

## **Chapter 6.91 CANNABIS RETAILER LICENSES**

Sections:

- 6.91.010 Purpose.**
- 6.91.020 Definitions.**
- 6.91.030 Cannabis retail business – License required.**
- 6.91.040 Written applications required.**
- 6.91.050 Notice of availability.**
- 6.91.060 Application contents.**
- 6.91.070 Fee for application.**
- 6.91.080 Review procedure.**
- 6.91.090 Review factors.**
- 6.91.100 Determination contingent.**
- 6.91.105 Appeals.**
- 6.91.110 Effective date.**
- 6.91.120 License transfers.**
- 6.91.130 Annual confirmation of renewal.**
- 6.91.140 Expiration.**
- 6.91.150 Suspension and revocation.**
- 6.91.160 License requirements.**
- 6.91.170 Violations.**

### **6.91.010 Purpose.**

Medical marijuana dispensaries have operated within the city of Santa Cruz for a long period of time without land use conflicts. Proposition 64, approved by the voters of California in November 2016, legalized the adult recreational use of marijuana. This chapter is designed to regulate the sale of cannabis based upon the new state laws.

The city has an interest in ensuring that the retail sale of cannabis supports the character and values of the city, including the unique entrepreneurial, creative, and compassionate nature of its residents and business owners. To this end, the city encourages these qualities in applications for cannabis retailer licenses, requiring some combination of a number of factors that support these values.

The city has determined to initially limit the number of cannabis retail outlets allowed to ensure that this use will not create unforeseen impacts. The city also desires a process by which individual proprietors may relocate their businesses without expanding the number of cannabis retail outlets in the city. To provide a process that limits the number of outlets without tying those outlets to specific properties, this chapter creates a licensing structure for cannabis retail businesses.

### **6.91.020 Definitions.**

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

1. “Adult use” shall refer to nonmedical use of cannabis by persons twenty-one years of age or older in conformance with the Medical and Adult-Use Cannabis Regulation and Safety Act and the provisions of state law regarding cannabis use and sale.
2. “Application period” shall be the time stated in the notice of availability during which the planning department will accept applications for cannabis retailer licenses.
3. “Cannabis establishment” shall mean any business, including cultivation, manufacturing, distribution, and retail, that requires a state cannabis license or, if located out of the state of California, an equivalent authorization to do business. Each individual location and each online presence shall be considered a separate “cannabis establishment” except that a physical location may have one online presence, so long as the physical location and the online presence are performing essentially the same business function and are operating under a single state license.
4. “Cannabis retail business” shall refer to a business within the city of Santa Cruz holding a valid cannabis retailer license.
5. “Chief of police” shall refer to the city of Santa Cruz chief of police or the person designated by the chief of police.
6. “Date of issuance of cannabis retailer license” shall be the date on which the cannabis retailer license was approved by the planning department and the chief of police.
7. “License vacancy” shall mean any time in which the total number of licenses issued is fewer than allowed by city council.
8. Medical Cannabis, Medical Marijuana. See “Medicinal cannabis.”
9. “Medicinal cannabis” or “medicinal cannabis products” means cannabis or a cannabis product, respectively, intended to be sold for use pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Health and Safety Code Section 11362.5, by a medicinal cannabis patient in California who possesses a physician’s recommendation.
10. “Person” shall mean any natural person, partnership, cooperative, association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
11. “Planning department” means the planning and community development department of the city of Santa Cruz.

12. "Police department" means the police department of the city of Santa Cruz.
13. "Proprietor" shall mean any of the following:
  - A. A person with an aggregate ownership interest of twenty percent or more in a cannabis retail business, unless the interest is solely a security, lien, or encumbrance.
  - B. The chief executive officer of a nonprofit or other entity.
  - C. A member of the board of directors of a nonprofit.
  - D. The trustee(s) and all persons who have control of the trust that holds a cannabis retail business.
  - E. An individual entitled to a share of at least twenty percent of the profits of a cannabis retail business.
  - F. An individual who will be participating in the direction, control, or management of a cannabis retail business. Such an individual includes any of the following:
    - i. A general partner of a cannabis retail business that is organized as a partnership.
    - ii. A nonmember manager or managing member of a cannabis retail business that is organized as a limited liability company.
    - iii. An officer or director of a cannabis retail business that is organized as a corporation.

**6.91.030 Cannabis retail business – License required.**

It is unlawful for any person conducting, operating, owning, or in control of any premises to sell cannabis or cannabis products, whether medical (medicinal) or adult use (recreational), within the city of Santa Cruz unless such person holds a valid cannabis retailer license therefor, pursuant to the provisions of this chapter. All retail sales of any type, including online and delivery service sales, are included in this requirement and are unlawful without the required cannabis retailer license. A separate cannabis retailer license is required for each location. If a proprietor has more than one location, a license is required for each.

**6.91.040 Written applications required.**

An application for a cannabis retailer license shall be filed with the planning department, shall be in writing on forms provided by the city, shall be in duplicate, and shall be accompanied by the appropriate documentation and fee.

**6.91.050 Notice of availability.**

When the number of cannabis retailer licenses falls below the number of licenses set by city council, the city shall place an advertisement in at least one local newspaper of general circulation and post on the city's website an announcement that the city will be accepting applications for cannabis retailer licenses. The notice shall include the dates during which applications will be accepted, the location on the city's website for application requirements and directions, and the contact information for questions.

**6.91.060 Application contents.**

Each application shall contain:

1. A complete identification of the applicant including name and address;
2. Names, residence and business addresses of any copartners, including limited partners, or, if the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the date and place of incorporation, the names and residence addresses of each of the officers, directors, and each stockholder owning more than ten percent of the stock of the corporation. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant apply;
3. The names, residence and business addresses of the managers and persons to be in charge of the business;
4. The name, residence and business address of the owner of the property, who shall indicate in writing his/her consent to cannabis retail sales being conducted on the property by signing the application in the space provided;
5. A site plan, floor plan, and elevations of the property where the business will operate;
6. An operations plan for the business and the name under which it is to be operated;
7. Whether or not any person referred to in subsection (1), (2), (3) or (4) has had a license or use permit for the same or any similar business suspended or revoked anywhere, and, if so, the circumstances of such suspension or revocation;
8. The hours of operation;
9. Such other related information as the planning department and police department may require.

The residential addresses required in subsections (2) and (3), as well as the name(s) of managers and persons to be in charge listed in subsection (3), shall be kept private and not made available to the public.

#### **6.91.070 Fee for application.**

The fee to apply for a cannabis retailer license and a license transfer application shall be set by resolution of the city council from time to time. The fee shall be calculated so as not to exceed that amount which would recover the total cost of both license administration and license enforcement, including, for example, issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators. All fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

#### **6.91.080 Review procedure.**

All complete applications received during the application period shall be reviewed by a panel of no fewer than three city employees. The panel shall review the applications, considering factors of importance to the community including those listed below. The application determined to best meet the community's needs and values shall be granted the license contingent upon meeting the requirements for cannabis retailer licenses (including payment of fees and meeting the required review factors), obtaining a state retail, nonprofit, or microbusiness license, and approval of an administrative use permit for the property from which the business will operate prior to the cannabis retail license becoming effective.

#### **6.91.090 License requirements and review factors.**

1. The following are required as conditions for obtaining a cannabis retailer license:
  - A. All cannabis retail businesses shall pay employees a living wage as set annually by city council and further described in Chapter 5.10, with proof of compliance submitted annually by August 1<sup>st</sup> for the fiscal year beginning July 1<sup>st</sup> on the Cannabis Retailer Living Wage Compliance form provided by the City;
  - B. Cannabis retailers shall not hinder nor discourage employees from forming or joining a collective bargaining unit or labor union to support their employee rights to collective bargaining, nor shall they interfere with any collective bargaining activities;
2. The application shall also demonstrate that the business owner(s) meets a minimum of six (6) of the following factors:
  - A. A majority of the business is owned by individuals who have been local residents for the previous three years;
  - B. The business owner(s), individually or collectively, have a business interest in no more than six (6) other cannabis establishments, including businesses in other jurisdictions and/or states;
  - C. A majority of the business is minority- or woman-owned;
  - D. Provides employee benefits as described in Chapter 5.10, the City's Living Wage Ordinance, in addition to the full living wage, not discounted for benefits;

- E. Provides medical cannabis;
- F. Green Business certification through the City's Green Business Certification program;
- G. Carries a minimum of fifteen percent in total shelf space at any given time products produced or grown within one hundred miles of Santa Cruz County;
- H. A majority of the business is employee-owned;
- I. Maintains an active and transparent banking relationship with a financial institution.
- J. Other community benefits, described in detail and approved by the Planning Department.

3. For new licenses that are being reviewed through the competitive process, the quality of the operations plan shall also be considered as a factor, and the extent to which a proposal exceeds any minimum factor thresholds shall also be considered in the award process.

4. All cannabis retail businesses shall provide an annual affidavit confirming that the business is meeting each of the requirements and factors included in the initial license application that resulted in the provision of the license. This affidavit shall be provided by August 1 for the prior fiscal year spanning July 1 through June 30.

**6.91.100 Determination contingent.**

The issuance of a cannabis retailer license shall be contingent upon the following:

- 1. Approval of an administrative use permit within six months or consistent with existing administrative use permit, including all conditions of approval; and
- 2. Obtaining state cannabis retail license, state cannabis nonprofit license, or state cannabis microbusiness license.

**6.91.105 Appeals.**

An applicant aggrieved by the decision of the city employee review panel to deny a cannabis retailer's license may appeal to the city council in accordance with the provisions of Chapter 1.16.

**6.91.110 Effective date.**

The approved license shall become effective upon approval of both the administrative use permit for the location (or the determination by the planning department that the application meets the conditions of approval for an existing administrative use permit) and approval of the state license allowing cannabis retail uses.

**6.91.120 License transfer.**

License transfers may be allowed consistent with the provisions of this section and chapter. Licensees may change locations contingent upon obtaining an administrative

use permit for the new location(s) as well as approval from the state licensing agency for the new location in accordance with Section 6.91.100.

1. License Transfer to New Owner. No licensee shall transfer ownership or control of a retail cannabis establishment to another person or entity unless and until the transferee obtains an amendment to the license from the Planning Department stating that the transferee is now the licensee. Such an amendment may be obtained only if the transferee files all required application materials in accordance with all provisions of this chapter, pays all applicable fees, passes the background check, and independently meets the requirements of the cannabis retailer license, as determined by the Planning Department. This can be accomplished by meeting the requirements specified above in Section 6.91.90. A license shall not be transferred to an owner who has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

2. Changes in ownership of a licensee's business structure or a change in the ownership of a licensee's business entity (including transfers between individuals with ownership interest) of 30 percent or greater must be approved by Planning Department through the transfer process contained in (1) above. Failure to comply with this provision is grounds for license revocation.

3. In the event of the death of the licensee, the heir(s) may operate the business under the original license for a period not to exceed six months, with the possibility of an extension due to extenuating circumstances, as approved by the Planning Director, during which time the heir(s) must obtain a license transfer as described in section 1 above.

4. No cannabis retailer license may be transferred when the chief of police has notified the licensee that the license has been or may be suspended or revoked.

5. Any attempt to transfer a cannabis retailer 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.

#### **6.91.130 Annual confirmation of renewal.**

All cannabis retailer licenses are required to be renewed annually. Licensees shall submit annually for a confirmation of renewal to the police department by providing proof of renewal of their state cannabis retail, nonprofit, or microbusiness license. The police department will review the license before issuing the renewal. A fee commensurate with the cost of reviewing the existing license, the new state license, the history of calls for service at the site, and a site visit as well as any other appropriate review and investigation shall be submitted with the renewal application. This fee shall be set by city council.

#### **6.91.140 Expiration.**

A license shall expire if not in active use for a period of six months at any time after the date of issuance. This period may be extended if the licensee has applied for an

administrative use permit that has been delayed through no fault of the licensee. Expired licenses may not be renewed but the license holder may reapply at a later date.

#### **6.91.150 Suspension and revocation.**

In addition to any other remedy authorized by law, a cannabis retailer license may be suspended and/or revoked if the chief of police, the planning director, or their designees find that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of the use permit, state law, or the city's municipal code. During any period of license suspension, the business must remain closed and no operations may continue.

1. Suspension of License. Upon the chief of police, the planning director, or their designees determining a violation of the requirements, conditions, or prohibitions of the use permit, state law, or the city's municipal code has occurred, a cannabis retailer license shall be suspended for up to sixty days.

2. Revocation of License. Upon the chief of police, the planning director, or their designees determining that a second violation of the requirements, conditions, or prohibitions of the use permit, state law, or the city's municipal code has occurred, the cannabis retailer license shall be revoked and no new license may be issued for the proprietor or any other business entity in which the proprietor is a partner or owner of ten percent or more of the business for a period of five years from the date of revocation.

3. Appeal of Suspension or Revocation. A licensee may appeal the suspension or revocation of a cannabis retailer license to the city council by filing an appeal with the planning department within ten working days of the revocation.

#### **6.91.160 License requirements.**

The following requirements shall apply to all cannabis retailer licenses:

1. Limited Number Set by City Council. The city council has determined that the initial number of cannabis retailer licenses within the city shall be set at no more than five licenses for both commercial adult use and medical cannabis. This number includes the two existing dispensaries originally approved as medical marijuana provider association dispensaries, which shall be granted licenses upon receipt of a complete application without the need to undergo the review procedure set forth in Section 6.91.080. In order to obtain this privilege, the two existing dispensaries shall submit cannabis retailer license applications within sixty days of the final adoption of the ordinance codified in this chapter. In the event that one or both of these licenses lapse or are revoked, the proprietor shall be required to compete for a new license under the same terms and conditions as all other applicants. The city council may, by resolution, modify the maximum number of licenses allowed under this section.

2. Concurrent or Existing Administrative Use Permit. A license can only be used in conjunction with an approved administrative use permit for the property at which the



business is located. If the property does not have an existing use permit for cannabis retail use, the applicant may apply for the required administrative use permit concurrently with the license application as long as all of the following conditions are met: (1) the property zoning allows cannabis retail or microbusiness uses; (2) the property owner agrees to such use; (3) the property is not within a six-hundred-foot radius of a school providing instruction in kindergarten or any grades one through twelve, day care center, or youth center; and (4) there is not another cannabis retail establishment within six hundred feet of the property unless the applicant is seeking an exception from said separation requirements, consistent with provisions in Section 24.12.1330.

3. State License for Retail or Other Compatible License Type. City cannabis retailer licenses are not valid without a valid California cannabis retail, nonprofit, or microbusiness license. City licenses may be issued contingent upon the applicant receiving a state license; however, the application for the state license must be submitted prior to approval of the city license unless otherwise authorized by the director due to unusual circumstances. If the state license is not approved within six months of the issuance of the city license, the city license shall become invalid unless an extension is obtained. The applicant may apply for an extension if the delay in obtaining the state license is not due to a delay on the part of the applicant in providing any application or other materials to the state. If the applicant's license is deemed invalid due to a delay in obtaining the state license, the applicant may reapply when another license is available.

4. Consistency with State Law and Conditions of Approval for Administrative Use Permit. Operations of the business shall be in compliance with applicable state law and with the conditions of approval of the approved use permit for the property on which the business is located.

5. Cannabis retailer licenses are issued to the proprietor and are not specific to the location. Each license shall be for one retail outlet only and additional licenses must be obtained for additional retail outlets.

#### **6.91.170 Violations.**

1. It shall be unlawful for any person to act as a cannabis retailer or to display or advertise the sale of cannabis products without obtaining and maintaining a valid cannabis retailer license pursuant to this chapter for each location at which that activity is to occur.

2. Online sales of medical or adult use cannabis without a cannabis retailer license are prohibited.

3. Each cannabis retailer license shall be prominently displayed in a publicly visible location at the licensed location and on any business website or advertisement.

4. In the course of cannabis retailing or in the operation of a business or maintenance of a location for which a cannabis retailer license has been issued, it shall be a violation of this chapter for a licensee, or any of the licensee's agents or employees, to violate any local or state law applicable to cannabis products, cannabis paraphernalia, or cannabis retailing.