chief" means the City of Goleta Police Chief, or designee.
- H. "Seller's Permit" means a state business license that allows a business to make sales of tangible personal property in California.
- I. "State Law" means the codified sections promulgated by the California State Legislature related to commercial cannabis businesses.

#### **5.09.030 GENERAL PROVISIONS FOR COMMERCIAL CANNABIS ACTIVITIES IN THE CITY**

- A. Prohibitions. It shall be unlawful for any person to engage in, conduct or carry on, in or upon any premises within the City a Cannabis Business without a CBL from the City.
- B. Cannabis Business License Required.
  - 1. Each Cannabis Business shall have a CBL specific to the business activity defined by State law regardless of whether the business activity is for medicinal or adult-use purposes. The following is a list of current license types under State law:
    - a. Cultivation
    - b. Retail
    - c. Delivery
    - d. Distribution

- e. Manufacturing
  - f. Nurseries
  - g. Testing
  - h. Microbusiness
2. The following are the commercial cannabis activities currently authorized by the City of Goleta:
    - a. Retail
    - b. Nonstorefront Retail (Delivery)
    - c. Cultivation
    - d. Manufacturing
    - e. Testing
    - f. Distribution
    - g. Microbusiness
  3. A CBL shall be valid for a period of one year from January 1 through December 31 of each year, unless sooner revoked. No permit granted herein shall confer any vested right to any person for more than the above-referenced period.
  4. The CBL shall be issued only to the specific person listed on the CBL application.
  5. A CBL may not be transferred from one person to another person. A CBL does not run with the land. Except as provided in Goleta Municipal Code Sections 5.01.300 and 5.01.310, any change to the organizational structure or ownership of the cannabis business will require a new CBL.

#### **5.09.040 CANNABIS BUSINESS LICENSE APPLICATION PROCEDURES AND REQUIREMENTS**

##### **A. Application Requirements.**

1. An applicant may submit one or multiple applications for the various cannabis permit types. Applicants may apply for no more than one permit per category of Cannabis Business.
2. A separate application must be filed for each location or premise for which an applicant proposes to operate a Cannabis Business.
3. An applicant shall pay all the fees required by this Chapter.
4. A CBL applicant shall submit the following information, which will be more particularly defined in an administrative regulation by the City Manager:
  - a. Completed CBL Application form and applicable fees;
  - b. Copy of DMV-issued driver's license or identification card or passport for each owner, officer, employee, or agent;
  - c. Copy of Social Security card for each owner, officer, employee, or agent;
  - d. Proof of insurance as required by this Chapter;
  - e. An executed release of liability and hold harmless in the form set forth in the City's application form;
  - f. Authorization for the City to verify the information and representations contained in the application;
  - g. In the event the applicant is not the owner of record of the real property upon which the cannabis business is or will be located, a notarized statement and consent from the owner of the property acknowledging that a Cannabis Business is or will be located on the property and copy



- of the lease or rental agreement pertaining to the property on which the Cannabis Business is or will be located;
  - h. Business entity documents, including but not limited to articles of incorporation, articles of organization, certificate of limited partnership, or statement of partnership authority.
  - i. Fee for background checks as required by this Chapter.
  - j. The following plans, the contents of which will be promulgated by administrative regulation by the City Manager:
    - i. Site Plan;
    - ii. Business Plan;
    - iii. Green Business Plan;
    - iv. Odor Abatement Plan;
    - v. Safety plan; and
    - vi. Security plan.
- B. Application Evaluation.
1. The City Manager will promulgate an administrative regulation on the CBL application evaluation process.
  2. Applications will be accepted, reviewed, and determined for a CBL by the Director.
  3. Applications will be evaluated by the Director and scored for having provided all the information required by the application and that the plans meet minimum requirements.
  4. If the Director determines that application requirements are not met, the Director shall provide a letter to the applicant outlining all the deficiencies in the application and require deficiencies to be met within 30 days, unless good cause is shown for a greater time period. If the applicant does not respond within the stated time period in the Director's letter, the application shall be returned to the applicant for incompleteness.
  5. An application may be returned for failure to meet the requirement of this chapter, including but not limited to any of the following reasons:
    - a. A decision by the director to return an application based on this section is not appealable.
    - b. Application does not include information necessary to meet application requirements.
    - c. Information requested in Director's letter of deficiencies was received after state timed for the provision of information.
    - d. Information submitted in response to Director's letter of deficiencies is not fully responsive to Director's request for more information.
  6. Site Inspection.
    - a. The Director shall inspect the site of the proposed Cannabis Business for compliance with local and State law requirements and conformance with information provided in the application.
- C. Public Notice for Storefront Retail Applications.
1. The Director shall provide notice by First Class mail for all Storefront Retail CBLs at least 10 calendar days before a decision on the CBL applications is made to property owners and, if feasible, tenants, located within 500 feet of the parcel on which the Cannabis Business is or is proposed to be located.
  2. Phase Three: Site Inspection and Issuance of Permit.

- a. Preliminary Approval. A Preliminary Approval of the CBL will be issued by the Director after the applicant has meet all of the requirements of this chapter, which would allow for an applicant to apply for a State license.
  - b. Final Approval. A Final Approval of a CBL will be issued only after an applicant presents a copy of their State license for the Cannabis Business subject to the CBL application and all site inspections have occurred by the Director or any other necessary City Departments and other local agencies.
    - I. No Cannabis Business can be operated until the City has issued a Final Approval of the CBL.
- D. The City's Reservation of Rights.
  - 1. The City reserves the right to reject any or all applications. Prior to STET issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under State law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance.

#### **5.09.050 FEES**

- A. All applicants shall pay all fees associated with an application, including the fees as established by resolution of the City Council for all costs incurred by the City in processing an application, which may include one or more of the following:
  - 1. CBL Application Fees. The applicant shall submit a nonrefundable fee to cover the cost of processing an application for the Cannabis Business and ensuring all operating requirements are adhered to.
  - 2. CBL Application Renewal Fees. The Business Owner shall submit a nonrefundable fee to cover the cost of processing an application renewal.
    - a. If any fee required by this Chapter is not paid prior to the delinquency date, in addition to such fee the applicant shall pay a penalty equal to one-half of the fee; provided, however, that such penalty shall not attach in the case of renewals of annual licenses until 30 days after the delinquency date.

#### **5.09.060 DENIAL, SUSPENSION OR REVOCATION GROUNDS AND APPEAL**

- A. Grounds for Denial, Suspension, and Revocation
  - 1. Denial of a New or Renewal CBL. An application may be denied upon any of the following:
    - a. Failure to meet the application requirements of this Chapter and any resolutions adopted pursuant to this Chapter;
    - b. Failure to meet the time requirements of requests for additional information by the Director while a CBL application is under review;
    - c. The applicant knowingly, willfully or negligently made a false statement of material fact or omitted a material fact from the application;
    - d. Any applicant, owner, manager, supervisor, employee or agent that has not passed the Background Check requirements of this Chapter;

- e. The applicant failed to obtain and/or maintain a valid Seller's Permit;
- f. The applicant does not comply with the provisions of this Chapter or State law relating to operation of a Cannabis Business;
- g. The applicant has not received all necessary land use entitlements as required by the City's zoning regulations;
- h. The applicant has denied City access to the business location to conduct an inspection;
- i. Failure to pay the required fees as required in this Chapter;
- j. An outstanding balance of any taxes or fees owed to the City;
- k. Presence of a code violation on the premises on which the Cannabis Business is or is to be located; or
- l. For a renewal application, if the application is not made within 60 days of expiration.
- m. For a renewal application, if the licensee has failed to conform to plans submitted during the initial application process or the operational requirements of this Chapter.

B. Grounds for Suspension and Revocation.

- 1. The licensee fails to conform to the requirements of this Chapter and the plans submitted during the initial application process.
- 2. The licensee's Cannabis Business fails to become operational within six (6) months of obtaining its CBL, unless the Director has granted an extension for good cause.
- 3. Once operational, the Cannabis Business ceases to be in regular and continuous operation for ninety (90) days.
- 4. State law permitting the use for which the license was issued is amended or repealed resulting in the prohibition of such use, or the City receives credible information that the federal government will commence enforcement measures against such businesses and/or local governments that permit them.
- 5. Circumstances under which the license was granted have significantly changed and the public health, safety and welfare require the suspension, revocation, or modification.
- 6. The license was granted, in whole or part, on the basis of a misrepresentation or omission of a material statement in the CBL application.
- 7. The operator/licensee business has an outstanding balance on City taxes or fees.
- 8. There is an outstanding code violation on the premises on which the Cannabis Business is located;
- 9. The licensee's State license for the Cannabis Business for which a CBL was issued is suspended or revoked. The Director shall not reinstate the CBL until documentation is received showing that the State license has been reinstated or reissued.

C. Notice and Appeal.

- 1. The Director must give notice of intention to deny, suspend or revoke to a licensee or applicant in writing. Within 10 days thereafter, the licensee or applicant may request in writing a hearing before the City Council.

2. The approval of a CBL can be appealed by an aggrieved party to the City Council. Such appeal must be filed within 10 days of the Director's issuance of a CBL.
3. The City Council shall hold a hearing in accordance with Goleta Municipal Code sections 5.01.710 and 5.07.720.
4. If the licensee does not timely request a hearing, the notice of intention to deny, suspend or revoke shall constitute a final decision on the CBL application.

#### **5.09.070 MAINTENANCE OF RECORDS AND REPORTING**

- A. All records for the Cannabis Business of the following activities shall be maintained and made available to the City, upon request, for at least 5 years. Records shall be produced within 24 hours of a request by an authorized City representative. Records shall be kept in a manner that allows the records to be produced for the City in either hard copy or electronic form, whichever the City requests.
- B. The Cannabis Business shall obtain and maintain a valid Seller's Permit from the State Board of Equalization or its successor agency.
- C. The Cannabis Businesses shall maintain financial records that include, but are not limited to: bank statements, sales invoices, receipts, tax records, and all records required by the California State Board of Equalization under Title 18 California Code of Regulations Section 1968.
- D. The printed full name, date of birth, and present address and telephone number of the licensed individual, as well as for all persons with any financial interest in the commercial Cannabis Business.
- E. Personnel records, including each employee's full name, address, phone number, date of beginning employment, and date of termination of employment if applicable.
- F. Training records, including but not limited to the content of the training provided and the names of the employees that received the training.
- G. Contracts with other licensees regarding cannabis activity.
- H. Permits, licenses, and other local authorizations to conduct the licensee's STET cannabis activity.
- I. Proof of building ownership or written permission from the landlord permitting the Cannabis Business type to be operated on the leased premises.
- J. Proof of insurance.
- K. Security records.

#### **5.09.080 OPERATING REQUIREMENTS FOR ALL COMMERCIAL CANNABIS BUSINESSES**

- A. Cannabis Businesses may operate only during the hours specified in this Chapter.
- B. Restriction on Consumption.
  1. Cannabis shall not be consumed by any employee or any other person on the premises of any Cannabis Business.
- C. No free samples of any cannabis or cannabis product may be distributed at any time at the premises of the Cannabis Business.
- D. Odor Control.

1. Cannabis odors shall not be detectable off-site.
2. Cannabis Businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the Cannabis Business that is distinctive to its operation is not detected outside of the facility, 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 Cannabis Business. As such, Cannabis Businesses must install and maintain the following equipment, or any other equipment which the Director determine is a more effective method or technology:
  - a. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
  - b. An air system that creates negative air pressure between the Cannabis Business's interior and exterior, so that the odors generated inside the Cannabis Business are not detectable on the outside of the Cannabis Business.

E. Security.

1. Interior and exterior locations of the business property shall be monitored at all times by closed circuit cameras for security purposes. The cameras and recording system shall be of adequate quality, color rendition and resolution to allow the sufficient identification of any individual committing a crime on the location premises. Cameras shall record 24 hours a day at a minimum of 20 frames per second. Video recordings shall be maintained by the business and kept available to local police for a minimum period of 90 days.
2. The surveillance system storage device or cameras shall be transmission control protocol/TCP capable of being accessed through the internet by the Director on request.
3. All controlled access areas, security rooms and all points of ingress/egress to limited access areas and all point of sale (POS) areas shall have fixed camera coverage capable of identifying activity occurring within a minimum of twenty (20) feet. Camera video recordings shall be maintained unaltered in a secure location for a period of not less than ninety (90) calendar days and be available for inspection at any time. The Director or Police Chief may request the recordings in connection with an investigation. If the recordings are not voluntarily provided, the Director or Police Chief may seek a warrant or court order for the recordings.

F. Display of CBL and Badge.

1. A copy of the CBL shall be displayed at all times in a place visible to the public.
2. All agents, private security officers or other persons acting for or employed by a licensee shall display a laminated identification badge at least 2" X 2" in size, issued by the licensee. The badge, at a minimum, shall include the licensee's "doing business as" name and license number, the employees first and last name, and a color photo of the employee that shows the full front of the employee's face.

G. Reporting and Tracking of Product and of Gross Sales.

1. Each Cannabis Business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the 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 Cannabis Business shall ensure that such information is compatible with the City's record-keeping systems and with the state's METRC track-and-trace software. 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 Director prior to being used by the permittee. In the event of system failure, the business shall keep a hard copy record and transfer the information to the track and trace system within 24 hours of the system being available.
- H. An updated floor plan consistent with State regulations must be submitted to the Director.
- I. No physical modification of the permitted premises is allowed without written amendment to the CBL by the Director and payment of any additional fees required by the City.
- J. The Cannabis Business shall comply with all State regulations regarding testing, labeling and storage of all cannabis products.
- K. The Cannabis Business shall meet all State and local regulations for the disposal of all cannabis materials and materials used in conjunction with processing, distributing and cultivating of cannabis as well as any unsold cannabis or cannabis products.
- L. The Cannabis Business shall conform to all State regulations regarding the use of appropriate weighing devices.
- M. The Cannabis Business shall conform to all State and local regulations regarding water usage. No liquids of any kind shall be discharged into a public or private sewage or drainage system, watercourse, body of water or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board (California Administrative Code, Title 23, Chapter 27) and Title 13 of the Goleta Municipal Code.
- N. The Cannabis Business' electrical and plumbing shall comply with State and local regulations, including the Building Code.
- O. Insurance.
  1. The Cannabis Business shall maintain comprehensive general liability combined single occurrence insurance policy issued by an "A" rated insurance carrier in an amount no less than two (2) million dollars and name the City as an additional insured. Such insurance shall be primary and not contributing to any other insurance maintained by the City.
- P. The Cannabis Business shall have separate and independent centrally-monitored fire and burglar alarm systems, which shall include all perimeter entry points and perimeter windows.
- Q. A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs and maintains the alarm system.
- R. All licensees hiring employees shall document compliance with the following employee safety practices:
  1. Emergency action response planning as necessary

2. Employee accident reporting and investigation policies
  3. Fire prevention
  4. Hazard communication policies, including maintenance of material safety data sheets.
  5. Materials storage and handling policies
  6. Personal protective equipment policies
  7. Operation manager contacts
  8. Emergency responder contacts
  9. Poison control contacts
  10. Department of Justice "Live Scan" for all employees
- S. All persons with ownership interest, and all employees, agents, officers and other persons acting on behalf of a licensee must be at least 21 years of age.
- T. Emergency Contact.
1. An emergency contact that is either an on-site employee, manager, or owner with 24/7 availability shall be made available to the City Manager, Fire Chief, and Police Chief, and shall be updated with the City and other agencies when such contact changes. Both a land line and a mobile or cell number shall be designated.
- U. A CBL shall not be issued to a person with felony convictions as reported by a Department of Justice "Live Scan", as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of a business or profession, including a felony conviction involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of controlled substances, with the exception of cannabis.
- V. A CBL shall not be issued to a person who employs any individuals with felony convictions as reported by a Department of Justice "Live Scan", as specified in subdivision (c) of Section 667.5 of the Penal Code and subdivision (c) of Section 1192.7 of the Penal Code; with criminal convictions that substantially relate to the qualifications, functions, or duties of a business or profession, including a felony conviction involving fraud, deceit, or embezzlement, or with a criminal conviction for the sale or provision of controlled substance, with the exception of cannabis.
- W. Minors.
1. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a Cannabis Business and shall not be allowed to serve as a driver for a nonstorefront (Delivery) service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a Cannabis Business who is not at least twenty-one (21) years of age.
  2. Notwithstanding V(1), persons aged 18-20 who are in possession of a doctor's recommendation shall be allowed on the premises of a Cannabis Business, solely for the purpose of addressing the medical need cited in the physician's recommendation.
  3. The entrance to the Cannabis Business shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is permitted to enter upon the premises of the Cannabis Business.
- X. Zoning.
1. All Cannabis Businesses must comply with the applicable zoning regulations.

Y. Monitoring and Compliance.

1. The Director shall monitor a licensee for conformance to the operational standards of this chapter for all CBL types, including but not limited to conducting site inspections after a CLB has been issued. If any violation of this Chapter, including conformance to plans submitted to the City during application process, the Director may suspend or revoke a license.

**5.09.090 OPERATING REQUIREMENTS FOR STOREFRONT CANNABIS**

**RETAILERS**

- A. Display of cannabis products shall be limited to only an amount necessary to provide a visual sample for customers.
- B. All cannabis products available for sale shall be securely locked and stored.
- C. At all times the cannabis retailer is open, the retailer shall provide at least one security guard who is registered with the Bureau of Security and Investigative Services and possesses a valid and current security guard registration card on their person while on-duty.
- D. The licensee shall monitor the site and the immediate vicinity of the site to ensure that patrons immediately leave the site and do not consume cannabis in the vicinity of the retailer or on the property or in the parking lot.
- E. The licensee shall comply with all State regulations regarding testing, labeling and storage of all cannabis products.
- F. The licensee shall maintain the full name, address and telephone number(s) of all patient members to whom the business provides medicinal cannabis, and a copy of a physician-issued recommendation card or State-issued card for all patient members.
- G. Licensees shall also record on the video surveillance system point-of-sale areas and areas where cannabis goods are displayed for sale.
- H. Business hours of operation shall occur only from 10:00 am to 8:00 pm, 7 days a week.
- I. On-site consumption of cannabis or cannabis products is specifically prohibited on the premises at all times. The following information shall be provided on a sign posted in a conspicuous location inside the cannabis retailer: "Smoking, ingesting or consuming cannabis on this property or within 100 feet of the business is prohibited."
- J. There shall be no on-site sales of alcohol or tobacco products, and no on-site consumption of alcohol or tobacco by patrons.
- K. Inventory that is not required for a single day's sales shall be secured and locked in a room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss during nonbusiness hours. Additional product needed for daily sales may be stored in a secured, locked area to which customers, vendors and visitors shall not have access.
- L. No cannabis product shall be visible from the exterior of the business.
- M. All required labelling shall be maintained on all products, as required by State regulations, at all times.
- N. Only commercially prepackaged, shelf-stable edible cannabis products may be sold.
- O. The use of vending machines (i.e. a machine that dispenses articles when a coin, bill, or token is inserted) to dispense cannabis is prohibited.



**5.09.100 OPERATING REQUIREMENTS FOR NONSTOREFRONT RETAILERS (DELIVERY).**

- A. All Cannabis Businesses that have their business location outside of the City but make deliveries into the City shall be required to obtain a CBL.
  - 1. These Cannabis Businesses shall be subject to a separate fee for a CBL.
- B. Operating hours of the nonstorefront retailer Cannabis Business shall be limited to the hours of 9:00 a.m. through 9:00 p.m., seven days a week.
- C. A nonstorefront retailer may only have on-site that quantity of cannabis and cannabis products reasonably anticipated to meet the weekly demand for which they may need to be readily available for sale.
- D. Prior to commencing operations, a nonstorefront retailer shall provide the following information to the Director.
  - 1. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.
  - 2. The year, make, model, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
  - 3. Proof of insurance for any and all vehicles being used to deliver cannabis goods.
  - 4. The licensee shall provide the Director with the information required by this Chapter in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods.
  - 5. The licensee shall notify the Director of any changes to the information required by this Chapter in writing within thirty (30) calendar days.
- E. The nonstorefront retailer licensee shall provide the City with the names and driver's license numbers of all the business' delivery drivers, and evidence verifying that criminal background checks have been conducted for all the business' drivers. Any driver that has been convicted of driving under the influence or reckless driving within the past five (5) years shall be prohibited from delivering cannabis to any location within the City.
- F. All employees who deliver cannabis shall have valid identification and a copy of the retailer's CBL at all times while making deliveries.
- G. The Cannabis Business shall comply with State law regarding testing, labeling and storage of all cannabis products.
- H. All nonstorefront retailer licensee shall provide proof of insurance in a minimum amount of \$1,000,000 for bodily injury liability and property injury for any and all vehicles being used to transport cannabis goods.
- I. A Cannabis Business shall only deliver cannabis in aggregate amounts as ordered by the customer. A Cannabis Business shall ensure compliance with State delivery limits as regards the amount of cannabis and cannabis products.
- J. The maximum limit of any cannabis goods carried by the delivery vehicle may not exceed the limit set by State law.

**5.09.110 OPERATING REQUIREMENTS FOR CANNABIS MANUFACTURING BUSINESSES**

- A. Any manufacturing activity that will be conducted by the licensee shall be included on the application. No additional manufacturing activity can be

- conducted without applying for and receiving written permission from the Director for that additional activity.
- B. The Cannabis Business shall comply with all State law regarding testing, labeling and storage of all cannabis products.
  - C. Hours of operation shall be from 10:00 am to 8:00 pm, 7 days a week.
  - D. The licensee must allow inspections to be done by the Director or Fire Chief at any time during the hours of operation.
  - E. All cannabis manufacturing activities shall occur indoors within a fully enclosed and secured structure.
  - F. Outdoor manufacturing of cannabis is prohibited.
  - G. Any compressed gases used in the manufacturing process shall not be stored on any property within the City in containers that exceed the amount which is approved by the County of Santa Barbara Fire Department and authorized by the CBL. Each site or parcel subject to a CBL shall be limited to a total number of tanks as authorized by the County of Santa Barbara Fire Department on the property at any time.
  - H. Cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, ethanol 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.
  - I. If an extraction process uses a professional grade closed loop CO2 gas extraction process system, every vessel must be certified by the manufacturer for its safe use. The CO2 must be of at least ninety-nine percent purity.
  - J. Closed loop systems for compressed gas extraction systems must be manufactured and bear a permanently affixed and visible serial number.
  - K. Certification from an engineer licensed by the State of California, or by a certified industrial hygienist, must be provided to the City for a professional grade closed loop system used by any commercial cannabis manufacturing 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); or
    - 4. The American Society for Testing and Materials (ASTM)
  - L. The certification document must contain the signature and stamp of the professional engineer or industrial hygienist and serial number of the extraction unit being certified.
  - M. Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for use by the local fire code official and comply with any required fire, safety, and building code requirements related to the processing, handling, and storage of the applicable solvent or gas.
  - N. Cannabis manufacturing licensees 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.

- O. Cannabis manufacturing licensees creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- P. 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.
- Q. Parts per million for one gram of finished extract cannot exceed state standards for any residual solvent or gas when quality assurance tested.

#### **5.09.120 OPERATING REQUIREMENTS FOR CANNABIS CULTIVATION BUSINESSES**

- A. Only indoor cultivation as a Cannabis Business is allowed.
- B. A Cultivation Cannabis Business shall operate the business so that no evidence of cannabis cultivation, except for signage authorized by City regulations, can be visible from the public right-of-way.
- C. The canopy size shall be limited to 5,000 square feet.
- D. Only one Cultivation Cannabis Business may be located in any building.
- E. Energy Use.
  - 1. Any applicant for indoor cultivation under this Ordinance must provide proof of consultation with Southern California Edison (SCE) prior to application submittal including a copy of a completed and submitted SCE Customer/Project Information Sheet.
  - 2. Applicant must show proof of participation in energy use assessments as follows:
    - a. If available, participation in the Resource Innovation Institute's Calculate Powerscore tool.
    - b. If available, participation in SCE's Savings By Design program.
- F. Generators. The use of generators for cultivation is prohibited, except for temporary use in the event of a power outage or for emergency use.
- G. For purposes of this subsection, emergency use is defined in accordance with 17 California Code of Regulations Section 93115, as may be amended.
- H. For purposes of this subsection, the limit on use of a generator in an emergency is 90 days.
- I. Indoor cultivation activities, including materials and equipment storage, must occur solely in fully enclosed buildings.
- J. The Cannabis Business shall register with the Department of Pesticide Regulation if using any pesticides.
- K. The Building Official may require additional specific standards to meet the California Building Code.
- L. The Cannabis Business shall comply with Section 13149 of Water Code as enforced by the State Water Resources Control Board.
- M. The Cannabis Business shall comply with all State law regarding testing, labeling and storage of all cannabis products.

### **5.09.130 OPERATING REQUIREMENTS FOR CANNABIS TESTING LABORATORIES**

- A. Testing Labs shall be required to conduct all testing in a manner pursuant to Business and Professions Code Section 26100 and shall be subject to State law. Each Testing Lab shall be subject to additional regulations as determined from time to time as more regulations are developed under this Chapter and any subsequent State of California legislation regarding the same.
- B. Testing Labs shall conduct all testing in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling using verified methods.
- C. All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control ("Bureau").
- D. Testing labs shall destroy any harvest batch whose testing sample indicates noncompliance with health and safety standards required by the Bureau unless remedial measures can bring the cannabis or cannabis products into compliance with quality standards as specified by law and implemented by the bureau.
- E. Each operator shall ensure that a testing laboratory employee takes the sample of cannabis or cannabis products from the distributor's premises for testing required by State law and that the testing laboratory employee transports the sample to the testing laboratory.
- F. Except as provided by State law, a testing laboratory shall not acquire or receive cannabis or cannabis products except from a licensee in accordance with State law, and shall not distribute, sell, or dispense cannabis, or cannabis products, from the licensed premises from which the cannabis or cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.
- G. A testing laboratory may receive and test samples of cannabis or cannabis products from a qualified patient or primary caregiver only if the qualified patient or primary caregiver presents the qualified patient's valid physician's recommendation for cannabis for medicinal purpose. A testing lab shall not certify samples from a qualified patient or primary caregiver for resale or transfer to another party or licensee. All tests performed by a testing laboratory for a qualified patient or primary caregiver shall be recorded with the name of the qualified patient or primary caregiver and the amount of the cannabis or cannabis products received.
- H. Testing laboratories shall otherwise comply with all applicable State regulations.
- I. A licensed cannabis testing licensee, its owners, employees and agents may not hold an interest in any other Cannabis Business except another testing business.
- J. The licensee must allow inspections to be done by the Director or Fire Chief at any time during hours of operation.

#### **5.09.140 OPERATING REQUIREMENTS FOR CANNABIS DISTRIBUTORS**

- A. A distributor shall not store non-cannabis goods or non-cannabis accessories that are to be sold to another party on any licensed premises. Additionally, a distributor shall not distribute non-cannabis goods or non-cannabis accessories at a licensed premise. For the purposes of this Chapter, non-cannabis goods are any goods that do not meet the definition of cannabis goods as defined in Title 16 of the California Code of Regulations, Section 5000(c).
- B. After taking physical possession of a cannabis goods batch, the distributor shall contact a testing laboratory and arrange for a laboratory employee to come to the distributor's licensed premises to select a representative sample for laboratory testing.
- C. A distributor shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- D. The distributor shall ensure that the batch size from which the sample is taken meets the requirements of State law, specifically the testing provisions within the California Code of Regulations.
- E. A distributor or an employee of the distributor shall be physically present to observe the laboratory employee obtain the sample of cannabis goods for testing and shall ensure that the increments are taken from throughout the batch. The sampling shall be video-recorded, and the recording kept available to state and local authorities for a minimum of 90 days, pursuant to Section 5305 of the California Code of Regulations.
- F. A distributor shall not transport cannabis or cannabis products to a licensed retail facility until and unless it has verified that the cannabis or cannabis products have been tested and certified by a testing lab as being in compliance with state health and safety requirements pursuant to Sections 5705, 5710 and 5714 of the California Code of Regulations.
- G. Any cannabis distribution facility shall provide proof of a bond of at least five thousand dollars (\$5,000) to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements or cannabis or cannabis products rejected by testing.
- H. The licensee must allow inspections to be done by the Director or Fire Chief at any time during the hours of operation.
- I. A licensee shall ensure that all cannabis goods batches are stored separately and distinctly from other cannabis goods batches on the distributor's premises.
- J. A licensee shall ensure a label with the following information is physically attached to each container of each batch:
  - 1. The manufacturer or cultivator's name and license number;
  - 2. The date of entry into the distributor's storage area;
  - 3. The unique identifiers and batch number associated with the batch;
  - 4. A description of the cannabis goods with enough detail to easily identify the batch; and
  - 5. The weight of or quantity of units in the batch.

- K. A distributor shall store cannabis goods in a building designed to permit control of temperature and humidity and shall prevent the entry of environmental contaminants such as smoke and dust. A distributor may not store cannabis goods outdoors.
- L. Employee breakrooms, eating areas, changing facilities, and bathrooms shall be completely separated from storage areas.
- M. All cannabis distribution activities shall occur within a fully enclosed and secured structure and shall conform to the requirements of applicable area, community, specific and design plans.
- N. All loading and unloading activities shall take place within a secured area.

#### **5.09.150 OPERATING REQUIREMENTS FOR MICROBUSINESSES**

All Cannabis Business uses that comprise the microbusiness must adhere to the applicable requirements of this Chapter.

#### **5.09.160 LIMITATIONS ON THE CITY'S LIABILITY**

To the fullest extent permitted by law, the City shall not assume any liability whatsoever, with respect to approving any CBL pursuant to this Chapter or the operation of any property on which a Cannabis Business is located pursuant to this Chapter. Before obtaining a CBL, the applicant or its legal representative shall:

- A. Execute an agreement indemnifying the City from any claims, damages, injuries or liabilities of any kind associated with the registration or operation of the commercial cannabis facility or the prosecution of the applicant or permittee or its members for violation of federal or State laws;
- B. Agree to defend, at its sole expense and with legal representation selected by the City, any action against the City, its agents, officers, and employees related to the approval of CBL; and
- C. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge related to the City's approval of a CBL. 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 the operator of its obligation hereunder.

#### **5.09.170 ENFORCEMENT**

- A. A violation of the regulations in this Chapter by an act, omission, or failure of an agent, owner, officer or other person acting with or employed by a licensee within the scope of their employment or office, shall be deemed the act, omission, or failure of the licensee.
- B. A licensee shall notify the City upon discovery of any of the following situations:
  - 1. A discrepancy of more than \$1,000 in inventory over a period of 24 hours or \$3,000 over period of 7 days.
  - 2. A reason to suspect diversion, loss, theft or any other criminal activity pertaining to the operation of the licensed Cannabis Business.
  - 3. The loss or alteration of records related to cannabis goods, registered medicinal cannabis patients, caregivers or retailer employees or agents.
  - 4. Any other reason to suspect any other breach of security.
- C. Each and every violation of this Chapter shall constitute a misdemeanor.

- D. Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Goleta Municipal Code Chapter 1.02. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, revocation of the business's CBL, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and State laws for any violations committed by the Cannabis Business and/or any owner, agent, officer, or any other person acting with or employed by the Cannabis Business.
- E. City staff, code compliance officers, Police Chief, Fire Chief, and any other agents or employees of the City requesting admission for the purpose of determining compliance with this Chapter shall be given unrestricted access to the property on which the Cannabis Business is or is to be located. A person engaging in Cannabis Business without a permit and associated unique identifiers required by this Chapter shall be subject to civil penalties of up to twice the amount of the CBL fee for each violation, and the Director, state or local authority, or court may order the destruction of cannabis associated with that violation. A violator shall be responsible for the cost of the destruction of cannabis associated with the violation, in addition to any amount covered by a bond required as a condition of licensure. Each day of operation shall constitute a separate violation of this Chapter.

**SECTION 5: EFFECTIVE DATE.**

This ordinance shall take effect on the 31<sup>st</sup> day following adoption by the City Council.

**INTRODUCED ON the \_\_\_ day of April 2019.**

**PASSED, APPROVED, AND ADOPTED this \_\_\_ day of May 2019.**

\_\_\_\_\_  
PAULA PEROTTE  
MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
DEBORAH S. LOPEZ  
CITY CLERK

\_\_\_\_\_  
MICHAEL JENKINS  
CITY ATTORNEY

STATE OF CALIFORNIA  
COUNTY OF SANTA BARBARA ) SS.  
CITY OF GOLETA

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, do hereby certify that the foregoing Ordinance No. 19-\_\_ was introduced on January \_\_, 2019, and adopted at a regular meeting of the City Council of the City of Goleta, California, held on the \_\_ day of \_\_\_\_\_, 2019 by the following roll-call:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

(SEAL)

---

DEBORAH S. LOPEZ  
CITY CLERK