

20.84.020 Regulations.

A. Commercial cannabis activities are expressly prohibited in all zones in the City of Merced; provided, however, medical marijuana dispensaries are allowed as a conditional use in the C-O District and Planned Developments which have the equivalent General Plan land use designations of this zone, subject to the restrictions of Section 20.84.020(B) and the limitations of Section 20.84.020(C) on the number of dispensaries that may be authorized within the City at any given time. Any conditional use permit issued for a dispensary shall include conditions to protect the public health, safety and welfare and to minimize the secondary effects, if any, of the dispensary. ~~Before a dispensary may open for business within the City, the operator of the dispensary must also have a license from the State of California to operate a dispensary at a specific location within the C-O District.~~

i. The operator of a dispensary in compliance with this ordinance may operate without possessing a state license until the date of implementation of regulations by the state licensing authority, if it is in compliance with section 19321 of the California Business and Professions Code.

ii. Any conditional use permits issued for a dispensary shall include requirements that the operator of the dispensary comply with sections 19323, 19326(d), 19327, and 19334(d) and (e) of the California Business and Professions Code and other requirements that are deemed appropriate by the city.

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B. A dispensary shall not be approved in the C-O District if any following conditions apply:

i. The proposed dispensary would be located within 600 feet of the property line of any kindergarten, elementary school, middle school or high school.

ii. The proposed dispensary would be located within 500 feet of the property line of any public park that includes playgrounds, active play areas and/or sports fields. For purposes of this subsection only, a park shall not include any park designated in Section 9.70.030 as a bike path.

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BUSINESS AND PROFESSIONS CODE

SECTION 19320-19325

19320. (a) All commercial cannabis activity shall be conducted between licensees, except as otherwise provided in this chapter.

(b) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a local license, permit, or other authorization from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(c) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport or where any equipment that is not currently transporting medical cannabis or medical cannabis products permanently resides.

(d) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon revocation of a local license, permit, or other authorization. The bureau shall inform relevant licensing authorities.

(e) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license.

(f) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(g) Nothing in this chapter shall be construed to supersede or limit state agencies, including the Department of Food and Agriculture, the State Water Resources Control Board, and the Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

19321

19321. (a) A license issued pursuant to this chapter shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.

(b) Notwithstanding subdivision (b) of Section 19320, the premises or person that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter only if (1) a completed application and all required documentation and approvals for licensure are submitted to the licensing authority no later than the deadline established by the licensing authority and

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pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(3) The applicant has failed to provide information required by the licensing authority.

(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

(B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(D) A felony conviction involving fraud, deceit, or embezzlement.

(5) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.

(6) The applicant or any of its officers, directors, or owners has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unlicensed commercial cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) The applicant or any of its officers, directors, owners, employees, or authorized agents have failed to comply with any operating procedure required pursuant to subdivision (b) of Section 19322.

(10) Conduct that constitutes grounds for disciplinary action pursuant to this chapter.

19324. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

(5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

(6) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or demonstrate that it has already entered into, and abide by the terms of a labor peace agreement.

(B) For the purposes of this paragraph, "employee" does not include a supervisor.

(C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(7) Provide the applicant's valid seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.

(8) Provide any other information required by the licensing authority.

(9) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(10) Pay all applicable fees required for licensure by the licensing authority.

(11) Provide proof of a bond to cover the costs of destruction of medical cannabis or medical cannabis products if necessitated by a violation of licensing requirements.

(b) For applicants seeking licensure to cultivate, distribute, manufacture, test, or dispense medical cannabis or medical cannabis products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

- (1) Cultivation.
- (2) Extraction and infusion methods.
- (3) The transportation process.
- (4) Inventory procedures.
- (5) Quality control procedures.
- (6) Security protocols.

19323

19323. (a) A licensing authority shall deny an application if the applicant or the premises for which a state license is applied does not qualify for licensure under this chapter or the rules and regulations for the state license.

(b) A licensing authority may deny an application for licensure or renewal of a state license, or issue a conditional license, if any of the following conditions apply:

(1) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.

(2) Conduct that constitutes grounds for denial of licensure

BUSINESS AND PROFESSIONS CODE

SECTION 19326-19330

19326. (a) A person other than a transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

(b) (1) All cultivators, manufacturers, and licensees holding a producing dispensary license in addition to a cultivation or manufacturing license shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for presale quality assurance and inspection by a distributor and for a batch testing by a testing laboratory prior to distribution to a dispensary.

(2) Notwithstanding paragraph (1), a cultivator shall not be required to send medical cannabis to a distributor if the medical cannabis is to be used, sold, or otherwise distributed by methods approved pursuant to this chapter by a manufacturer for further manufacturing.

(c) (1) Upon receipt of medical cannabis or medical cannabis products from a cultivator, manufacturer, or a licensee holding a producing dispensary license in addition to a cultivation or a manufacturing license, the distributor shall first inspect the product to ensure the identity and quantity of the product and ensure a random sample of the medical cannabis or medical cannabis product is tested by a testing laboratory.

(2) Upon issuance of a certificate of analysis by the testing laboratory that the product is fit for dispensing medical cannabis and medical cannabis products shall undergo a quality assurance review by the distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.

(3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a distributor responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a testing laboratory, as well as applicable state or local taxes and fees.

(d) Medical cannabis and medical cannabis products shall be tested by a licensed testing laboratory, prior to dispensing, pursuant to Section 19344.

(e) This chapter shall not prohibit a licensee from performing testing on the licensee's premises for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the Bureau of Medical Cannabis Regulation.

19327

19327. (a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis activity shall be maintained for a minimum of seven years.

(c) Licensing authorities may examine the records of licensees and inspect the premises of a licensee as the licensing authority or a

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state or local agency deems necessary to perform its duties under this chapter. All inspections and examination of records shall be conducted during standard business hours of the licensed facility or at any other reasonable time. Licensees shall provide and deliver records to the licensing authority upon request.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed.

(e) A licensee or its agent, or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.

(f) If a licensee, its agent, or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee may be subject to a citation and fine of thirty thousand dollars (\$30,000) per individual violation.

BUSINESS AND PROFESSIONS CODE SECTION 19334

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(c) The State Department of Public Health shall establish minimum security requirements for the storage of medical cannabis products at the manufacturing site.

(d) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized dispensary personnel.

(3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

(e) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.

(2) Diversion, theft, loss, or any criminal activity pertaining to the operation of the dispensary.

(3) Diversion, theft, loss, or any criminal activity by any agent or employee of the dispensary pertaining to the operation of the dispensary.

(4) The loss or unauthorized alteration of records related to medical cannabis or medical cannabis products, registered qualifying patients, primary caregivers, or dispensary employees or agents.

(5) Any other breach of security.