

## **Chapter 6.11 COMMERCIAL ADULT-USE CANNABIS BUSINESS.**

### Table of Contents

- 6.11.010 Purpose and intent.
- 6.11.020 Legal authority.
- 6.11.030 Commercial adult-use cannabis activities prohibited unless specifically authorized.
- 6.11.040 Compliance with laws.
- 6.11.050 Definitions.
- 6.11.060 Commercial adult-use cannabis business license required to engage in commercial adult-use cannabis business.
- 6.11.070 Authorized commercial adult-use cannabis businesses.
- 6.11.080 Co-location of medicinal and commercial adult-use cannabis businesses.
- 6.11.090 Persons prohibited from holding a commercial adult-use cannabis business license.
- 6.11.100 Expiration of commercial adult-use cannabis business licenses.
- 6.11.110 Revocation of commercial adult-use cannabis business licenses.
- 6.11.120 Effect of State license suspension, revocation, or termination.
- 6.11.130 Renewal of commercial adult-use cannabis business licenses.
- 6.11.140 Change in location or other information.
- 6.11.150 Transfer of commercial adult-use cannabis business.
- 6.11.160 Commercial adult-use cannabis business employee requirements.
- 6.11.170 Location and design of commercial adult-use cannabis businesses.
- 6.11.180 Standards for measurement of separation distances.
- 6.11.190 Records and recordkeeping.
- 6.11.200 Security measures.
- 6.11.210 Requirements prior to commencement of commercial adult-use cannabis business operation.
- 6.11.220 Operating requirements for all commercial adult-use cannabis businesses.
- 6.11.230 Operating requirements for cultivation facilities.
- 6.11.240 Operating requirements for distributors.
- 6.11.250 Operating requirements for manufacturing facilities.
- 6.11.260 Operating requirements for testing labs.
- 6.11.270 Commercial adult-use cannabis business license application process.
- 6.11.280 Limitations on City's liability.
- 6.11.290 Promulgation of regulations, standards, and other legal duties.
- 6.11.300 Appeals.
- 6.11.310 Fees deemed debt to the City of La Mesa.
- 6.11.320 Commercial adult-use cannabis business license holder responsible for violations.
- 6.11.330 Inspection and enforcement.
- 6.11.340 Violations declared a public nuisance.
- 6.11.350 Each violation a separate offense.
- 6.11.360 Criminal penalties.
- 6.11.370 Remedies cumulative and not exclusive.

#### **6.11.010 Purpose and intent.**

It is the purpose and intent of Chapter 6.11 to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act (hereinafter “MAUCRSA”) to provide access to adult-use for persons over the age of 21 as authorized by the Control, Regulate and Tax Adult Use Marijuana Act (“AUMA” or “Proposition 64” passed by California voters in 2016). Further, it is the intent of Chapter 6.11 to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution, and transportation of adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of the City of La Mesa; to impose regulations on the use of land; and to enforce rules and regulations consistent with State law. Chapter 6.11 requires all adult-use commercial cannabis operators to obtain and renew annually a license to operate within the City of La Mesa. The provisions of Chapter 6.11 are in addition to any other licenses, licenses and approvals which may be required to conduct business in the City of La Mesa.

#### **6.11.020 Legal authority.**

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, the provisions of the MAUCRSA, and any subsequent State legislation and/or regulations regarding same, the City of La Mesa is authorized to adopt ordinances that establish standards, requirements and regulations for the licensing of commercial adult-use cannabis business. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of La Mesa to all commercial adult-use cannabis business.

#### **6.11.030 Commercial adult-use cannabis activities prohibited unless specifically authorized.**

Except as specifically authorized in Chapter 6.11, the adult-use commercial cultivation, manufacture, processing, storing, laboratory testing, labeling, sale, distribution or transportation (other than as provided under Business and Professions Code Section 26090(e)), of adult-use cannabis or cannabis product is expressly prohibited in the City of La Mesa.

#### **6.11.040 Compliance with laws.**

It shall be the responsibility of the owners and the operators of the adult-use commercial cannabis business to ensure that the adult-use commercial cannabis business is, at all times, operating in a manner compliant with all applicable federal, State and local laws, including the MAUCRSA, and any subsequently enacted State law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the commercial adult-use cannabis business license.

### **6.11.050 Definitions.**

When used in Chapter 6.11, the following words shall have the meanings ascribed to them as set forth herein. The definitions of terms provided in Business and Professions Code Section 26001, as that Section may be amended or succeeded, shall be incorporated herein by reference, except as any of those terms may be defined differently herein.

- A. "Bureau" means the Bureau of Cannabis Control within the Department of Consumer Affairs, formerly named the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, the Bureau of Medical Marijuana Regulation, and any future names of the Bureau.
- B. "City Manager" means the City Manager of the City of La Mesa or his/her designee.
- C. "Co-location commercial adult-use cannabis business license" means a type of commercial adult-use cannabis business license that consists of co-locating a commercial adult-use cannabis business at the location of a medicinal-use cannabis business approved under Measure "U" (La Mesa Municipal Code (LMMC) Chapter 24.23).
- D. "Commercial adult-use cannabis business license" means a regulatory license issued by the City of La Mesa pursuant to Chapter 6.11 to an adult-use commercial cannabis business and is required before any adult-use commercial cannabis business may be conducted in the City.
- E. "Director" means the Director of Community Development.
- F. "Dispensing" means any activity involving the retail sale of cannabis or cannabis products from a retailer.
- G. "Edible cannabis product" has the same meaning as in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- H. "Employee" means Any person who is an employee or anyone acting in whole or in part in the capacity of an employee
- I. "Indoor cultivation" cultivation of cannabis within a permanent structure that exclusively uses artificial light, or within any type of structure that uses artificial light, at a rate above 25 watts per square foot.
- J. "Licensee" means any person holding a license under this division, regardless of whether the license held is an A-license (adult use) or an M-license (medicinal) and includes the holder of a testing laboratory license.
- K. "Limited-access area" means an area in which cannabis goods are stored or held and is only accessible to a licensee and its employees and authorized individuals.

- L. "Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5.
- M. "Treatment Center" means a medical treatment or counseling facility licensed by the California Department of Health Care Services and located outside of a residential zone that treats persons with addictive disease or mental health conditions.
- N. "Youth Center" means any public or private facility that is primarily used to host recreation or social activities for minors, including but not limited to, any after school program (officially designated by a school or school district), teen center, club for boys and/or girls, children's theater, children's museum, youth membership organizations or clubs, social service teen club facilities, or similar uses or facilities. It shall also include a park, playground or recreational area specifically designed to be used by children which has play equipment installed, including public or private grounds, designed for athletic activities such as baseball, softball, soccer or basketball. For purposes of this subsection, primarily means serving or used by a majority of persons of minority age (less than 18 years old) on a routine basis.

**6.11.060 Commercial adult-use cannabis business license required to engage in commercial adult-use cannabis business.**

No person may engage in any commercial adult-use cannabis business unless the person (1) has a valid commercial adult-use cannabis business license from the City of La Mesa; (2) has all applicable State licenses and permits; and (3) is currently in compliance with all applicable State and local laws and regulations pertaining to the commercial adult-use cannabis business and the commercial adult-use cannabis activities.

**6.11.070 Authorized commercial adult-use cannabis businesses.**

- A. Commercial adult-use cannabis businesses (retail storefront, cultivation, manufacturing) may be co-located with any medicinal-use cannabis business of the same type that is validly permitted and licensed pursuant to Measure "U" (LMMC Chapter 24.23) and this Chapter.
- B. The following commercial adult-use cannabis businesses may be authorized pursuant to this Chapter without co-location with a medicinal-use cannabis business validly permitted and licensed under Measure "U" (LMMC Chapter 24.23):
  - 1. Cultivation, limited to only State License Type 1A, Specialty Indoor, Small, using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, and State License Type 4, Nursery, using exclusively artificial light and located within an enclosed building.
  - 2. Manufacturing.

3. Distribution.
4. Testing Laboratory.

**6.11.080 Co-location of medicinal and commercial adult-use cannabis businesses.**

- A. A medicinal-use cannabis business validly licensed pursuant to Measure “U” (LMMC Chapter 24.23) may additionally conduct commercial adult-use cannabis business on the same site and as part of the same operation upon issuance of a co-location commercial adult-use cannabis business license. The City Manager shall issue said license after determining said licensee is in good standing with Chapter 24.23 and other relevant local or State requirements, and that the co-location application demonstrates compliance with the standards and provisions of LMMC Chapter 6.11 and any additional performance and operating standards promulgated by the City Manager to carry out the purposes of Chapter 6.11 pursuant to Section 6.11.290.
- B. A co-location application shall be accompanied by a nonrefundable application fee established by resolution of the City Council.
- C. The authorization to conduct both medicinal and adult-use operations does not relieve an operator from all applicable tax obligations, including paying different tax rates for medicinal-use and adult-use cannabis business activities.

**6.11.090 Persons prohibited from holding a commercial adult-use cannabis business license.**

Any person, including but not limited to any individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular in which any of the following actions or notices have been issued in non-compliance, shall be prohibited from holding a commercial adult-use cannabis business license in the City of La Mesa and shall be grounds for denial of a local license:

- A. The applicant has been officially notified by the City that they are or were conducting commercial adult-use cannabis business in violation of Chapter 24.23 or this Chapter.
- B. The applicant was conducting commercial adult-use cannabis business in the City of La Mesa and convicted of a felony. A conviction is complete upon entry of judgment upon a finding of guilty, or upon entry of a plea of guilty, or upon entry of a plea of nolo contendere or “no contest,” regardless of the pendency of any appeal, or expungement pursuant to California Penal Code Section 1203.4, 1203.4a, or 1203.41.
- C. No person shall be issued a commercial adult-use cannabis business license to operate who enters into an agreement to lease, sublease or any other agreement, regardless of whether it is verbal or in writing to any terms of use of the premises from a property owner, commercial broker or any third party, that is

in violation of Section 6.11.090 unless that property is leased at fair market value and such lease, sublease or agreement does not have any terms or conditions for the cannabis license licensee to pay the property owner, commercial broker, or any third party a percentage of gross receipts, royalties, equity, or other unreasonable compensation as determined by the City. In addition, all leases, subleases, or other agreements shall be based on a monthly rate.

**6.11.100 Expiration of commercial adult-use cannabis business licenses.**

- A. A commercial adult-use cannabis business license issued pursuant to Chapter 6.11 shall expire twenty-four (24) months after the date of its issuance.
- B. A co-location commercial adult-use business license issued pursuant to Chapter 6.11 shall expire concurrently with the expiration of the conditional use permit for the medicinal-use cannabis business authorized under Measure “U.”
- C. Commercial adult-use cannabis licenses may be renewed as provided in Section 6.11.130.

**6.11.110 Revocation of commercial adult-use cannabis business licenses.**

Commercial adult-use cannabis business licenses may be revoked for conviction of a felony any State law and/or the violation of any local rule, ordinance, regulation or operational procedures, and/or standards promulgated adopted pursuant to Chapter 6.11. A conviction is complete upon entry of judgment upon a finding of guilty, or upon entry of a plea of guilty, or upon entry of a plea of nolo contendere or “no contest,” regardless of the pendency of any appeal, or expungement pursuant to California Penal Code Section 1203.4, 1203.4a, or 1203.41.

**6.11.120 Effect of State license suspension, revocation, or termination.**

- A. Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a commercial adult-use cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license.
- B. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a commercial adult-use cannabis business, such revocation or termination shall also revoke or terminate the ability of a commercial adult-use cannabis business to operate within the City of La Mesa.

**6.11.130 Renewal of commercial adult-use cannabis business licenses.**

- A. An application for renewal of a commercial adult-use cannabis business license shall be filed at least sixty (60) calendar days prior to the expiration date of the current license.
- B. The renewal application shall contain all the information required for new applications.

- C. The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal license application, together with any costs incurred by the City to administer and monitor the program created under LMMC Chapter 6.11.
- D. An application for renewal of a commercial adult-use cannabis business license shall be rejected if any of the following exists:
  - 1. The application is filed less than sixty (60) days before its expiration.
  - 2. The commercial adult-use cannabis business license is suspended or revoked at the time of the application.
  - 3. The commercial adult-use cannabis business has not operated less than 90 days in the 180 days prior to the submittal of the renewal application.
  - 4. The commercial adult-use cannabis business has violated the requirements of LMMC Chapter 6.11, or of any regulations adopted pursuant to Chapter 6.11.
  - 5. The licensee fails or is unable to renew its State of California license.
- E. The Director is authorized to make all decisions concerning the issuance of a renewal license. In making the decision, the Director is authorized to impose additional conditions to renewal of a license if it is determined to be necessary to ensure compliance with State or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the Director shall be handled pursuant to LMMC Section 6.11.300.
- F. If a renewal application is rejected, a person may file a new application pursuant to LMMC Chapter 6.11 no sooner than one (1) year from the date of the rejection.

**6.11.140 Change in location or other information.**

- A. Prior to any change of location for the dispensing, cultivation, manufacturing, transportation, or distribution location specified in the commercial adult-use business license is changed; the applicant shall file an application with the City of La Mesa Community Development Department. The process and the fees for application shall be the same as the process and fees set forth for application in Section 6.11.270.
- B. Within fifteen (15) calendar days of any other change in the information provided in the application form or any change in status of compliance with the provisions of Chapter 6.11, including any change in the commercial adult-use cannabis business management members, the applicant shall file an updated application form with the City Manager for review, which shall be accompanied by a nonrefundable application fee established by resolution of the City Council.

**6.11.150 Transfer of commercial adult-use cannabis business license.**

- A. The owner of a commercial adult-use cannabis business license shall not transfer ownership or control of the license to another person or entity unless and until the transferee obtains an amendment to the license from the City Manager stating that the transferee is now the licensee. Such an amendment may be obtained only if the transferee files an application with the City Manager in accordance with all provisions of Chapter 6.11, as though the transferee were applying for an original commercial cannabis adult-use business license, accompanied by a fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the application fee), and the City Manager determines, after hearing, in accordance with this Section that the transferee passed the background check required for licensees and meets all other requirements of Chapter 6.11.
- B. Commercial adult-use cannabis business licenses issued through the grant of a transfer by the City Manager shall be valid for a period of one year beginning on the day the City Manager approves the transfer of the license. A transferred license may be renewed in accordance with Section 6.11.150.
- C. Changes in ownership of a licensee's business structure or a change in the ownership of a licensee business entity shall be approved by the City Manager through the transfer process contained in this Section. Failure to comply with this provision is grounds for license revocation.
- D. A licensee may change the form of business entity without applying to the City Manager for a transfer of license, provided that either:
  - 1. If the original licensee is an unincorporated association, mutual or public benefit corporation, agricultural or consumer cooperative corporation and subsequently transitions to or forms a new business entity as allowed under the MAUCRSA, provided that the Board of Directors, or in the case of an unincorporated association, the individual(s) listed on the City license application, of the original licensee entity are the same as the new business entity.
  - 2. The license holder is required to notify the City Manager in writing of the change within ten (10) working days of the change. Failure to comply with this provision is grounds for license revocation.
- E. No commercial adult-use cannabis business license may be transferred when the City Manager has notified the licensee that the license has been or may be suspended or revoked.
- F. Any attempt to transfer a commercial adult-use cannabis business license either directly or indirectly in violation of this Section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the license.



**6.11.160 Commercial adult-use cannabis business employee requirements.**

- A. An employee within a commercial adult-use cannabis business shall be legally authorized to do so under applicable State law.
- B. Prior to employment in a commercial adult-use cannabis business facility, all persons shall undergo fingerprinting. The fingerprints shall be provided to and kept on file with the City.
- C. The City shall conduct a background check of all employees. Any person who has been convicted of a felony or is required to register as a controlled substance offender pursuant to Health and Safety Code Section 11590, as determined by the Chief of Police, shall not act as an employee in a commercial adult-use cannabis business facility. A conviction is complete upon entry of judgment upon a finding of guilty, or upon entry of a plea of guilty, or upon entry of a plea of nolo contendere or “no contest,” regardless of the pendency of any appeal, or expungement pursuant to California Penal Code Section 1203.4, 1203.4a, or 1203.41.
- D. The cost of the fingerprinting and the background check shall be borne by the applicant.

**6.11.170 Location and design of commercial adult-use cannabis businesses.**

- A. All commercial adult-use cannabis businesses shall be subject to the requirements of this Section 6.11.170, as applicable.
- B. All retail commercial adult-use cannabis businesses shall be located on property zoned M (Industrial Service and Manufacturing), CM (Light Industrial and Commercial Service) or C (Commercial) and shall meet all of the requirements for development in these zones.
- C. All properties in which the retail commercial adult-use cannabis business is located shall be no closer than one thousand (1,000) feet, as measured according to Section 6.11.180, from any of the following that are in existence at the time of application submittal and that continue to be in existence at the time a decision is made on the phase two application:
  - 1. A school providing instruction in kindergarten or any grades 1 through 12, whether public, private, or charter, including pre-school, transitional kindergarten, and K-12.
  - 2. A commercial daycare center licensed by the City, State, or County.
  - 3. A youth center, including a public or private park.
  - 4. A Treatment Center.
  - 5. A retail commercial adult-use and/or medicinal cannabis business; except for co-location permitted in accordance with Section 6.11.080.
- D. All commercial adult-use cannabis businesses which do not conduct retail sales shall be located on property zoned M (Industrial Service and Manufacturing).

- E. All commercial adult-use cannabis businesses are prohibited in residential zones.
- F. Each proposed commercial adult-use cannabis business project shall:
  - 1. Conform to the City's general plan, any applicable specific plans, master plans, and design requirements.
  - 2. Comply with all applicable zoning and related development standards.
  - 3. Be constructed in a manner that minimizes odors to surrounding uses, and promotes quality design and construction, and consistency with the surrounding properties.
  - 4. Be adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and all items required for the development.
  - 5. Be served by streets and/or highways adequate in width and improved as necessary to carry the kind and quantity of traffic such use will generate.
  - 6. Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.

**6.11.180 Standards for measurement of separation distances.**

- A. Except for schools, the separation distance between uses shall be measured horizontally in a continuous series of straight lines that connect the two closest "measuring points" of each business or use as set forth herein, below:
  - 1. For a commercial adult-use cannabis business, the "measuring point" shall be the center point of any public entrance.
  - 2. For a day care center, youth center, or treatment center, the "measuring point" shall be the center point of any public entrance.
  - 3. For a public park or private park, the "measuring point" shall be the point located on the legal parcel boundary line abutting a public street or zone line, as applicable, that is closest to the "measuring point" of the commercial adult-use cannabis business.
- B. For schools, the separation distance shall be measured in a radius outwardly from the exterior surface of the exterior walls and/or the center of partition walls surrounding the building area proposed to be occupied by the commercial adult-use cannabis business.
- C. Measurements between public entrances shall start at the "measuring point" of the commercial adult-use cannabis business and proceed in a continuous line to the closest property line of the public street, measured perpendicularly to the public street. The measurement shall then continue along the property lines of the public street fronts and in a direct line across intersections along the shortest safely traversable pedestrian route, with or without marked crosswalks, toward the "measuring point" of the separated use until it reaches such "measuring point".

- D. Measurements between public entrances and legal parcel boundary lines shall start at “measuring point” of the commercial adult-use cannabis business and proceed in a continuous line to the closest property line of the public street, measured perpendicularly to the public street. The measurement shall then continue along the property lines of the public street frontage(s), and in a direct line across intersections along the shortest safely traversable pedestrian route, with or without marked crosswalks, towards the “measuring point” of the separated use until it reaches such “measuring point”.
- E. Interpretations and determinations of compliance with the requirements of this Section and the calculation of separation distances shall be made by the Director. Exhibits from a Licensed Land Surveyor may be required by the City to make a final decision on compliance with the separation requirements of this subsection.

#### **6.11.190 Records and recordkeeping.**

- A. Each owner and operator of a commercial adult-use cannabis business shall maintain accurate books and records in an electronic format, detailing all of the revenues and expenses of the business, and all of its assets and liabilities.
- B. On no less than an annual basis at or before the time of the renewal of a commercial adult-use cannabis business license issued pursuant to Chapter 6.11, or at any time upon reasonable request of the City, each commercial adult-use cannabis business shall file a sworn statement detailing the number of sales by the commercial adult-use cannabis business during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.
- C. On an annual basis, each owner and operator of a commercial adult-use business shall submit to the City a financial audit of the business’s operations conducted by an independent certified public accountant. Each licensee shall be subject to a regulatory compliance review and financial audit as determined by the City Manager.
- D. Each owner and operator of a commercial adult-use cannabis business shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the commercial adult-use cannabis business, and separately of all the officers, managers, employees, and agents currently employed or otherwise engaged by the commercial adult-use cannabis business. The register required by this paragraph shall be provided to the City Manager upon a reasonable request.
- E. All commercial adult-use cannabis businesses shall maintain an inventory control and reporting system that accurately documents the present location, amounts, and descriptions of all cannabis and cannabis products for all stages of the growing and production or manufacturing, laboratory testing and distribution processes until purchase as set forth in the MAUCRSA.

- F. Each commercial adult-use cannabis business shall allow the City of La Mesa officials to have access to the business's books, records, and accounts, together with any other data or documents relevant to its licensed commercial adult-use cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents shall be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City. The City may require the materials to be submitted in an electronic format that is compatible with the City's software and hardware.

#### **6.11.200 Security measures.**

- A. A licensed commercial adult-use cannabis business shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products, and to deter and prevent the theft of cannabis or cannabis products at the commercial adult-use cannabis business. Except as may otherwise be determined by the City Manager, these security measures shall include, but shall not be limited to, all of the following:
1. A real-time alarm system, with perimeter, fire, and panic buttons, professionally installed, maintained, and remotely monitored by a security company licensed by the State of California Bureau of Security and Investigative Services. Panic buttons shall have direct notification to La Mesa Police Department dispatch, and shall be configured to immediately alert dispatch for the La Mesa Police Department.
  2. Perimeter security and lighting systems, including motion sensors, as approved by the Police Chief and Director or his/her designee. Sensors shall be installed to detect entry and exit from all secure areas, and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
  3. Individuals shall be prevented from remaining on the premises of the commercial adult-use cannabis business if they are not engaging in an activity directly related to the licensed operations of the commercial adult-use cannabis business.
  4. Establishment of limited access areas accessible only to authorized commercial adult-use cannabis business personnel.
  5. Except for live growing plants which are being cultivated at a cultivation facility, all cannabis and cannabis products shall be stored in a secured and locked vault or vault equivalent. Products outside of a secured vault are for display only and no visual storage is licensed.
  6. All safes and vaults shall be compliant with Underwriter Laboratories burglary-resistant and fire-resistant standards.
  7. All cannabis and cannabis products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

8. Security surveillance cameras
  - a. Installation of 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the commercial adult-use cannabis business which are open and accessible to the public, all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur.
  - b. The interior of the commercial adult-use cannabis business shall have at least one camera placed to focus on each transaction, to include the clerk as well as the customer waiting area.
  - c. At least one camera shall be focused on the entrance and placed at face level. The camera view shall clearly show an image of a color-coded height tape installed on the inside of the door jamb and shall capture and record every individual coming and going from the business for identification purposes.
  - d. All cameras shall record in color.
  - e. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions.
  - f. The commercial adult-use cannabis business shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the La Mesa Police Department and that it is compatible with the City's software and hardware. In addition, remote, real-time, live access to the video footage from the cameras shall be provided to the La Mesa Police Department. Internet Protocol address information shall be provided to the La Mesa Police Department to facilitate remote monitoring of security cameras by the Department or its designee.
  - g. Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the La Mesa Police Department or City Manager upon request.
  - h. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial adult-use cannabis business, and shall be capable of enlargement via projection or other means.
9. Any bars installed on the windows or the doors of the commercial adult-use cannabis business shall be installed only on the interior of the building.
10. Armed security personnel shall be on-site 24 hours a day or alternative security as authorized by the City Manager, except for a commercial adult-use cannabis retail business, which shall have security personnel during operating hours, but may have a verified response security patrol when closed. Security personnel shall be licensed by the State of California Bureau

of Security and Investigative Services and shall be subject to the prior review and approval of the City Manager, with such approval not to be unreasonably withheld.

11. Each commercial adult-use cannabis business shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
  12. Entrance areas shall be locked at all times and under the control of a designated applicant that is either; (a) an employee of the commercial adult-use cannabis business; or (b) a licensed security professional.
  13. Each commercial adult-use cannabis business shall demonstrate to the Police Chief and the City Manager, or their designees, compliance with the State's track and trace system for cannabis and cannabis products, as soon as it is operational.
  14. Each commercial adult-use cannabis business shall have state of the art network security protocols in place to protect computer information and all digital data.
  15. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.
- B. Each commercial adult-use cannabis business shall identify a designated security representative/liaison to the City of La Mesa, who shall be reasonably available to meet with the City Manager regarding any security related measures or any operational issues. The designated security representative/liaison shall, on behalf of the commercial adult-use cannabis business, maintain a copy of the current security plan on the premises of the business, to present to the City Manager upon request that meets the following requirements:
1. Confirms that a designated manager will be on duty during business hours and will be responsible for monitoring the behavior of patrons.
  2. Identifies all managers of the commercial adult-use cannabis business and their contact phone numbers.
  3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the manager's office.
  4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.
  5. Identify a sufficient number of licensed, interior and exterior security personnel who will monitor individuals inside and outside the commercial adult-use cannabis business, the parking lot, and any adjacent property under the business' control.
  6. Confirm that the licensed security personnel shall regularly monitor the parking lot and any adjacent property to ensure that these areas are: (a) free

of individuals loitering or causing a disturbance; (b) are cleared of patrons and their vehicles one-half hour after closing.

- C. As part of the application and licensing process each commercial adult-use cannabis business shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
- D. The commercial adult-use cannabis business shall cooperate with the City whenever the City Manager makes a request, without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of Chapter 6.11.
- E. A commercial adult-use cannabis business shall notify the City Manager within twenty-four (24) hours after discovering any of the following:
  - 1. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager.
  - 2. Diversion, theft, loss, or any criminal activity involving the commercial adult-use cannabis business or any agent or employee of the commercial adult-use cannabis business.
  - 3. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the commercial adult-use cannabis business.
  - 4. Any other breach of security.
- F. Compliance with the foregoing requirements shall be verified by the City Manager prior to commencing business operations. The City Manager or his/her designee may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the business owner.

**6.11.210 Requirements prior to commencement of commercial adult-use cannabis business operation**

Prior to commencing operations under a City-issued commercial adult-use cannabis business license, in addition to any and all other applicable State and local requirements, a City licensee shall comply with the following requirements:

- A. No licensee may begin operations, notwithstanding the issuance of a license, unless all of the State and local laws and regulations, including but not limited to the requirements of this Chapter and of the license, have been complied with and until a State license is available and obtained by the licensed operator as set forth in this Chapter.
- B. No person may commence or continue any commercial adult-use cannabis business in the City, without timely paying in full all fees and charges required for the operation of a commercial adult-use cannabis business. Fees and charges associated with the operation of a commercial adult-use cannabis business shall be established by resolution of the City Council which may be amended from time to time.

- C. Obtain a City of La Mesa business license prior to operation.
- D. Prior to commencing operations, a commercial adult-use cannabis business shall be subject to a mandatory building inspection and shall obtain all required licenses and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building license(s), the Fire Department approvals, Health Department approvals and other planning, zoning and land use license(s) and approvals.
- E. Obtain final security plan approval from the Police Chief for the premises and operation of the commercial adult-use cannabis business.
- F. Obtain final safety approval from the Fire Chief for the premises and operation of the commercial adult-use cannabis business.
- G. Submit proof that the necessary State License has been obtained and that the applicant remains in good standing thereunder.
- H. Submit proof of insurance at coverage limits and with conditions thereon determined necessary and appropriate by the City's insurance and claims administrator.
- I. Demonstrate compliance with any and all pre-opening operational requirements that may apply as specified in Chapter 6.11, and the ability to comply with all applicable and ongoing operational requirements.

**6.11.220 Operating requirements for all commercial adult-use cannabis businesses.**

- A. All commercial adult-use cannabis businesses authorized to operate under Chapter 6.11 shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, State and local law. Each commercial adult-use cannabis business shall cooperate with the City with respect to any reasonable request to audit the commercial adult-use cannabis business' books and records for the purpose of verifying compliance with this Section, including but not limited to a verification of the amount of taxes required to be paid during any period.
- B. Commercial adult-use cannabis businesses may operate only between the hours of 7:00 a.m. and 9:00 p.m. The hours of operation for a particular commercial adult-use cannabis business may be further limited based on review of the application, and specified in the commercial adult-use cannabis business license issued by the City.
- C. Cannabis shall not be consumed by any owner, vendor, employee, agents or any customer on the premises of any commercial cannabis business.
- D. No cannabis or cannabis products shall be placed for display such that the cannabis or cannabis products are readily visible and discernible from the exterior of any property issued a commercial adult-use cannabis business license.



- E. No cannabis or cannabis products shall be visible from the exterior of any of the vehicles owned or used as part of the commercial adult-use cannabis business.
- F. No graphics depicting cannabis or cannabis products shall be visible from the exterior of any property issued a commercial adult-use cannabis business license, or on any of the vehicles owned or used as part of the commercial adult-use cannabis business.
- G. Outdoor storage of cannabis or cannabis products shall be prohibited at all times.
- H. Each commercial adult-use cannabis business shall have in place a point-of-sale or management inventory tracking system to track and report on all aspects of the commercial adult-use cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, gross sales (by weight and by sale) and other information which may be deemed necessary by the City. The commercial adult-use cannabis business shall ensure that such information is compatible with the City's record-keeping systems. In addition, the system shall have the capability to produce historical transactional data for review. Furthermore, any system selected shall be approved and authorized by the City Manager prior to being used by the licensee.
- I. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- J. Each commercial adult-use cannabis business shall provide the City Manager with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.
- K. Restriction on alcohol & tobacco sales
  - 1. No person shall cause or license the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the commercial adult-use cannabis business.
  - 2. No person shall cause or license the sale or tobacco products on or about the premises of the commercial adult-use cannabis business.
- L. Minors.
  - 1. Persons under the age of twenty-one (21) years shall not be allowed on the premises of a commercial adult-use cannabis business.
  - 2. Persons under the age of twenty-one (21) years shall not be allowed to serve as a driver for a delivery.
  - 3. It shall be unlawful and a violation of Chapter 6.11 for any person to employ any person at a commercial adult-use cannabis business who is not at least twenty-one (21) years of age.
  - 4. Notwithstanding subsection G1, access to licensed premises of a retail commercial adult-use cannabis business approved for co-location as per

Section 6.11.080 shall be allowed for persons who are at least eighteen (18) years of age and possess a valid physician's recommendation.

M. Signage and notices.

1. No signs placed on the premises of a commercial adult-use cannabis business shall obstruct any entrance or exit to the building or any window.
2. Each entrance to a commercial adult-use cannabis business shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial adult-use cannabis business is prohibited.
3. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. Properly permitted signs in existence at the time of adoption of this ordinance that do not comply with this provision may remain in place. Such signs may be maintained as originally permitted, but any new or replacement sign must comply with this provision.
4. No commercial adult-use cannabis business shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial adult-use cannabis business or elsewhere including, but not limited to, the public right-of-way.
5. In accordance with State law and regulations or as stipulated in the City of La Mesa regulatory license, holders of a commercial adult-use cannabis business license shall agree that, as an express and ongoing condition of license issuance and subsequent renewal, the holder of the license shall be prohibited from advertising any commercial adult-use cannabis business located in the City of La Mesa utilizing a billboard (fixed or mobile), banner, flags, bus shelter, placard, aircraft, or other similar forms of advertising, anywhere in the State. This paragraph is not intended to place limitations on the ability of a commercial adult-use cannabis business to advertise in other legally authorized forms, including on the internet, in magazines, or in other similar ways.
6. The entrance to the commercial adult-use 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 licensed to enter upon the premises of the commercial adult-use cannabis business.
7. Notwithstanding subsection G6, the entrance to a retail commercial adult-use cannabis business approved for co-location as per Section 6.11.080 shall be clearly and legibly posted with a notice that no person under the age of twenty-one (21) years of age is licensed to enter the premises, except for persons that are at least eighteen (18) years of age and possess a valid physician's recommendation.

N. Odor control devices and techniques shall be incorporated in all commercial adult-use cannabis businesses to ensure that odors from cannabis are not

detectable off-site. Commercial adult-use cannabis businesses shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial adult-use 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 commercial adult-use cannabis business. As such, commercial adult-use cannabis businesses shall install and maintain the following equipment, or any other equipment which the Director or his/her designee(s) determine is a more effective method or technology:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally;
  2. An air system that creates negative air pressure between the commercial adult-use cannabis business's interior and exterior, so that the odors generated inside the commercial adult-use cannabis business are not detectable on the outside of the commercial adult-use cannabis business.
- O. The original copy of the commercial adult-use cannabis business license issued by the City pursuant to Chapter 6.11 and the City-issued business license shall be posted inside the commercial adult-use cannabis business in a location readily visible to the public.
- P. Pursuant to California Penal Code Sections 11105(b)(11) and 13300(b)(11), which authorizes City authorities to access State and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an owner, manager, supervisor, employee of the commercial adult-use cannabis business shall submit fingerprints and other information deemed necessary by the Police Chief or his/her designee(s) for a background check by the City of La Mesa's Police Department.
- Q. Pursuant to California Penal Sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a license to operate a commercial adult-use cannabis business or be employed unless they have first cleared the background check, as determined by the Police Chief or his/her designee(s), as required by this Section. A fee for the cost of the background investigation, which shall be the actual cost to the City of La Mesa to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial adult-use cannabis business license is submitted.
- R. Licensee shall not permit loitering on the premises of the site authorized for any commercial, medicinal, or adult-use cannabis activity or within the public right-of-way within or immediately adjacent to the premises. For purposes of this Section,

the term “loitering” shall mean remaining or lingering in or around the premises so authorized with no apparent purpose or reason related to the business located thereon.

- S. Prior to the establishment of any commercial adult-use cannabis business or the operation of any such business, the person intending to establish a commercial adult-use cannabis business shall first obtain all applicable planning, zoning, building, and other applicable licenses from the relevant governmental agency which may be applicable to the zoning district in which such commercial adult-use cannabis business intends to establish and to operate.
- T. Provide proof of a bond in the amount of \$5,000 to cover the costs of destruction of commercial adult-use cannabis products if necessitated by a violation of licensing requirements pursuant to applicable laws.

#### **6.11.230 Operating requirements for cultivation facilities.**

- A. Only indoor cultivation of cannabis, limited to State License Type 1A, Specialty Indoor, Small, using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, and State License Type 4, Nursery, using artificial light is permitted. Outdoor cultivation with natural light or mixed light, including within crop-protection devices such as, but not limited to, hoop houses or greenhouses, shall be prohibited.
- B. No public access or sales shall be allowed on the premise. Only directors, officers, managers, employees, contractors of the cultivation facility shall be present on the premises. Transporters and representatives of dispensaries, distributors, manufacturers, testing labs, and other licensees under the MAUCRSA shall be allowed on the premise with prior notice to and permission by the cultivator to conduct business as required and appropriate.
- C. In no case shall cannabis plants be visible from a public or private road, sidewalk, park or any common public viewing area.
- D. Adult-use cannabis cultivation shall be conducted in accordance with State and local laws related to land conversion, grading, electricity, water usage, water quality, and similar matters.
- E. Pesticides and fertilizers shall be properly labeled and stored to avoid contamination through erosion, leakage or inadvertent damage from pests, rodents or other wildlife.
- F. The adult-use cultivation of cannabis shall at all times be operated in such a way as to ensure the health, safety, and welfare of the public, the employees working at the commercial adult-use cannabis business, visitors to the area, neighboring properties, and the end users of the cannabis being cultivated, to protect the environment from harm to streams, fish, and wildlife; to ensure the security of the cannabis being cultivated; and to safeguard against the diversion of cannabis.

- G. All applicants for an adult-use cannabis cultivation license shall submit the following in addition to the information generally otherwise required for a commercial adult-use cannabis business:
1. A cultivation and operations plan that meets or exceeds minimum legal standards for water usage, conservation and use; drainage, runoff, and erosion control; watershed and habitat protection; and proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel, and a description of the indoor cultivation activities and schedule of activities during each month of growing and harvesting, or explanation of growth cycles and anticipated harvesting schedules for all-season indoor harvesting.
  2. A description of a legal water source, irrigation plan, and projected water use.
  3. The source of electrical power shall be identified and electricity shall be grid connected and compliant with applicable and current Building and related Codes. The use of generators other than for emergency security back-up is prohibited.
  4. Plants shall only be cultivated in response to a pre-existing supply or purchase agreement with a licensed dispensary or distributor. For each plant, the cultivator shall maintain records to demonstrate an active purchase order requiring this plant from a licensed dispensary or distributor. The dispensary or distributor with which a cultivator has a supply or purchase agreement shall be licensed by the State of California.
  5. Random testing of cultivated medicinal marijuana product is required before distribution to a medicinal marijuana manufacturer or dispensing facility. Records shall be generated and maintained to demonstrate compliance with this requirement.
  6. Plan for addressing odor and other public nuisances that may derive from the cultivation site.

**6.11.240 Operating requirements for distributors.**

- A. A distributor shall operate in compliance with all applicable State and local laws and regulations, including but not limited to the MAUCRSA and this Chapter.
- B. From a public right-of-way, there should be no exterior evidence of distributing except for any signage authorized by this Chapter.
- C. The general public is not permitted on the premises of the City distributor licensee except for the agents, applicants, managers, employees, and volunteers of the City distributor licensee and any agents or employees of the City.
- D. A distributor shall only procure, sell, or transport cannabis or cannabis products that are packaged and sealed in tamper-evident packaging that uses a unique identifier, such as a batch and lot number or bar code, to identify and track the cannabis or cannabis products.

- E. A distributor shall maintain a database and provide a list of the individuals and vehicles authorized to conduct transportation on behalf of the distributor to the City.
- F. Individuals authorized to conduct transportation on behalf of the cannabis distribution licensee shall have a valid California driver license.
- G. Individuals transporting cannabis or cannabis products on behalf of the distributor shall maintain a physical copy of the transportation request (and/or invoice) and shall make it available upon request of agents or employees of the City requesting documentation.
- H. During transportation, the individual conducting transportation on behalf of the distributor shall maintain a copy of the City distributor license and shall make it available upon request of agents or employees of the City requesting documentation.
- I. A distributor shall only transport cannabis or cannabis products in a vehicle that is:
  - 1. Insured at or above the legal requirement in California;
  - 2. Capable of securing (locking) the cannabis or cannabis products during transportation; and
  - 3. Capable of being temperature controlled if perishable cannabis products are being transported.

**6.11.250 Operating requirements for manufacturing facilities.**

- A. Adult-use cannabis manufacturing facilities requiring a Type-6, Type-7, Type S, or any subsequent created manufacturing State license (using non-volatile and volatile solvents) as defined in MAUCRSA, may be licensed to operate within those zone districts as specified in Section 6.11.170 and as defined in Title 24, Zoning, of the La Mesa Municipal Code.
- B. No public access or sales shall be allowed on the premise. Only directors, officers, managers, employees, contractors of the manufacturer shall be present on the premises. Transporters and representatives of dispensaries, distributors, cultivators, testing labs, and other licensees under the MAUCRSA shall be allowed on the premise with prior notice to and permission by the manufacturer to conduct business as required and appropriate.
- C. All cannabis products that can be ingested by eating or drinking shall have a warning label or sign advising them of the potential hazard associated with over-consumption
- D. Any manufacturing site that produces edible cannabis product shall have at least one owner, director, officer, manager, or employee that has passed a State-approved food safety certification exam.

- E. Any manufacturing site that produces edible cannabis products that require baking or refrigeration shall be a California-licensed commercial kitchen or in a cottage kitchen with a class B license.
- F. All manufactured medicinal marijuana shall be tested by an accredited testing laboratory for potency and molds and mildews. Records shall be generated and maintained to demonstrate compliance to this requirement.
- G. Any compressed gases used in the manufacturing process shall not be stored on any property within the City of La Mesa in containers that exceeds the amount which is approved by the City of La Mesa Fire Department and authorized by the regulatory license. Each site or parcel subject to a commercial adult-use cannabis business license shall be limited to a total number of tanks as authorized by the City of La Mesa Fire Department on the property at any time.
- H. Cannabis manufacturing facilities may use the hydrocarbons N-butane, isobutene, ethanol, propane, or heptane or other solvents or gases exhibiting low to minimal potential human-related toxicity approved by the Community Development Department. These solvents shall be of at least ninety-nine (99) percent purity and any extraction process shall use them in a professional grade closed loop extraction system designed to recover the solvents and work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.
- I. If an extraction process uses a professional grade closed loop carbon dioxide (CO<sub>2</sub>) gas extraction system, every vessel shall be certified by the manufacturer for its safe use as referenced in 6.11.250K. The CO<sub>2</sub> shall be of at least ninety-nine (99) percent purity.
- J. Closed loop systems for compressed gas extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.
- K. Certification from an engineer licensed by the State of California shall be provided to the Community Development Department for a professional grade closed loop system used by any commercial adult-use cannabis 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 shall contain the signature and stamp of the professional engineer and serial number of the extraction unit being certified.
- M. Professional closed loop systems, other equipment used, the extraction operation, and facilities shall be approved for their use by the La Mesa Fire

Department and meet any required fire, safety, and building code requirements specified in the California Building Reference Codes.

- N. Commercial adult-use cannabis manufacturing facilities may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create keef, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- O. Commercial adult-use cannabis manufacturing facilities 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.
- P. Commercial adult-use cannabis manufacturing facilities creating cannabis extracts shall develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace.
- Q. Any person using solvents or gases in a closed looped system to create cannabis extracts shall 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.
- R. Parts per million for one gram of finished extract cannot exceed State standards for any residual solvent or gas when quality assurance tested.

#### **6.11.260 Operating requirements for testing labs.**

- A. Testing labs shall be required to conduct all testing in a manner pursuant to Business and Professions Code 26100 – 26106 and shall be subject to State and local law 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.
- 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 based on current State regulations, and any subsequently enacted State law or regulatory, licensing, or certification requirements.

- 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.

**6.11.270 Commercial adult-use cannabis business license application process**

A. Phase one application process.

1. Any applicant seeking to obtain a City license to operate a commercial adult-use cannabis business within the City shall submit a phase one application to the City, signed under penalty of perjury, using the form adopted by the City for that purpose. In addition to any other information required by this Chapter, each phase one application shall contain the following:
  - a. Applicant's name, address, telephone number, and e-mail address;
  - b. Names and addresses of all owners, officers, and managers.
  - c. If any applicant or owner is a business entity or any other form of entity, the entity's legal status, formation documents, and proof of registration with, or a certificate of good standing from, the California Secretary of State, as applicable.
  - d. The type of City license the applicant is seeking.
  - e. A description of any and all commercial cannabis businesses engaged in as an owner, manager, lender, employee, volunteer, or agent by the applicant and all owners, officers, and managers over the previous 5 years, including, but not limited to, the location of such activity and a copy of any licenses, licenses, or other written forms of permission for such activity by a local or State government entity. an applicant for a retailer, manufacturer, or cultivator City license shall demonstrate each of the following:
    - (1) That at least one manager has had managerial oversight or been directly engaged in the day-to-day operation of a commercial cannabis business for a minimum of six (6) consecutive months, within the previous 5 years, in a jurisdiction licensing such commercial cannabis business. The 6 consecutive months of lawful commercial cannabis

business demonstrated shall be of a type substantially similar to that allowed by the City license for which the applicant is applying; and

(2) That at least one owner has one of the following types of experience:

(a) A minimum of six (6) consecutive months as an owner of a commercial cannabis business, within the previous 5 years, in a jurisdiction licensing such commercial cannabis business. The 6 consecutive months of lawful commercial cannabis business ownership demonstrated shall be of a type substantially similar to that allowed by the City license for which the applicant is applying; or

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

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

- f. An operating plan that contains, at a minimum, the following: provisions for adequate staffing, security, employee training, consumer education, and compliance with State and local laws and regulations.
  - g. Submission by each individual applicant, owner, officer, and manager of fingerprints and other information deemed necessary by the Police Chief for a background check by the La Mesa Police Department. If the applicant or any owner or manager is an entity, the Police Chief, in his/her discretion, may require individual employees, officers, members, representatives, or partners of each entity to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the La Mesa Police Department.
  - h. The Director or Police Chief may request such additional information, as he/she deems necessary including documents, from the applicant to evaluate applicant's qualifications. If the applicant fails to provide such additional information in the time allotted, the application shall be considered abandoned.
2. The phase one application shall identify a proposed site in compliance with Section 6.11.170 for the proposed commercial adult-use cannabis business.
  3. The phase one application shall be accompanied by a nonrefundable application fee established by resolution of the City Council.

4. The phase one application shall be reviewed by the Director for completeness and to determine if City's minimum City license qualifications have been satisfied. Phase one applications may be rejected by the Director for any of the following reasons in his/her discretion:
  - a. The application is received before the designated date and time.
  - b. The application is not in the required form and/or is incomplete as outlined in Section 6.11.270A2.
  - c. The applicant has made a false or fraudulent statement or omission of fact in the application or in the application process.
  - d. The applicant, an owner, officer, or manager is under twenty-one years of age.
  - e. The applicant or any owner is an entity that is incorporated outside of the United States.
  - f. The applicant has failed to demonstrate the minimum experience required in accordance with Section 6.11.270A2e.
  - g. The applicant, or any owner, officer, or Manager, has had his/her/its authorization to conduct commercial cannabis business in any jurisdiction suspended or revoked at any time, and such person has not demonstrated a material change in circumstances or corrective action since such suspension, and/or revocation.
5. Phase one applications accepted by the Director as minimally qualified shall be forwarded to the Police Chief for review and completion of any and all required background checks. Phase one applications may be rejected by the Police Chief for any of the following reasons in his/her discretion:
  - a. The applicant has made a false or fraudulent statement or omission of fact in the application or in the application process;
  - b. The applicant or any owner, manager, or officer has failed to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the La Mesa Police Department.
  - c. The applicant or any owner, officer, or manager has been convicted of a felony. A conviction is complete upon entry of judgment upon a finding of guilty, or upon entry of a plea of guilty, or upon entry of a plea of nolo contendere or "no contest," regardless of the pendency of any appeal, or expungement pursuant to California Penal Code Section 1203.4, 1203.4a, or 1203.41; nor shall they be a person required to register as a controlled substance offender pursuant to Health and Safety Code Section 11590 as determined by the Chief of Police.
  - d. The applicant or any owner, officer, or manager has been convicted of any offense involving the use of a weapon fraud or embezzlement.
6. The Director shall serve the applicant, either personally or by first class mail addressed to the address listed on the application, with dated written notice of

the decision to approve or reject the phase one application. This notice shall state the reasons for the action, the effective date of the decision, and the right of the applicant to appeal the decision to the City Council.

7. Applicants who are approved by the Director and Police Chief under the phase one application process, or by the City Council upon appeal, shall be deemed qualified to submit a phase two application.
8. Initial approvals shall be valid for a maximum period of six (6) months in order to allow the applicant to complete the phase two application process. City regulations issued pursuant to Chapter 6.11 may provide for extensions of this time periods in limited, defined circumstances.

B. Phase two application process.

1. The phase two application shall be submitted in writing, signed under penalty of perjury, using the form adopted by the City for that purpose. In addition to any other information required by this Chapter, each phase two application shall contain the following:
  - a. Proposed premises location and description.
  - b. Information and diagrams demonstrating that the proposed premises location complies with the applicable locational requirements of Chapter 6.11, the City's zoning code, and State laws.
  - c. Identification of all owners of the proposed premises location and a copy of all agreements for site control.
  - d. Submission by each individual owner of the proposed premises location of fingerprints and other information deemed necessary by the Police Chief for a background check by the La Mesa Police Department. If an owner of the proposed premises location is an entity, the Police Chief, in his/her discretion, may require individual employees, officers, members, representatives, or partners of each entity to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the La Mesa Police Department.
  - e. Proposed emergency action and fire prevention plan that includes, at a minimum, employee roles and responsibilities; emergency notification and egress procedures; fire hazard identification, maintenance, and procedures; and fire and life safety system identification, maintenance, and procedures.
  - f. Proposed security plan that includes, at a minimum, employee roles and responsibilities; entry/exit security and procedures; security guard coverage and duties; lighting, alarm, and camera placement and operation; limited-access area identification and procedures; cash handling processes and procedures, and demonstrates compliance with Section 6.11.200.

- g. Information required or necessary to demonstrate the ability to comply with the applicable operational requirements set forth in Sections 6.11.210 through 6.11.240, as applicable.
2. The phase two application shall be accompanied by a non-refundable application fee established by resolution of the City Council.
3. As part of the application process, the applicant shall be required to obtain all required land use approvals from the City and/or any other governmental agency with jurisdiction, including a certification from the Director certifying that the business is an allowed use in the zone where it is located, and the proposed site meets all of the requirements of Chapter 6.11 and Title 24 of this Code.
4. As a condition precedent to the City's issuance of a commercial adult-use cannabis business license pursuant to Chapter 6.11, any person intending to open and to operate a commercial adult-use cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed premises. In the event the proposed premises will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner(s) of the premises on a form approved by the City acknowledging that the owner(s) of the premises: (a) has read Chapter 6.11; (b) acknowledges and agrees to comply with all premises owner requirements set forth herein; and (c) the site is available for the operation of the commercial adult-use cannabis business on terms agreed to with the applicant that are consistent with the requirements of Chapter 6.11 and the La Mesa Municipal Code.
5. Phase two applications shall be reviewed and are subject to approval by the Director, Fire Chief and the Police Chief. A phase two application may be rejected by the Director, Fire Chief, and/or Police Chief for any of the following reasons:
  - a. The application is received before the designated time and date;
  - b. The application is not in the required form and/or is incomplete as outlined in Section 6.11.270B1.
  - c. The application fails to demonstrate that the proposed Premises location complies with Chapter 6.11, the City's zoning code, and State Laws.
  - d. The applicant has made a false or fraudulent statement or omission of fact in the application or in the application process;
  - e. The applicant or any owner, manager, or officer has failed to submit fingerprints and other information deemed necessary by the Police Chief for a background check by the La Mesa Police Department.
  - f. The applicant or any owner, officer, or manager has been convicted of a felony. A conviction is complete upon entry of judgment upon a finding of guilty, or upon entry of a plea of guilty, or upon entry of a plea of nolo contendere or "no contest," regardless of the pendency of any appeal, or

expungement pursuant to California Penal Code Section 1203.4, 1203.4a, or 1203.41; nor shall they be a person required to register as a controlled substance offender pursuant to Health and Safety Code Section 11590 as determined by the Chief of Police.

- g. The applicant or any owner, officer, or manager has been convicted of any offense involving the use of a weapon, fraud or embezzlement.
6. Prior to approval of a phase two application, the applicant shall execute an agreement, in a form approved by the City attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of La Mesa, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City 's issuance of the commercial adult-use cannabis business license, the City 's decision to approve the operation of the commercial adult-use cannabis business or activity, to process used by the City in making its decision, or the alleged violation of any federal, State or local laws by the commercial adult-use cannabis business or any of its officers, employees or agents.
7. Prior to approval of a phase two application, the applicant shall reimburse the City of La Mesa for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City of La Mesa may be required to pay as a result of any legal challenge related to the City's submission and/or approval of the applicant's commercial adult-use cannabis business license, or related to the City's submission and/or approval of a commercial adult-use cannabis business. The City of La Mesa may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.
8. The Director shall serve the applicant, either personally or by first class mail addressed to the address listed on the application, with dated written notice of the decision to approve or reject the phase two application. This notice shall state the reasons for the action, the effective date of the decision, and the right of the applicant to appeal the decision to the City Council. The City Council's determination regarding the phase two application shall be final. The Director shall provide dated written notice to the applicant, either personally or by first class mail addressed to the address listed on the application, of the City Council's determination.
9. Upon obtaining final approval of a phase two application and completing all requirements precedent to issuance of a City license under Chapter 6.11, an applicant shall be issued a conditional City approval. The conditional City approval shall be valid for a period of six (6) months to allow the applicant to take all necessary actions to open its commercial adult-use cannabis business. If the business is not fully licensed and operating by the end of this six (6) month period (the "conditional approval period"), the conditional City approval will be void without the need for further action by the City. Notwithstanding the foregoing, if the only remaining action necessary for an

applicant holding a conditional City approval is the State's determination on such applicant's pending State License application, the validity of the conditional City approval shall be extended until the earlier to occur of: (a) the State's determination on the issuance of the pending State license application, or (b) the date falling 6 months after the expiration of the conditional approval period. City regulations issued pursuant to Chapter 6.11 may provide for other extensions of the conditional approval period in limited, defined circumstances.

C. General rules.

1. If a phase one or phase two application is denied or a corresponding conditional City license expires, no applicant or person named therein will be qualified to submit a new phase one application until the passage of one year from the date of the denial or expiration.
2. Each person granted a commercial adult-use cannabis business license shall be required to pay the license fee established by resolution of the City Council, to cover the costs of administering the commercial adult-use cannabis business license program created in Chapter 6.11.
3. Phase one and phase two applications shall include such supplemental materials as required by the rules and regulations adopted pursuant hereto. The City may, at the Director's discretion, require additional documentation associated with any application as may be necessary to enforce the requirements of State Laws and this Code.
4. Applicants shall have no right to operate under a City license until a City license is actually issued thereto by the City. Each applicant assumes the risk that, at any time prior to the issuance of a license, the City Council may terminate or delay the program created under Chapter 6.11.
5. Issuance of a City license does not create a land use entitlement. Furthermore, no City license will be officially issued and no applicant awarded a City license may begin operations until the City licensee is fully in compliance with all State and local laws and regulations, including but not limited to State laws.
6. **THE CITY 'S RESERVATION OF RIGHTS.** The City reserves the right to reject any or all applications. Prior to license issuance, the City may also modify, postpone, or cancel any request for applications, or the entire program under Chapter 6.11, at any time without liability, obligation, or commitment to any party, firm, or organization, to the extent permitted under California State law. Persons submitting applications assume the risk that all or any part of the program, or any particular category of license potentially authorized under Chapter 6.11, may be cancelled at any time prior to license issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other justification provided a failure to comply with other requirements in

Chapter 6.11, an application RISKS BEING REJECTED for any of the following reasons:

- a. Application received before designated time and date.
  - b. Application not containing the required elements, exhibits, nor organized in the required format.
  - c. Application considered not fully responsive to the required license application information.
7. The City reserves the right to reject or approve any and all applications and conditional licenses based on the standards set forth in Chapter 6.11, or otherwise in its sole discretion, taking into account the health, safety and welfare of the community, and in accordance with its general police powers authority.

#### **6.11.280 Limitations on City's liability.**

To the fullest extent licensed by law, the City of La Mesa shall not assume any liability whatsoever with respect to having issued a commercial adult-use cannabis business license pursuant to Chapter 6.11 or otherwise approving the operation of any commercial adult-use cannabis business.

#### **6.11.290 Promulgation of regulations, standards, and other legal duties.**

- A. In addition to any regulations adopted by the City Council, the City Manager is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of commercial adult-use cannabis business licenses, the ongoing operation of commercial adult-use cannabis businesses and the City's oversight of commercial adult-use cannabis businesses, or concerning any other subject determined to be necessary to carry out the purposes of Chapter 6.11.
- B. Regulations shall be published on the City's website.
- C. Regulations promulgated by the City Manager shall become effective upon date of publication. Commercial adult-use cannabis businesses shall be required to comply with all State and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.
- D. Testing labs and distribution facilities shall be subject to State law and shall be subject to additional regulations as determined from time to time as more regulations are developed as per Section 6.11.290 and any subsequent State of California legislation and local licensing authority regarding the same.

#### **6.11.300 Appeals.**

Whenever an appeal is provided for in Chapter 6.11 from a decision of the City Manager, the appeal shall be conducted as prescribed in La Mesa Municipal Code Section 2.08.051.



**6.11.310 Fees deemed debt to the City of La Mesa.**

The amount of any fee, cost or charge imposed pursuant to Chapter 6.11 shall be deemed a debt to the City of La Mesa that is recoverable via an authorized administrative process as set forth in the City ordinance, or in any court of competent jurisdiction.

**6.11.320 Commercial adult-use business license holder responsible for violations.**

The person to whom a license is issued pursuant to Chapter 6.11 shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of La Mesa, whether committed by the licensee or any employee or agent of the licensee, which violations occur in or about the premises of the commercial adult-use cannabis business whether or not said violations occur within the license holder's presence.

**6.11.330 Inspection and enforcement.**

- A. The City Manager, or his/her designee(s) charged with enforcing the provisions of the La Mesa Municipal Code, or any provision thereof, may enter the location of a commercial adult-use cannabis business at any time, without notice, and inspect the location of any commercial adult-use cannabis business as well as any recordings and records required to be maintained pursuant to Chapter 6.11 or under applicable provisions of State law.
- B. It is unlawful for any person having responsibility over the operation of a commercial adult-use cannabis business to impede, obstruct, interfere with, or otherwise not to allow the City to conduct an inspection, or review or copy records, recordings or other documents required to be maintained by a commercial adult-use cannabis business under Chapter 6.11 or under State or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a commercial adult-use cannabis business under Chapter 6.11 or under State or local law.
- C. The City Manager, or his/her designee(s) charged with enforcing the provisions of Chapter 6.11, may enter the location of a commercial adult-use cannabis business at any time during the hours of operation and without notice to obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of La Mesa shall be logged, recorded, and maintained in accordance with established procedures by the City Manager or these regulations.

**6.11.340 Violations declared a public nuisance.**

Each and every violation of the provisions of Chapter 6.11 is hereby deemed unlawful and declared to be a public nuisance.

**6.11.350 Each violation a separate offense.**

Each and every violation of Chapter 6.11 shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the City of La Mesa. Additionally, as a nuisance per se, any violation of Chapter 6.11 shall be subject to injunctive relief, any license issued pursuant to Chapter 6.11 being deemed null and void, disgorgement and payment to the City for any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of La Mesa may also pursue any and all remedies and actions available and applicable under State and local laws for any violations committed by the commercial adult-use cannabis business or persons related to, or associated with, the commercial adult-use cannabis business. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, or his/her designee(s), may take immediate action to temporarily suspend a commercial adult-use cannabis business license issued by the City, pending a hearing before the City Manager, or his/her designee(s).

**6.11.360 Criminal penalties.**

Each and every violation of the provisions of Chapter 6.11 may in the discretion of the City Attorney be prosecuted as a misdemeanor and upon conviction be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment in the County jail for a period of not more than twelve (12) months, or by both such fine and imprisonment. Each day a violation is committed or licensed to continue shall constitute a separate offense.

**6.11.370 Remedies cumulative and not exclusive.**

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.