

## Title 18. Zoning

### Article I. General

#### Chapter 18.22. COMMERCIAL CANNABIS ACTIVITY

##### § 18.22.010. Commercial cannabis activity prohibited.

- A. Purpose. The city council of the city of La Habra hereby finds and determines that it is the purpose and intent of this chapter to prohibit all commercial cannabis activity whether for medical or adult use except as may be permitted by this chapter, in order to promote the health, safety, and general welfare of the residents and the businesses within the city. To this end, the city shall, to the fullest extent of the law, maintain local control over all marijuana related uses and activities within the city by way of permitting and regulating marijuana businesses as set forth herein, and abating illegal marijuana-related uses and activities, including marijuana businesses engaged in prohibited marijuana use and activity.
- B. Applicability.
1. Nothing in this section is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Compassionate Use Act ("CUA").
  2. All the provisions of this section shall apply to all property, public and private, within the city.
  3. All the provisions of this section shall apply indoors and outdoors.
  4. Notwithstanding subsection **A**, this section shall not be intended to preclude or limit personal possession or use of up to six living marijuana plants and possession of marijuana produced by the plants consistent with state law. Moreover, in accordance with state law, not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence or upon the grounds of that private residence at one time. The limitation of six living plants per residence is a maximum number of plants allowed at any residence no matter how many persons reside within that residence. The growth of living marijuana plants is to be conducted inside of the private residence or inside an accessory structure to a private residence located on the same property that is fully enclosed and secured not more than sixty-four square feet in size. No outdoor growth of cannabis is permitted. The use of gas products or volatile solvents, including carbon dioxide (CO<sub>2</sub>), methane, or any other flammable or non-flammable gas, for marijuana cultivation or for marijuana processing is prohibited. At no time, shall any cultivation, possession or use of marijuana plants or marijuana produced by the plants or manner of operations arise to the level of a public or private nuisance including, but not limited to, odor or lighting emanating from a structure.

(Ord. 1791 § 3, 2018)

##### § 18.22.020. Definitions.

"Adult use cannabis" means the non-medical use of cannabis by adults of age twenty-one and over as permitted by MAUCRSA and other applicable state and city laws.

"Applicant" means a person, partnership, entity, collective or organization that applies for a permit to engage in commercial cannabis activity under this chapter.

"Bureau" means the Bureau of Cannabis Control with the California Department of Consumer Affairs.

"Business and professions code" means the California **Business and Professions Code**, as amended from time to time.

"Cannabis" shall have the same meaning as in Section 26001 of the Business and Professions Code.

"Cannabis distribution" means the procurement, sale, and transport of cannabis and cannabis products between those persons or entities holding commercial cannabis licenses.

"Cannabis distribution facility" means the designated structure and property specified in the application that is owned, leased or otherwise held under the control of the distribution permittee where cannabis distribution is conducted.

"Cannabis permittee" means a person who holds a cannabis permit issued by the city of La Habra and the state of California; and shall be deemed the "operator" as that term is used herein.

"Cannabis premises" means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the city permittee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area.

"Cannabis product" shall have the same meaning as in Section 11018.1 of the **Health and Safety Code**.

"Cannabis review board" means the city manager, director of community and economic development, police chief, finance director, and director of public works, or their respective designees, who shall review the credentials of businesses wishing to establish commercial cannabis activities within the city of La Habra.

"Caregiver" or "primary caregiver" shall have the same definition as that set forth in California **Health and Safety Code** Section 11362.7(d) and (e).

"City code" means the city of La Habra Municipal Code.

"City permit" means a permit issued by the city, in accordance with this chapter and state law, authorizing participation in a commercial cannabis activity.

"Commercial cannabis activity" means cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of marijuana and marijuana products, including medical and non-medical marijuana, non-medical cannabis products and medical cannabis products within the meaning of California **Business and Professions Code** Sections 26001(i) and 26001(ai).

"Commercial cannabis business" means a person, partnership, entity, corporation, company or other organization that conducts commercial cannabis activity.

"Commercial cannabis facility" means a building, site, property, or parcel where commercial cannabis activity takes place.

"Conditional use permit" means a conditional use permit granted by the planning commission in accordance with La Habra Municipal Code Chapter **18.66** with appropriate conditions to mitigate impacts from the commercial cannabis activity. The cannabis conditional use permit is not transferrable. Should complaints be received regarding the business operation, the conditional use permit may be scheduled for reconsideration at which time the planning commission, during a public hearing, may

reapprove, approve with additional conditions, or revoke the permit per La Habra Municipal Code Chapter **18.66**.

"Cultivation" shall mean any activity involving the germinating, planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Indoor cultivation of marijuana for personal use by persons twenty-one years of age or older on the grounds of a private residence is permitted to the extent allowed by state law (**Health and Safety Code** Section 11362.1 through 11362.2). All cultivation of marijuana outdoors within the city of La Habra is prohibited.

"Delivery" shall have the same definition as set forth in California **Business and Professions Code** Section 26001(p). "Delivery" shall not include transportation of marijuana or marijuana products by a licensed transporter traveling through the city public roads to and from locations outside of the city where marijuana-related activities or uses are permitted.

"Director" means the director of community and economic development for the city of La Habra.

"Dispensary" shall mean any location where marijuana or devices for the use of marijuana are offered, either individually, or in combination, and includes retail sales. "Dispensary" includes delivery services and distribution.

"Dispensing" shall mean any activity involving the provision of marijuana for any purpose.

"Distribution" means the procurement, sale, and transport of cannabis and cannabis products between state licensees, including any city permittees who are state licensees.

"Distribution permit" means a city permit for distribution in accordance with the terms and conditions of a cannabis conditional use permit and the conditions of approval for the applicable city permit issued to such distribution permittee. Such permits shall be associated with state license Type 11 or such other distribution license types created by the state.

"Distribution permittee" means a person that has been issued a distribution permit by the city pursuant to the terms and conditions of this chapter; and shall be deemed the "operator" as that term is used herein.

"Fully enclosed and secure structure" means a space within a building structure which has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secured against unauthorized entry and provides complete visual screening and which is accessible only through one or more lockable doors and is inaccessible to minors or other barriers that are sufficient to prevent unauthorized access and entry.

"Gross receipts" means the total amount of the sales of a city permittee, valued in money, whether paid in money or otherwise, without any deduction for the cost of materials used, any costs of transportation of the city permittee, or any other expenses.

"Health and safety code" means the California **Health and Safety Code**, as amended from time to time.

"Manufacturer" shall mean a person that conducts the production, preparation, propagation, or compounding of marijuana, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by any combination thereof, and includes packaging, repackaging, labeling, and/or relabeling.

"Marijuana" shall have the same definition as that set forth in California **Health and Safety Code** Section 11018. "Marijuana" shall include: "cannabis" as defined in California **Business and Professions Code** Section 26001(f); "cannabis concentrate" as defined in California **Business and Professions Code** Section 26001(h); "edible cannabis product" as defined in California **Business and Professions Code** Section 26001(t); cannabis that is manufactured as defined in California **Business and Professions Code** Section 26001(ag); "medical cannabis," "medical cannabis product," or "cannabis product" as defined in California **Business and Professions Code** Section 26001;

"Marijuana businesses" shall mean marijuana businesses for any purpose (medical or non-medical) including dispensaries, cooperatives, cultivation, manufacturing, testing facilities, transporting, or distributing; all of which are prohibited from being established or operating within the city, except that licensed marijuana transporters are permitted to pass through the city on public roads as mandated by Business and Professions Code Section 26080 or specific uses permitted by this chapter.

"Non-storefront retailer" shall mean a state licensed Type 9 facility or premise located in the city where cannabis or cannabis products, in any amount or form, either individually or in combination are offered or provided for retail sale or other sales or transfer to consumers where the premises is closed to the public and sales exclusively conducted by delivery as defined in **Business and Professions Code** Section 26001 (p).

"Nonvolatile solvent" means any solvent used in the extraction process that is not a volatile solution as defined by state law. For purposes of this chapter, a nonvolatile solvent includes carbon dioxide (CO<sub>2</sub>) used for extraction and ethanol used for extraction or post-extraction processing.

"Person" shall mean any person, firm, corporation, association, club, society, or other organization. The term person shall include any owner, manager, proprietor, employee, volunteer and/or salesperson.

"Permit zone" means, with respect to a person holding a city permit, the zones or portions of the city where such city permit type is permitted to operate. Such permit zones may be amended from time-to-time by a majority vote of the city council. To the extent not otherwise specified in this definition, a city permittee shall be able to operate in any portion of the city, which complies with the zoning, radius and other requirements of this chapter.

"Qualified cannabis applicant" means a person who applies for a permit to conduct commercial cannabis activity under this chapter and whose application complies with this chapter and has not been deemed disqualified.

"Qualified patient" or "qualifying patient" shall mean qualified patient and persons with identification cards as those terms are defined by the **Health and Safety Code** Section 11362.7. This prohibition does not apply or prohibit qualified patients and persons with identification cards to cultivate indoors, possess, and use marijuana for their own personal medical purposes only, as permitted by state law. Nothing herein shall be construed to authorize qualified patients to engage in the collective cultivation of marijuana as described by **Health and Safety Code** Section 11362.775, nor are they permitted to cultivate marijuana above limits established by state law and guidelines for their own personal use.

"Sampler" is a testing laboratory employee who collects samples of cannabis goods for testing.

"State" means the state of California.

"State law" means all laws of the state, including all rules and regulations adopted by state agencies and state regulatory entities.

"State license" means a state license issued under Division 10, commencing with Section 26000, of the **Business and Professions Code**, and includes both an A-License and M-Licenses as well as a testing laboratory license.

"State licensee" means a person that has been issued a state license.

"Testing laboratory" is an entity that is licensed by the state, license Type 8, to conduct sampling and analyses of medical and or adult use cannabis goods and includes the personnel, specialized apparatus, and instruments used to analyze medical and or adult use cannabis goods. This definition does not include the cloning, planting or cultivation of cannabis plants or the direct sales, distribution, delivery, or dispensing of cannabis and cannabis products to the public.

"Testing site" shall mean any facility, entity, or site in the city that offers or performs tests of marijuana.

"Transport" or "transportation" means the transfer of cannabis or cannabis products between one or more cannabis permittee.

"Volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.  
(Ord. 1791 § 3, 2018; Ord. 1794 § 2, 2018; Ord. 1827 § 2, 2020)

## § 18.22.030. Commercial cannabis activity.

- A. All commercial cannabis activity shall be prohibited in all zoning districts and areas that are regulated by specific plans or planned unit developments, except as permitted in this chapter.
- B. Declaration of Public Nuisance. Any use, structure, or property that is altered, enlarged, erected, established, maintained, moved, or operated contrary to the provisions of this chapter, is hereby declared to be unlawful and a public nuisance and may be abated by the city through civil, criminal, and/or administrative proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances.
- C. Violations.
  - 1. Violations of this chapter shall be punishable pursuant to Chapter **1.08** of the city of La Habra Municipal Code.
  - 2. This chapter is not the exclusive means for the abatement of cannabis related use and activity within the city. The remedies set forth pursuant to this section shall be in addition to any other existing remedies for violations of the municipal code, including, but not limited to, any action at law or equity.
- D. The following types of commercial cannabis activity are conditionally permitted when conducted in compliance with this chapter:
  - 1. Cannabis distribution facilities within M-1, M-1(PUD) and PC-I zones.
  - 2. Cannabis testing laboratories within M-1, M-1(PUD) and PC-I zones subject to the provisions within this chapter, state requirements and following standards:
    - a. The business owner, operator, and employees are prohibited from holding a license for any other cannabis activity while owning, operating or being employed by a testing laboratory.  
  
No individual shall be employed by a testing laboratory that is also employed by any other cannabis licensee other than a testing laboratory license.
    - b. Testing laboratories shall be required to conduct all testing in a manner pursuant to **Business and Professions Code** Section 26100 and shall be subject to state and local law. Each testing laboratory 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.
    - c. All cannabis testing laboratories performing testing shall obtain and maintain ISO/IEC 17025 accreditation as required by the Bureau of Cannabis Control.
    - d. Testing laboratory 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. The state licensee must submit proof of ISO (International Organization for Standardization) accreditation to the city prior to commencing operations.

- f. Only samplers trained in accordance with established industry standards employed by the licensed testing laboratory may obtain samples for the laboratory.
  - g. The state licensee must follow established chain-of-custody protocols consistent with industry standards to ensure that sample integrity is such that it may be maintained from the point of collection, receipt of the samples at the laboratory, testing, and destruction.
  - h. Upon completion of testing, documentation of samples being incinerated shall be maintained.
  - i. The state licensee must submit to the city a copy of its Standard Operating Procedures and shall maintain a copy of these procedures on site and available to city inspection at all times.
  - j. The state licensee shall conduct an internal audit at least once per year or according to the ISO accrediting body's requirements, whichever is more frequent. The internal audit must cover everything required to be covered by ISO 17025 internal-audit standards.
  - k. All testing laboratory records must be kept for a minimum of seven years.
  - l. A testing laboratory cannot operate on a parcel that contains another commercial cannabis facility unless there is at least one commercial unit of separation between the testing laboratory and another commercial cannabis facility, except that a testing laboratory may be located adjacent to another testing laboratory on the same parcel.
3. Cannabis non-storefront retailer facilities within M-1, M-1(PUD) and PC-I zones subject to the provisions within this chapter, state requirements and the following standards:
- a. **General.** Conduct retail cannabis sales exclusively by delivery as defined in **Business and Professions Code** Section 26001 (p). The licensed premises of a non-storefront retailer licensee shall be closed to the public.
  - b. **Permit Requirements.** Non-storefront retailers (delivery) and microbusinesses in the city which conduct deliveries into or within the city of La Habra shall be required to obtain a business license permit from the city of La Habra in order to conduct retail sales.
  - c. **Employees.**
    - i. All deliveries of cannabis and cannabis products shall be performed by a delivery employee that is directly employed by the licensed non-storefront retailer.
    - ii. Each delivery employee of licensed retailer shall be at least twenty-one years of age.
    - iii. All deliveries of cannabis and cannabis products shall be made in person. A delivery of cannabis or cannabis products shall not be made through the use of an unmanned vehicle.
    - iv. The process of delivery begins when the delivery employee leaves the retailer's licensed premises with the cannabis or cannabis products for delivery. The process of delivering ends when the delivery employee returns to the retailer's licensed premises after delivering the cannabis or cannabis products to the customer(s). During the process of delivery, the retailer's delivery employee may not engage in any activities except for cannabis or cannabis product delivery and necessary rest, fuel, or vehicle repair stops.
    - v. A delivery employee of a licensed retailer shall, during deliveries, carry a copy of the retailer's current license, the employee's city issued work permit, and an identification badge provided by the employer pursuant to the Bureau of Cannabis Control regulations.
    - vi. Prior to providing cannabis or cannabis products to a delivery customer, a delivery employee shall confirm the identity and age of the delivery customer as required by

the Bureau of Cannabis Control and place the cannabis or cannabis products in a resealable child-resistant opaque exit package.

- vii. A licensed retailer shall maintain an accurate list of the retailer's delivery employees and shall provide the list to the city upon request.
- d. Delivery to a Physical Address.
- i. A delivery employee may only deliver cannabis or cannabis products to a physical address in California.
  - ii. A delivery employee shall not leave the state of California while possessing cannabis or cannabis products.
  - iii. A delivery employee shall not deliver cannabis or cannabis products to an address located on publicly owned land or any address on land or in a building leased by a public agency. This prohibition applies to land held in trust by the United States for a tribe or an individual tribal member unless the delivery is authorized by and consistent with applicable tribal law.
  - iv. A delivery employee may deliver to any jurisdiction within the state of California.
- e. Delivery Vehicle Requirements.
- i. A retailer's delivery employee, carrying cannabis or cannabis products for delivery, shall only travel in an enclosed motor vehicle. Any vehicle used in the delivery of cannabis or cannabis products shall be operated by a delivery employee of the licensee. Only the licensee or an employee of the retailer licensee for whom delivery is being performed shall be in the delivery vehicle.
  - ii. While carrying cannabis or cannabis products for delivery, a retailer's delivery employee shall ensure the cannabis and cannabis products are not visible to the public. Cannabis and cannabis products shall be locked in a box, container, or cage that is secured on the inside of the vehicle. The inside of the vehicle includes the trunk.
  - iii. A retailer's delivery employee shall not leave cannabis or cannabis products in an unattended motor vehicle unless the motor vehicle is locked and equipped with an active alarm system.
  - iv. A vehicle used for delivery of cannabis or cannabis products shall be outfitted with a dedicated Global Positioning System (GPS) device for identifying the geographic location of the delivery vehicle. The device shall remain active and inside of the delivery vehicle at all times during delivery. At all times the licensed retailer shall be able to identify the geographic location of all delivery vehicles that are making deliveries for the licensed retailer and shall provide that information to the city upon request.
  - v. Upon request, the licensed retailer shall provide the city with information regarding any motor vehicle used for the delivery of cannabis and cannabis products, including the vehicle's make, model, color, vehicle identification number, license plate number and Department of Motor Vehicles registration information.
  - vi. Any motor vehicle used by a licensed retailer to deliver cannabis or cannabis products is subject to inspection by the city. Vehicles used to deliver cannabis or cannabis products may be stopped and inspected by the city at any licensed premises or during delivery.
  - vii. A direct communication system with the retailer's business location and the retailer's delivery employee shall be incorporated in each vehicle.

- viii. No display of any logo, signage, or other information that identifies, advertises, or lists the services or products offered shall be placed on the vehicle.
- f. Cannabis and Cannabis Products Carried During Delivery.
  - i. A retailer's delivery employee shall not carry cannabis or cannabis products in the delivery vehicle in excess of ten thousand dollars at any time.
  - ii. A delivery employee may only carry cannabis or cannabis products in the delivery vehicle and may only perform deliveries for one licensed retailer at a time. The vehicle shall not carry more cannabis or cannabis products than allowed by state and local law and required to fulfill all immediate delivery requests.
  - iii. A retailer's delivery employee shall not leave the licensed premises with cannabis or cannabis products without at least one delivery order that has already been received and processed by the licensed retailer.
  - iv. Before leaving the licensed premises, the retailer's delivery driver must have a delivery inventory ledger of all cannabis and cannabis products provided to the retailer's delivery driver. After each customer delivery, the delivery inventory ledger must be updated to reflect the current inventory in possession of the retailer's delivery driver.
  - v. The retailer's delivery driver shall maintain a log that includes all stops from the time the retailer's delivery driver leaves the licensed premises to the time that the retailer's delivery driver returns to the licensed premises, and the reason for each stop. The log shall be turned in to the retailer when the retailer's delivery driver returns to the licensed premises. The licensed retailer must maintain the log as a commercial cannabis activity record as required by the state.
  - vi. Prior to arrival at any delivery location, the licensed retailer must have received a delivery request from the customer and provided the delivery request receipt to the retailer's delivery driver electronically or in hard copy. The delivery request provided to the retailer's delivery driver shall contain all of the information required by the Bureau of Cannabis Control except for the date and time the delivery was made, and the signature of the customer.
  - vii. Immediately upon request by the Bureau of Cannabis Control or any law enforcement officer, the retailer's delivery driver shall provide:
    - (a) All delivery inventory ledgers from the time the retailer's delivery driver left the licensed premises up to the time of the request;
    - (b) All delivery request receipts for cannabis and cannabis products carried by the driver, in the delivery vehicle, or any deliveries that have already been made to customers; and
    - (c) The log of all stops from the time the retailer's delivery driver left the licensed premises up to the time of the request.
  - viii. If a retailer's delivery driver does not have any delivery requests to be performed for a thirty-minute period, the retailer's delivery driver shall not make any additional deliveries and shall return to the licensed premises. Required meal breaks shall not count towards the thirty-minute period.
  - ix. Upon returning to the licensed premises, all undelivered cannabis and cannabis products shall be returned to inventory.
- g. Delivery Request Receipt. A licensed retailer shall prepare a hard copy or electronic delivery request receipt for each delivery of cannabis or cannabis products.
  - i. The delivery request receipt shall contain the following:

- (a) The name and address of the licensed retailer.
  - (b) The first name and employee number of the retailer's delivery employee who delivered the order.
  - (c) The first name and employee number of the retailer's employee who prepared the order for delivery.
  - (d) The first name of the customer and retailer assigned customer number for the person who requested the delivery.
  - (e) The date and time the delivery request was made.
  - (f) The delivery address.
  - (g) A detailed description of all cannabis and cannabis products requested for delivery as required by the Bureau of Cannabis Control.
  - (h) The total amount paid for the delivery as required by the Bureau of Cannabis Control.
  - (i) Upon delivery, the date and time the delivery was made, and the handwritten or electronic signature of the customer who received the delivery.
- ii. At the time of delivery, the delivery employee of the retailer shall provide the customer who placed the order with a hard or electronic copy of the delivery request receipt. The delivery driver shall retain a hard or electronic copy of the signed delivery request receipt for the licensed retailer's records.
  - iii. For the purpose of this section, an employee number is a distinct number assigned by a licensed retailer to their employees that would allow the licensed retailer to identify the employee on documents or records using the employee number rather than the employee's full name. A licensed retailer shall be able to identify the employee associated with each employee number upon request by the state/city.
  - iv. For the purpose of this section, a customer number is a distinct number assigned by a licensed retailer to a customer that would allow the licensed retailer to identify the customer in documents or records using the customer number rather than the customer's full name. A licensed retailer shall be able to identify the customer associated with each customer number upon request by the state/city.
- h. **Delivery Route.** While making deliveries of cannabis or cannabis products, a retailer's delivery driver shall only travel from the retailer's licensed premises to the delivery address; from one delivery address to another delivery address; or from a delivery address back to the retailer's licensed premises. A delivery driver of a retailer shall not deviate from the delivery path except for necessary rest, fuel, or vehicle repair stops, or because road conditions make continued use of routes unsafe, impossible, or impracticable.
  - i. **Receiving Shipments of Inventory.**
    - i. A licensed retailer shall receive a shipment of cannabis and cannabis products only from a licensed distributor or licensed microbusiness.
    - ii. A licensed retailer shall accept shipments of cannabis and cannabis products only between the hours of six a.m. and ten p.m.
    - iii. During business hours, shipments of cannabis and cannabis products shall not enter the licensed premises through an entrance or exit that is available for use by the public.

- j. Inventory Documentation. The licensed retailer shall maintain an accurate record of its inventory. The licensed retailer shall provide the Bureau of Cannabis Control/city with the record of inventory immediately upon request. The licensed retailer shall keep a record of the following information for all cannabis and cannabis products the licensed retailer has in its inventory:
  - i. A description of each item such that cannabis or cannabis products can easily be identified;
  - ii. An accurate measurement of the quality of the item;
  - iii. The date and time the cannabis or cannabis products was received by the licensed retailer;
  - iv. The sell by or expiration date provided on the package of cannabis or cannabis products, if any;
  - v. The name and license number of the licensed distributor or licensed microbusiness that transported the cannabis or cannabis products to the licensed retailer; and
  - vi. The price the licensed retailer paid for the cannabis or cannabis products, including taxes, delivery costs, and any other costs.
- k. Inventory Reconciliation. The licensed retailer shall perform reconciliation of its inventory in the time and manner required by 16 CCR 5424.
- l. Record of Sales.
  - i. A licensed retailer shall maintain an accurate record of sales made to a customer.
  - ii. A record of cannabis and cannabis products sold to a customer shall contain the following information:
    - (a) The first name and employee number of the retailer employee who processed the sale;
    - (b) The first name and the retailer assigned customer number for the customer who made the purchase;
    - (c) The date and time of the transaction;
    - (d) A list of all the cannabis and cannabis products purchased, including the quantity purchased; and
    - (e) The total amount paid for the sale including the individual prices paid for each amount of cannabis or cannabis products purchased and any amounts paid for taxes.
  - iii. The point of sales for all sale transactions performed by the licensed retailer shall be credited to the city of La Habra.
- m. Records. All licensed retailer specific records shall be maintained in accordance with the requirements of 16 CCR 5037.
- n. Retailer Premises to Retailer Premises Transfer.
  - i. A licensee who holds multiple retail licenses may arrange for the transfer of cannabis and cannabis products from one licensed retail premises to another licensed retail premises if both retail licenses are held under the same ownership.
  - ii. Cannabis and cannabis products transferred to a licensed retail premises under subsection **(n)(i)** of this section may be sold by the licensed retailer receiving the

cannabis or cannabis products if the receiving retailer is in compliance with all requirements of the Bureau of Cannabis Control.

iii. The transportation of cannabis and cannabis products under this subsection must comply with all requirements of the Bureau of Cannabis Control.

iv. Any movement of cannabis or cannabis products under this section shall be properly entered into the state track and trace system.

(Ord. 1791 § 3, 2018; Ord. 1794 § 2, 2018; Ord. 1827 § 3, 2020)

## § 18.22.040. Commercial cannabis activity business standards.

A. **Governing Structure and Initial Application Process.** A cannabis review board consisting of the city manager, director of community and economic development, police chief, finance director, and director of public works, or their respective designee, shall review the credentials of businesses wishing to establish commercial cannabis activities within the city of La Habra. Within thirty days after the adoption of this chapter, the director of community and economic development shall prepare a commercial cannabis activity application form and related administrative policy submittal sheet. The application form shall at a minimum request the following information:

1. The address of the applicant's current corporate/business operation.
2. The address of the location for which the conditional use permit is sought.
3. The size of the proposed commercial cannabis business operation and state cannabis license type.
4. A site plan and floor plan for the proposed commercial cannabis activity denoting the use of all areas within the building, façade improvements including any exterior signage and the exterior improvements of the property, excluding any security measures or features that would compromise the safe storage of products or cash management.
5. A proposed security plan in compliance with the standards in this chapter that would be administered between the licensee and the police chief or their designee in order to maintain confidentiality of the security plan.
6. The names, addresses, and relevant criminal histories of those with an ownership interest and any person who will be a facility manager or otherwise responsible for the commercial cannabis activity (collectively, the "applicant's agents"). A full criminal history which includes all arrests and reasons regardless of convictions as well as any civil court proceedings. A copy of state driver's licenses or identification cards shall be provided for all ownership in the business, any managers, and employees of the business.
7. The name and address of the owner and lessor of the real property upon which the commercial cannabis activity is proposed to be located. In the event the applicant is not the legal owner of the property, the application must be accompanied with a signed and notarized acknowledgement from the owner of the property that the commercial cannabis activity can occur on the property and is not in conflict with any lending requirements of the property.
8. A description of the statutory entity or business form that will serve as the legal structure for the applicant and a copy of its formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement.
9. Authorization for the city manager or the city manager's designee to seek verification of the information contained within the application.
10. Evidence that the commercial cannabis activity is compliant with all applicable state and city laws.

11. List the experience of the operators of the commercial cannabis activity as it relates to the type of operation proposed within other communities, including out of state operations. Provide a governmental contact person within each of those communities that can address questions regarding that facility.
  12. A statement in writing as to the applicant hiring practices and a description of community involvement that will accrue as a result of the commercial cannabis facility.
  13. A statement in writing by the applicant that certifies under penalty of perjury that all the information contained in the application is true and correct.
  14. The applicant's certificates of automobile and general commercial liability insurance coverage and evidence of worker's compensation insurance (if required) related to the operation of the commercial cannabis business.
  15. An executed release of liability and indemnity agreement in the form set forth by the city.
  16. Any such additional and further information as reasonably necessary by the city manager or designee to administer this chapter.
- B. The police chief or designee shall conduct a background check of any applicant seeking a conditional use permit, including the applicant's agents and those who have an interest in the marijuana business, and shall prepare a report on the acceptability of the applicant and the applicant's agents and the suitability of the proposed location of the commercial cannabis facility.
- C. Each application shall be accompanied by a fee as established by city council resolution to offset the cost of required police investigation and application processing. The fee is non-refundable and shall not be returned in the event the application is denied, revoked, or suspended.
- D. The cannabis review board shall review all qualified applications and identify those that best satisfy the requirements of this chapter. The cannabis review board may establish criteria to rank qualified applications based on compliance with this chapter, the applicant's experience, the proffered business plan, the accuracy of information provided in the application, and the level of community service and employment opportunities for residents of the city.

(Ord. 1791 § 3, 2018; Ord. 1827 §§ 4, 5, 2020)

## § 18.22.050. Disqualification of applications.

- A. The director or designee shall determine whether each application demonstrates compliance. Should an application involve any of the following matters, the application shall be disqualified:
1. The applicant or the applicant's agents made one or more false or misleading statements or omissions in the application or during the application process.
  2. The proposed commercial cannabis facility at the proposed location is not allowed by state law or city zoning code.
  3. The applicant is not a legal representative of the proposed business operator.
  4. The applicant or the applicant's agents or business partners have been convicted of a felony, or a misdemeanor involving moral turpitude, or the illegal use, possession, distribution, transportation, or any such similar activity related to controlled substances, for which the conviction occurred prior to passage of Compassionate Use Act of 1996. Neither the applicant, any owner, nor any proposed or prospective manager, shall have been convicted of:
    - a. An offense related to possession, manufacture, sales, or distribution of a controlled substance, with the exception of cannabis-related offenses;
    - b. Any offense involving the use of force or violence upon another person;

- c. Any offense involving theft, fraud, dishonesty or deceit;
  - d. Any offense involving sales of cannabis, alcohol, or cigarettes to a minor or use of a minor to distribute cannabis, alcohol, or cigarettes;
  - e. Any common law felony. For the purpose of this subsection, a conviction includes a plea or verdict of guilty or a conviction following a plea of nolo contendere. The above criteria are in addition to any applicable provisions of state law.
5. The applicant or the applicant's agents have engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.
  6. The applicant has not been or is not in good standing with the city related to other or previous business activities operated in the city.
  7. The applicant, each owner, and any existing or prospective manager is not at least twenty-one years of age.
  8. The applicant, each owner, and any existing or prospective manager, must not have had a similar type of license or permit previously revoked or denied for good cause within the immediately preceding two years prior to the permit application within another community or by the state.
  9. The applicant has not satisfied all requirements of this chapter.
  10. The applicant has not complied with all rules and regulations promulgated by the city relating to the application process, including, but not limited to, the submission of an incomplete application and/or has failed to comply with the application form and related administrative policy submittal materials prepared pursuant to Section **18.22.040(A)**.
- B. Each application that complies with this chapter and not deemed disqualified shall be placed on the "qualified cannabis applicant list" for the particular commercial cannabis business operation proposed and the director of community and economic development shall notify the applicant in writing that it is a "qualified cannabis applicant."
- (Ord. 1791 § 3, 2018; Ord. 1827 § 6, 2020; Ord. 1832 § 2, 2021)

## § 18.22.060. Development agreement/cannabis business tax.

The highest ranked qualified cannabis applicants for the commercial cannabis facility permitted by this chapter shall be permitted to submit an application for a conditional use permit, based on the total number of available permits being offered by the city. Those applicants that are selected must enter into a negotiated development agreement with the city, which must be completed within one hundred twenty days of notification to proceed to the conditional use permit process and may be extended by the community development director one time for a maximum of sixty days if good faith negotiations are proceeding. Upon completion of the development agreement, the qualified cannabis applicant has sixty days to submit an application for a conditional use permit. Failure to reach agreement on a development agreement or submittal of an application for a conditional use permit will remove the applicant from the qualified cannabis application list and waitlist.

Applicant shall pay any applicable cannabis business tax and comply with all terms of any applicable development agreement. Should at any time the conditional use permit become void or revoked, the development agreement would become void.

(Ord. 1791 § 3, 2018; Ord. 1827 § 7, 2020)

## § 18.22.070. Waitlist.

- A. Qualified cannabis applicants will appear on a "qualified cannabis applicant list" for the particular activity the application was submitted for in the order they are ranked pursuant to this chapter. This

list will serve as a waitlist which will be used to select another qualified cannabis applicant in the event that:

1. An applicant with a higher ranking on the qualified cannabis applicant list is disqualified.
  2. A request from a higher ranked applicant to be removed from the list is received.
  3. Additional permits become available as determined by the city council. A qualified cannabis applicant's ability to submit an application for a conditional use permit is determined by the applicant's position on the waitlist.
- B. A qualified cannabis applicant that moves from the waitlist to the submittal of a conditional use permit must comply with Section **18.22.060** as outlined in this chapter following issuance of a written notice advising the applicant of that opportunity. Failure to complete this process per the noted time will remove the applicant from the qualified cannabis applicant list for that particular business activity.
- C. The director of community and economic development shall maintain the waitlist and update it on an annual basis as needed. A qualified cannabis applicant on the waitlist must submit a written request each year to maintain their status on the waitlist. A qualified cannabis applicant can modify their application by submitting a new application and the required fee. The director of community and economic development shall place new or modified applicants on the waitlist in the order in which they are ranked.

(Ord. 1791 § 3, 2018; Ord. 1857 § 8, 2020)

## § 18.22.080. Zoning and land use.

- A. Location. All commercial cannabis facilities allowed by this chapter are permitted only within those zones as designated by this chapter and subject to issuance of a conditional use permit. All commercial cannabis facilities shall not be located within six hundred feet of a school providing instruction in kindergarten or any grades one through twelve, day care center, youth center or public park (minimum 0.6 acres in size). All distances shall be measured from the property where the facility is proposed to a school, day care center, youth center or public park (minimum 0.6 acres in size) is located along any public street/roadway from the nearest point of the property, which the commercial cannabis facility is to be located, to the nearest property line of those uses describe in this subsection. No property containing a commercial cannabis operation can be immediately adjacent to a property containing a school, day care center, youth center or public park (minimum 0.6 acres in size).
- B. Co-Location. To the extent not prohibited under state law, another commercial cannabis facility may be located within the same building, facility or real property parcel subject to a conditional use permit for the added facility.
- C. Conditional Use Permits.
1. Prior to commencing operation of a commercial cannabis activity, all persons shall obtain a conditional use permit from the city for all parcels of real property (or portion thereof) upon which the commercial cannabis activity will operate.
  2. All commercial cannabis facilities shall operate in accordance with the conditions of approval associated with the applicable conditional use permit for the specified parcel of real property (or sub-portion thereof).
  3. The issued conditional use permit shall be subject to compliance with Section **18.22.060**.
  4. Commercial cannabis facilities shall not exceed the square footage authorized pursuant to the applicable conditional use permit.
  5. The commercial cannabis facility operator shall have a valid state license for the specific classification permitted by this chapter prior to business operations. Unless determined by the

planning commission that cross permitting would negatively affect public safety, the conditional use permit can be for both commercial adult-use and medicinal cannabis activity. The business operator must conduct commercial cannabis activities in accordance with this chapter and state law. The applicant must inform the city in writing if they will be conducting commercial adult-use cannabis activity or commercial medicinal cannabis activity or both as part of the conditional use permit application.

6. Commercial cannabis facilities are allowed only within fully enclosed and secure structures that are inaccessible to minors unless allowed by state law. The business operator shall deter and prevent unauthorized entrance into the areas containing cannabis or cannabis products and theft of cannabis or cannabis products. All commercial cannabis facilities shall have a security plan that satisfies the following requirements, but shall not be limited to, all of the following:
  - a. Security cameras shall be installed and maintained in good condition at all times. The areas to be covered by the security cameras would be executed per the public safety and security plan between the licensee and the police chief that shall include, but are not limited to all operation areas, all doors and windows, and any other areas as reasonably determined by the police chief. Requirements for the camera system include:
    - i. The cameras shall be in use twenty-four hours per day, seven days per week.
    - ii. The operator shall maintain at least ninety days of concurrent hours of digitally recorded documentation.
    - iii. Any disruption in security camera images shall be cured expeditiously within twenty-four hours.
  - b. If the commercial cannabis facility directly serves the public, all customer and public access to the facility must be through a secured single point of entry. Entry into the facility from the outside must be completed through a secured vestibule area that is designed to allow for identification confirmation prior to entry into the main lobby or customer service area.
  - c. Prevent persons from remaining on the premises of the commercial cannabis business if they are not engaging in the activity expressly related to the operations of the commercial cannabis business. An armed security guard shall monitor the premises. Panic buttons shall be installed in all commercial cannabis businesses in locations approved by the police chief or designee.
  - d. Establish limited access areas accessible only to authorized commercial cannabis business personnel. Sensors shall be installed to detect entry and exit from all secured areas. An employee safety plan shall be created and submitted to the police chief for review and approval.
  - e. Commercial cannabis facilities shall be secured with an alarm system that is operated and monitored by an independent third party security company as approved by the chief of police. All security personnel, whether employed by the commercial cannabis business or contracted by the commercial cannabis business, shall be subject to prior review and approval of the chief of police or designee.
  - f. Entrance to the commercial cannabis facility, and all storage areas therein, shall be locked at all times, and under the control of the person operating the commercial cannabis facility.
  - g. The entrances and all window areas of the commercial cannabis facility shall be illuminated during evening hours as required by the chief of police to assure security cameras have the proper lighting to function. The commercial cannabis facility shall comply with the city's lighting standards regarding fixture type, wattage, illumination levels, shielding, etcetera, and shall secure the necessary lighting approvals and permits as needed from the chief building official.

- h. All windows on the commercial cannabis premises shall be appropriately secured and all cannabis securely stored as approved by the chief of police. Should any bars be installed on the windows or the doors of the commercial cannabis facility, they shall be located only within the interior of the building if allowed by the California Building Code.
  - i. Recordings made by the security cameras shall be made available to law enforcement upon verbal request—no search warrant or subpoena shall be needed to view the recorded materials. City code enforcement or law enforcement officers are authorized to conduct reasonable inspections of the commercial cannabis facility. No search warrant or subpoena shall be needed to inspect the facility at any time, unannounced, for making reasonable inspections to observe and enforce compliance with this chapter and all city and state laws. Law enforcement and other agents and employees of the city (collectively, the "city parties") shall have access to commercial cannabis facility, video footage, business records, data, inventory levels and information relating to customers, vendors, products, plans and agreements (collectively, "confidential information"). To the extent confidential information is viewed or possessed by any city parties, the city parties shall, to the maximum extent possible, keep such confidential information confidential, not disclose the confidential information to any third parties, and shall only use the confidential information for purposes specified in this chapter or other laws and regulations of the city related to the city permittees from whom such confidential information has been received. Notwithstanding the foregoing, the city may disclose confidential information: (i) as may be required by the California Public Records Act or pursuant to a valid subpoena or court order, provided, however, that the city shall first notify the applicable business operator and provide a reasonable opportunity to obtain a protective order before disclosing the confidential information; and (ii) in connection with any city enforcement proceeding relating to compliance with the city's municipal code and this chapter, but only to the extent the confidential information is relevant to the proceeding.
  - j. The security system installed for the facility shall be by a licensed Underwriters Laboratory certified security firm.
  - k. A yearly service maintenance contract for the security system shall be submitted for review and approval by the police chief. Should the business operator wish to terminate the service contract, the police chief shall be informed thirty days prior to such termination. The business operator shall submit a substitute yearly service contract for review and approval by the police chief. Termination of the existing contract shall not occur until after the substitute contract has been approved by the police chief.
  - l. A contract for yearly staff training of the security system is to be submitted and approved by the police chief.
  - m. Quarterly maintenance reports of the security system shall be submitted to the police chief.
7. There shall be no consumption of any cannabis or cannabis products on site. The entrance of the commercial cannabis premises shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming cannabis, cannabis products or alcohol on the premises is prohibited. Should an employee be found to be under the influence of any behavior-impairing drug, action to terminate employment shall be taken as allowed by law.
8. Commercial cannabis facilities shall not adversely affect the health or safety of the nearby property owners/business operators by creating odor, dust, glare, heat, noise, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products, or wastes. Any person issued a conditional use permit pursuant to this chapter must follow all local, state and federal requirements for solid waste and hazardous waste disposal.
9. The hours of operation of all commercial cannabis activity shall be established as part of the conditional use permit application as approved by the planning commission or as established

by state law. Modification of operation hours shall be subject to a recommendation made by the director to the planning commission.

10. All cannabis and cannabis products shall be kept in a secured manner during all business and nonbusiness hours.
11. All commercial cannabis facilities shall pay all applicable taxes pursuant to federal, state, and local laws, in addition to any payment terms pursuant to Section **18.22.060** as applicable.
12. All commercial cannabis facilities shall provide sufficient odor absorbing ventilation and exhaust systems so that odor outside the premises is not detected on any adjacent property, 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 or premises as the commercial cannabis business. Any violation of this chapter shall be remedied within fourteen days of the operator receiving notice of such violation unless extended by the director of community and economic development.
13. Prior to the sale or the delivery of any edible cannabis or edible cannabis product the same shall be labeled and in tamper-evident packaging which at least meets the requirements of the state.
14. Inventory Control.
  - a. All commercial cannabis facilities shall utilize product and inventory tracking software and accounting software that is in-line with state law and as approved by the director of finance. Each commercial cannabis business shall file with the finance director or designee a report (the "quarterly report") showing:
    - i. Gross receipts from operations for the immediate prior quarter by the commercial cannabis business operator, and a cumulative total of all amounts of gross receipts from operations received by the commercial cannabis business operator for the calendar year;
    - ii. A calculation of the quarterly payment due and paid to the city for the prior quarter within thirty days upon completion of the completed quarter; and
    - iii. A calculation of the cumulative total of all quarterly payments for the calendar year.
  - b. The commercial cannabis business operator shall keep complete, accurate and appropriate books and records of all receipts from operations in accordance with generally acceptable accounting principles. For purposes herein "books and records" shall mean all bookkeeping or accounting documents the commercial cannabis business operator utilizes in managing its business operations relating to the commercial cannabis business. Such books and records, as well as all other relevant documents as the city shall reasonably require, shall, upon reasonable written notice, be open for inspection by the city, its auditors or other authorized representatives. If, at any time such books and records prove inadequate in the reasonable judgment of the city to record the gross receipts from business operations as herein required, the commercial cannabis business operator shall, upon the written request of the city, procure and maintain such books and records as shall be of a character and form adequate for such purpose.
  - c. The city shall have the right to audit and examine such books, records and documents and other relevant items in the possession of the commercial cannabis business operator, but only to the extent necessary for a proper determination of gross receipts from the commercial cannabis business operation, and all such books, records, documents and other items shall be held available for such audit and examination.
  - d. Upon request by the city, the commercial cannabis business operator shall make such books, records and documents available to the city, and provide removable copies thereof, within thirty days of the date of the city's request. The cost for any audit shall be shared

equally by the commercial cannabis business operator and the city of La Habra. The commercial cannabis business operator shall preserve such books, records, documents, and other items for a period of not less than seven years for the purpose of auditing or re-auditing these accounts upon reasonable notice; except that, if an audit is made within the seven-year period and the commercial cannabis business operator claims that errors or omissions have occurred, the books and records shall be retained and made available until those matters are resolved.

- e. The city council has found and determined that the disclosure of confidential financial statements and certain other confidential records in the possession of the city that relate to or concern a permitted commercial cannabis business is outweighed by the public interest in non-disclosure of such records. The city shall keep strictly confidential all statements of revenue furnished by the commercial cannabis business and all other information concerning the commercial cannabis business operation obtained by the city by way of the city's inspection, audit and examination privileges hereunder, except as otherwise required by law or judicial order. Upon receipt of a request for such records pursuant to the Public Records Act (California **Government Code** Section 6250 et seq.) or by way of a subpoena duces tecum or other civil discovery method, the city shall provide notice of same to the commercial cannabis business operator prior to disclosing any such records and/or the information contained therein. It shall be the sole responsibility of the commercial cannabis business to seek a protective order, as deemed necessary to protect such records and/or information from disclosure.
  - f. Within seven years after receipt of any statement of receipts, the city at any time shall be entitled to carry out an audit of such revenue either by the city or agents to be designated by the city. If it shall be determined as a result of such audit that there has been a deficiency in any payment due to the city made on the basis of such statement, then such deficiency shall become immediately due and payable. If such statement of revenue for the relevant year shall be found to have understated receipts by more than two percent and the city is entitled to any additional payment as a result of such understatement, then the commercial cannabis business operator shall, in addition, pay all of the city's reasonable costs and expenses connected with such audit, including the expense incurred in retaining such agent; otherwise the city shall bear the cost and expense of such audit.
15. Signage for all commercial cannabis facilities shall comply with the city's sign code and any restrictions placed on the facility within the conditional use permit.
  16. The commercial cannabis facility shall fully comply with all applicable rules, regulations, and laws, including, but not limited to, zoning and building city codes, the city's business license ordinances, the **Revenue and Taxation Code**, the Americans with Disabilities Act, and the Medicinal and Adult-Use Cannabis Regulation and Safety Act.
  17. The owner or operator of each commercial cannabis facility shall provide the chief of police with the name, cell phone number(s), facsimile number, and email address of the on-site representative of such facility whom the city and the public can provide notice if there are any operational problems associated with the facility.
  18. Each commercial cannabis facility shall have the capacity to remain secure and operational during a power outage through the use of an emergency generator or other means approved by the police chief and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
  19. Each commercial cannabis business shall submit to the chief of police or designee for review and approval, a transportation plan describing the procedures for safely and securely transporting cannabis and cannabis products, drivers and currency. Delivery vehicles shall be equipped with video recording equipment that monitors the inside and outside of the vehicle. All recordings shall be stored up to seven calendar days and be available to city personnel upon request. In addition, each vehicle shall also be equipped with GPS tracking system and

an alarm system. All drivers shall have active motor carrier permits issued by the California Department of Motor Vehicles.

20. Employee Work Permits—Identification.

- a. **Work Permit Required.** Any person who is an employee or who otherwise works or volunteers within a commercial cannabis business must obtain a work permit from the police chief or designee. No person under the age of twenty-one may be employed by or act as a responsible person on behalf of a commercial cannabis operation. The police chief or designee is hereby authorized to establish all regulations necessary to implement the work permit process contemplated in this section, including, but not limited to, the reasons for denial of a work permit to any person. A work permit shall be valid for a twelve-month period and must be renewed on an annual basis. Applications for work permits shall be submitted under oath and shall contain a statement of the past criminal record, if any, of the applicant and such information as may be deemed necessary by the police chief or designee to determine whether the applicant should be issued a work permit. The applicant for a work permit will be required to submit to LiveScan fingerprinting and a photograph for the purpose of the city performing a background investigation and issuance of a work permit. A union employee for which a LiveScan and background investigation has been successfully completed, shall provide proof of such action to obtain a work permit from the police chief. Any determination made by the police chief or designee based on the background check who had a cannabis or marijuana-related conviction that has been subsequently reclassified, dismissed or sealed would not prohibit that employee from receiving a work permit.
- b. **Employee Records.** Each owner or operator of a commercial cannabis business shall maintain on-site a register of all the employees currently employed by the commercial cannabis business and shall produce such register to the chief of police or designee or any other city of La Habra official authorized to enforce the La Habra Municipal Code for purposes of determining compliance with this chapter. A copy of the employee's work permit shall also be contained in the register.
- c. **Employee Termination.** The commercial cannabis business operator shall notify the chief of police or designee within ten calendar days when an employee terminates employment with the business. Failure to notify the chief of police shall automatically void the work permit.
- d. **Fee.** Each application for a work permit and renewal of an existing work permit shall be accompanied by a fee set by resolution of the city council. The fee is non-refundable and shall not be returned in the event the work permit is denied, revoked, or suspended.

21. Commercial cannabis facilities shall obtain and have in place non-automotive insurance to protect employees for a minimum of one million dollars.

(Ord. 1791 § 3, 2018; Ord. 1827 §§ 9—14, 2020)

## § 18.22.090. Permit conditions.

A maximum of four commercial cannabis distribution facility conditional use permits; four cannabis testing laboratory conditional use permits and four non-storefront retailer conditional use permits are permitted by this chapter within the city of La Habra.

- A. Each commercial cannabis facility is subject to the conditions of approval placed on the conditional use permit by the planning commission.
- B. The business operator shall keep the chief of police updated with the names, addresses, and relevant criminal histories of the owners and business operators of the facility. Failure to report or inaccurately report a change in ownership or business operator is grounds for reconsideration of the conditional use permit for suspension or revocation by the planning commission.

- C. Any transfer of ownership of a conditional use permit shall be approved by the planning commission. The owner must submit a request to modify the conditional use permit to the new owner. The new owner shall submit all necessary information as would be required from a new operator with appropriate background check conducted by the chief of police. The cost of the background check shall be bore by the owner requesting the transfer of the conditional use permit as per a fee established by the city council. Upon completion of the background check, the chief of police shall make a recommendation to the planning commission. Any attempt to transfer or any transfer of a commercial cannabis facility without approval of the planning commission is hereby declared void and the conditional use permit is deemed immediately revoked and no longer of any force or effort.
  - D. A conditional use permit shall expire and be null and void twelve months after issuance if no action is taken to operate the facility or should the business cease operation due to inactivity.
  - E. To the fullest extent permitted by law, the city does not assume any liability, and expressly does not waive sovereign immunity, with respect to any commercial cannabis facility or for any other activities taking place at a commercial cannabis facility.
- (Ord. 1791 § 3, 2018; Ord. 1827 § 15, 2020)

## § 18.22.100. Enforcement.

- A. Immediate Notification to Police Chief. A commercial cannabis business shall notify the chief of police or designee immediately upon discovering that the security system required by this chapter has become inoperative or is malfunctioning. In addition, notification to the chief of police must be made within twenty-four hours after discovering any of the following:
  - 1. Significant discrepancies identified in a commercial cannabis business's inventory. The level of significance shall be determined by the regulations established by the chief of police or designee.
  - 2. Diversion, theft, loss, or any criminal activity involving the commercial cannabis business or any agent or employee of the commercial cannabis business.
  - 3. The loss of unauthorized alteration of records related to cannabis, or employees or agents of the commercial cannabis business.
  - 4. Any other breach of security.
- B. Any person who willfully or knowingly: (1) engages in a violation of this chapter; or (2) owns, possesses, controls, or has charge of any parcel of real property in the city upon which a violation of this chapter is maintained and who has actual knowledge of such violation (or would have actual knowledge of such violation after a reasonable inquiry), shall be subject to the penalties and remedies provided by this chapter. The permittee shall be responsible for all violations of this chapter and MAUCRSA or its implementing regulations, whether committed by the permittee, its owners, or any employee, volunteer worker, director, manager or other agent of the permittee, for violations that occur in or about the premises of the commercial cannabis business whether or not said violations occur within the permit holder's presence.
- C. Any violation of this chapter shall constitute a separate offense for each day the violation occurs or persists.
- D. Any person in violation of any provision of this chapter or who causes another person to be in violation of this chapter shall have committed a misdemeanor. In addition, such violation may be punishable by a fine of up to one thousand dollars for each violation and for each day, the applicable violation continues to persist.
- E. Any person in violation of any provision of this chapter may be subject to an administrative fine of up to a one thousand dollars per offense.

- F. Revocation of Conditional Use Permit. Any violation of this chapter or any other relevant city or state law or regulation by a commercial cannabis business is grounds for revoking the relevant conditional use permit by the planning commission, including, but not limited to, the following:
1. The director of community and economic development determines that the operator allowed by a conditional use permit has failed to comply with this chapter, any condition of approval, or any agreement or covenant as required pursuant to this chapter.
  2. The operations and/or the particular commercial cannabis activity permitted by a conditional use permit cease for more than one year.
  3. The city permittee and/or operator of the commercial cannabis business that is the subject of a conditional use permit fails to obtain and maintain a state license. Revocation, termination, non-issuance or suspension of a license issued by the state of California, or any of its departments or divisions, shall immediately suspend the conditional use permit and the ability of a commercial cannabis business to operate within the city until the state of California, or its respective department or division, reinstates or issues the state license. The city may suspend and/or revoke a conditional use permit in the event the state takes action against the commercial cannabis business and/or its operators, employees, or agents.
  4. Ownership of the use allowed by a conditional use permit is changed or transferred to a third party, without approval from the planning commission.
  5. The use allowed by a conditional use permit fails to materially comply with its approved security plan.
  6. The use allowed by a conditional use permit fails to provide access to the security cameras to the chief of police, or fails to allow inspection of the security recordings, the activity logs, or of the premises by authorized city officials.
  7. The development agreement entered into as part of the conditional use permit process becomes void.
  8. The property and/or the commercial cannabis business and/or activities conducted thereon are declared a public nuisance negatively impacting the health, safety, or welfare of the community.
- G. The director of community and economic development shall schedule the conditional use permit for possible revocation or any other action deemed appropriate by the planning commission. Notice of such hearing shall be provided to the property owner, business operator, and public as is required for any conditional use permit by Section 18.66 of the La Habra Municipal Code. Any decision made by the planning commission is final ten working days after such determination, unless appealed to the city council. Notice of such hearing before the city council shall be provided to the property owner, business operator, and public as required for any conditional use permit. The appeal shall be processed in compliance with Section **18.22.105**.

(Ord. 1791 § 3, 2018; Ord. 1827 §§ 16—18, 2020)

## § 18.22.105. Appeals.

### A. Written Request for Appeal.

1. Within ten calendar days after the date of a decision of the community and economic development director or designee(s) and or the planning commission to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the city clerk setting forth the reasons why the decision was not proper.
2. At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the city council from time to time.

### B. Appeal Hearing Process.

1. Upon receipt of the written appeal, the city clerk shall set the matter for a hearing before the city council. The city council shall hear the matter de novo and shall conduct the hearing pursuant to the procedures set forth by the city.
2. The appeal shall be held within a reasonable time after date of filing, but in no event later than forty-five working days from that date. The city shall notify the appellant of the time and location at least ten days prior to the date of the hearing.
3. At the hearing, the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
4. The city council may grant or deny the appeal and may issue appropriate orders and/or instruction. All decisions of the city council shall be final.

(Ord. 1827 § 19, 2020)

## § 18.22.110. State and city license requirement.

- A. State License. Commercial cannabis operations permitted through a conditional use permit by the city of La Habra must obtain the appropriate state license, either an A-License or M-License or both A-License and M-License, within six months of the building permit becoming final and prior to business operation. Failure to obtain the required state license, will result in the automatic expiration of the conditional use permit. Except as otherwise set forth in this chapter, there shall be no prohibitions or restrictions on an M-Permittee obtaining and holding an A-Permit in the specific classification, or an A-Permittee obtaining and holding an M-Permit or vice versa unless a specific condition has been placed on the facility by the planning commission.
- B. City Business License. An application for a commercial cannabis business license shall be consistent with this chapter, section and regulations adopted by the city council. Each commercial cannabis business license issued by this chapter shall be renewed annually twelve months after the date of its issuance. The issuance of a commercial cannabis business license shall not entitle any person to engage in any cannabis business without first complying with the requirements of this code and all other applicable laws.
- C. City Business License Denial. A commercial cannabis business license can be denied or revoked if any of the following exists:
  1. The conditional use permit is suspended or revoked that allows for the commercial cannabis activity.
  2. The commercial cannabis business has not been in continuous operation the four months prior to the renewal application.
  3. The commercial cannabis business fails to conform to the requirements of this chapter, any regulations adopted pursuant to this chapter, or the conditions imposed as part of any conditional use permit or zoning requirements.
  4. The permittee fails to renew its state of California license.

(Ord. 1791 § 3, 2018)

## § 18.22.112. Nonconforming use.

No use which purports to have provided cannabis prior to enactment of this chapter shall be deemed to have been a legally established use under the provisions of the city of La Habra Zoning Code, the La Habra Municipal Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

(Ord. 1827 § 20, 2020)