

## Title 9. Planning and Zoning

### Chapter 17. CANNABIS ACTIVITIES AND REGULATIONS

#### § 9-17.001. Title.

This chapter shall be known as the cannabis regulations of the City of Atascadero.  
(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

#### § 9-17.002. Purpose and intent.

- (a) Purpose. It is the purpose and intent of this chapter to implement the provisions of the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") and to provide access to adult-use of cannabis for persons over the age of 21 as authorized by "Proposition 64" passed by California voters in 2016, while imposing sensible reasonable regulations on the use of land to protect the City's residents, neighborhoods, and businesses from disproportionately negative impacts. As such, it is the purpose and intent of this chapter to regulate the cultivation, processing, manufacturing, testing, sale, delivery, distribution, and transportation of medicinal and adult-use cannabis and cannabis products in a responsible manner to protect the health, safety, and welfare of the residents of Atascadero and to enforce rules and regulations consistent with State law.
- (b) Non-Conflicting Enactment. Nothing in this chapter is intended to authorize the possession, use or provision of cannabis for purposes that violate State or Federal law.
- (c) Additional Provisions. The provisions of this chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses, and approval required under State, County, or other law.

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

#### § 9-17.003. Definitions.

For the purposes of this chapter, the following definitions shall apply:

**Accessory Structure.** An accessory structure is a detached structure with a "u" occupancy that is accessory to and subordinate to the primary residential use.

**Cannabis.** "Cannabis" has the meaning set forth in Business and Professions Code Section 26001(f), which includes all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the **Health and Safety Code**.

**Cannabis Canopy.** All areas occupied by any portion of a cannabis plant, encompassing all vertical planes (i.e., stacking of plants), whether contiguous or noncontiguous on any one site. "Cannabis canopy" shall be measured by taking the longest length and widest width of existing plants (including all gaps and open areas between plants) and multiplying the length and width to get square footage.

**Cannabis Greenhouse.** A fully enclosed permanent structure that is clad in transparent material. Cannabis cultivation within an enclosed, non-transparent greenhouse is considered indoor cultivation.

**Cannabis Hoop Structure.** A readily removable plastic covered hoop structure without in-ground footings or foundations, which are not more than 12 feet in height and do not have vertical sides that exceed four feet in height. Cannabis hoop structures are accessory uses on residential land use categories which shall not exceed 120 square-feet. Cannabis cultivation within hoop structures is considered outdoor cultivation.

**Cannabis Operating License.** An annual cannabis operating license as may be required by the City of Atascadero pursuant to Title 3 of this code to operate a commercial activity within the City whether the business is located within the City or not.

**Cannabis Testing Facility.** A facility, entity, or site that offers or performs testing of cannabis or cannabis products and that is both accredited by an accrediting body that is independent from all other persons involved in the cannabis industry in the State, and registered with and licensed by the California State Department of Public Health.

**Commercial Cannabis Activity.** "Commercial cannabis activity" has the meaning set forth in **Business and Professions Code** Section 26001(k), which includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis or cannabis products as provided in MAUCRSA (**Business and Professions Code** Section 26000 et seq.) and for which a State license is required. Commercial cannabis activity shall also include the sale or distribution of cannabis and/or cannabis products, in exchange for compensation in any form, for medicinal purposes under **Health and Safety Code** Sections 11362.5 and 11362.7 et seq.

**Cultivation.** "Cultivation" has the meaning set forth in Business and Professions Code Section 26001(l), which includes any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

**Day Care Center.** "Day care center" has the same meaning as Health and Safety Code Section 1596.76, which means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.

**Fully Enclosed Structure.** A fully enclosed space within a building or separate structure that complies with the **California Building Code** (CBC), as adopted by the City of Atascadero, or if exempt from the permit requirements of the CBC, that has a complete roof, foundation, slab, or equivalent base to which the floor is secured by bolts or similar attachments, and nontransparent walls on all sides.

**Indoor Cultivation.** Cultivation, as defined in subsection (i), of this section, within a fully enclosed structure, as defined in subsection (k) of this section.

**Outdoor Cultivation.** Any location within the City of Atascadero that is not within a fully enclosed structure, or cannabis green house, as defined in subsection (d) of this section.

**Personal Cultivation.** Cultivation of cannabis at a private residence, as defined by subsection (o) of this section, for noncommercial cannabis activities, which is defined in subsection (h).

**Private Residence.** A house, apartment unit, mobile unit, or other similar dwelling unit that is legally permitted within the City of Atascadero, and is considered a residential occupancy type in the California Building Code, as adopted by the City of Atascadero.

Retail Nonstorefront Facility. A "retail nonstorefront facility" is a commercial cannabis facility that operates out of a State and City licensed commercial business location which sells cannabis goods to customers exclusively through delivery with no on-site customer services of any kind.

School. A private or public educational facility providing instruction in kindergarten or grades one through 12.

State Cannabis Laws. "State Cannabis Laws" means and include California Health and Safety Code Sections 11362.1 through 11362.45; California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996); California **Health and Safety Code** Sections 11362.7 to 11362.83 (Medical Marijuana Program Act); California **Health and Safety Code** Sections 26000 through 26211 (Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA")); California **Health and Safety Code** Sections 26220 through 26231.2; the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August, 2008, as such guidelines may be revised from time to time by action of the Attorney General; California **Labor Code** Section 147.5; California **Revenue and Taxation Code** Sections 31020 and 34010 through 34021.5; California **Fish and Game Code** Section 12029; California **Water Code** Section 13276; all State regulations adopted pursuant to MAUCRSA; and all other applicable laws of the State of California.

Youth Center. "Youth center" has the same meaning as Health and Safety Code Section 11353.1, which includes any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

## § 9-17.004. Personal cannabis cultivation.

The following regulations pertain to the personal cultivation of cannabis.

- (a) All cannabis cultivation is prohibited within the City except that no more than six living cannabis plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time. In no instance may personal cultivation occur on vacant property.
- (b) Indoor Cultivation Regulations. Indoor cultivation on residential properties is subject to the following regulations:
  - (1) Indoor cannabis cultivation shall only occur inside a private residence or an accessory structure to a private residence that is fully enclosed and secured against unauthorized entry.
  - (2) Sleeping Rooms within Residential Occupancies. Indoor cultivation may not occur inside rooms designed for sleeping. Sleeping rooms are defined by the **California Building Code** for residential occupancies.
- (c) Outdoor Cultivation. Outdoor cultivation on residential properties is subject to the following regulations:
  - (1) Visibility. Outdoor cannabis cultivation shall not be visible from public rights-of-way or neighboring properties.
  - (2) Screening. Outdoor cannabis cultivation must be completely screened with permanent fencing and/or landscaping. Fencing must be compatible with the neighborhood and be constructed of wood pickets, block, or other typical fencing materials.
  - (3) Prohibited Fence Types. Electrical fencing, razor wire fencing, chain link fencing, barbwire, plywood, and other unfinished materials. Shade cloth, plastic, plywood, OSB and other temporary screening materials shall not be allowed.

- (4) Fencing Height. Fencing for screening of outdoor cannabis cultivation must not exceed seven feet in height, measured from natural grade. Additional plastic or other materials attached, suspended, or supported beyond the seven foot height limitation shall be prohibited.
- (d) Setbacks. Personal cannabis cultivation shall be subject to the following setback requirements:
- (1) Property line. Cannabis greenhouses, cannabis hoop-structures, and all outdoor cannabis cultivation must be located 15 feet or more from the edge of property lines.
  - (2) Distance from Adjacent Residences. Cannabis greenhouses, cannabis hoop-structures, and all outdoor cannabis cultivation must be located 25 feet or more from the nearest adjacent residence.
  - (3) Front Setback. No cannabis cultivation may occur within a designated front setback as defined in Section **9-4.106** of this title.
- (e) Total Coverage of Personal Cannabis Cultivation.
- (1) Indoor Cannabis Cultivation. Indoor cannabis cultivation shall not take up more than 120 square feet of indoor residential space.
  - (2) Outdoor Cannabis Cultivation. Outdoor cannabis cultivation shall not take up more than 120 square feet of cannabis canopy coverage.
- (f) Property Owner Consent. Where a private residence is not occupied or inhabited by the owner of the residence, the owner of the property must provide written consent expressly allowing cannabis cultivation to occur at said private residence.
- (g) Applicability of Adopted Building Codes. All personal cannabis cultivation at a private residence shall comply with applicable Building Code requirements set forth in the Atascadero Municipal Code Title 8.
- (h) Use of Solvents. There shall be no use of gas products (CO<sub>2</sub>, butane, propane, natural gas, etc.) on a property for purposes of cannabis cultivation.
- (i) Waste Disposal. The following regulations apply to the disposal of cannabis waste on residential property:
- (1) Cannabis and cannabis infused products must be disposed in a secure waste receptacle located on the residential property.
  - (2) Cannabis plants and products must be rendered unusable and unrecognizable by grinding and incorporating cannabis waste with any non-consumable solid waste with a resulting mixture of at least 50% non-cannabis waste.
- (Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

## § 9-17.005. Commercial cannabis activities.

All commercial cannabis activities are prohibited unless specifically allowed in this Table 17-1. It is unlawful for any person to commence, operate, engage in, to conduct, or carry on (or to permit to be commenced, operated, engaged in, conducted or carried on) in or upon any property located within the City, a commercial cannabis activity unless that person does so in strict compliance with State Cannabis Laws, this section, and all applicable Municipal Code provisions.

**Business License Tax Certificate and Payment of Cannabis Business Tax Required.** No person shall commence, operate, engage in, conduct, or carry on a commercial cannabis activity, whether doing so from a fixed location in the City or coming into the City from an outside location to engage in such activities, without obtaining and continuously maintaining a business license tax certificate pursuant to Title **3**, Chapter 18 of this code (Cannabis Business Taxes) and remitting timely payments of applicable taxes pursuant to Title **3**, Chapter 18 of this code.

- (a) Table 17-1 identifies the uses of commercial cannabis activities that are permitted in non-residential districts, and the planning permit required to establish each use, in compliance with Chapters 9-1 and 9-2 of this code. All other commercial cannabis uses not otherwise lists in Table 17-1 shall be prohibited

Table 17-1 – Commercial Cannabis Use Table										
Allowed Land Uses and Permit Requirements	A Allowed Use, Zoning Clearance Required									
	CUP Conditional Use Permit Required									
Non-Residential Zones	AUP Administrative Use Permit Required									
	(blank) Not Permitted									
Use	Permitted Uses By Zones									
	CN	CP	CR	CS	CT	CPK	DC	DO	IP	I
<b>Commercial Cannabis Activity</b>										
Testing Facility		CUP	CUP	AUP		AUP			AUP	AUP
Retail Non-storefront Facility		CUP		CUP		CUP				CUP

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

### § 9-17.006. Commercial cannabis activities development standards.

- (a) The following are development standards for permitted commercial cannabis activities:
- (1) On-Site Sales. Retail or wholesale sales to the public are prohibited.
  - (2) Distance. Commercial Cannabis activities shall be prohibited within 600 feet of schools, parks, youth centers, or day care centers. All distances specified in this section shall be measured in a straight line, without regard to intervening structures or topography, from the nearest point of the building or structure in which the commercial cannabis activity is, or will be located, to the nearest property line of the parcel where such use is located. If the commercial cannabis activity is, or will be located, in a multi-unit building, the distances shall be measured from the nearest point of the suite in which the cannabis business is or will be located.
  - (3) Signage. On-site signage for a commercial cannabis activity that is viewable from the exterior of the premises shall comply with all local signage laws applicable to the permitted and licensed premises, including Chapter 9-15 of this code. Signage may not be designed to appeal to children, or contain any false or misleading statements, or make any misrepresentations.
- (b) Cannabis Deliveries. The following standards apply to licensed, permitted retail non-storefront facilities:
- (1) Deliveries within Incorporated City Limits. State-licensed retail non-storefront facilities may deliver cannabis and cannabis products to individuals located at private residences within the City, provided that such deliveries are in strict compliance with State cannabis laws and the Municipal Code and said retailer has obtained a business license tax certificate, is paying the applicable business license tax under Municipal Code Chapter 3-5, and is paying the applicable cannabis business tax under Title 3 Chapter 18 of this title (Cannabis Business Tax). All other deliveries of cannabis and/or cannabis products are prohibited.
  - (2) Vehicle Advertising. Vehicles used in the delivery process must be unmarked without any designation or logo that identifies the vehicle as a cannabis delivery vehicle.

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

## § 9-17.007. Commercial cannabis application and procedures.

- (a) Application Requirements. Any person applying for an AUP or CUP for a licensed, permitted commercial cannabis activity, as allowed under this chapter, must submit the following information with their application:
- (1) The name of the proposed commercial cannabis activity including, if applicable, the name on file with the California Secretary of State and any fictitious business names and/or DBAs.
  - (2) The location of the proposed commercial cannabis activity (must comply with the zoning and location restrictions set forth above).
  - (3) The names, addresses, and contact information for each owner of the proposed commercial cannabis activity.
  - (4) If the proposed commercial cannabis activity is incorporated, the names, titles, addresses, and contact information of each corporate officer, the name, address, and contact information of the agent for service of process, a certified copy of the articles of incorporation, and copy of the bylaws.
  - (5) If the proposed commercial cannabis activity is a partnership, the names, addresses, and contact information for each partner and the agent for service of process.
  - (6) The name and contact information for each manager of a proposed commercial cannabis business, establishment, or facility. If such information is not available at the time the application is submitted, the proposed commercial cannabis business, establishment, or facility shall submit such information to the Community Development Department as soon as it becomes available.
  - (7) For each owner, corporate officer, partner, manager, employee, or volunteer, a criminal history ("LiveScan") prepared not more than two weeks prior to the date of submitting the application demonstrating that there are no pending charges or convictions for any crime (including, without limitation, theft, fraud, deceit, or assault) within the previous 10 years, and that the subject is not currently on parole or probation for the sale, possession for sale, manufacture, transportation, cultivation, or distribution of a controlled substance. For each owner, corporate officer, partner, manager, employee, or volunteer who becomes part of a commercial cannabis facility after the required permit is issued, the commercial cannabis facility must submit the required criminal history to the Community Development Department within two weeks of the new owner, corporate officer, partner, manager, employee, or volunteer joining the operation.
  - (8) A site plan and operations plan that demonstrate how the proposed commercial cannabis activity has already complied or will comply with the requirements of this chapter.
  - (9) A copy of all required permits and certificates under Title 8 (Buildings Code) of this code or an acknowledgment that the proposed commercial cannabis activity will obtain all required permits and certificates under Title 8 prior to its opening, establishment, operation, and/or commencement.
  - (10) The name, address, and contact information for the owner of the property on which the proposed commercial cannabis activity will be located.
  - (11) An agreement signed by the owner of the property on which the proposed commercial cannabis activity is located consenting to use of the property for a commercial cannabis activity and agreeing to indemnify, defend (with an attorney selected by the City), and hold harmless The City of Atascadero from any claims, damages, legal or enforcement actions arising from the use of the property for a commercial cannabis activity.
  - (12) Any supplemental information requested by the Community Development Director or designee to establish compliance with the requirements of this chapter.

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

## § 9-17.008. Commercial cannabis application approval or denial of entitlement.

- (a) Criteria for Issuance or Denial of Permit. In addition to the criteria for land use permits set forth in this title, the Planning Commission, or the City Council on appeal, shall consider the following criteria in determining whether to grant or deny a land use permit for a commercial cannabis activity:
- (1) That the proposed location of the commercial cannabis activity is not identified by the City Chief of Police, or designee, as an area of increased or high crime activity.
  - (2) For those applicants who have operated other businesses within the City, that there have not been significant numbers of calls for police service, crimes, or arrests in the area of the applicant's other business.
  - (3) That the location is not prohibited by the provisions of this section or any local or State law, statute, rule, or regulation, and no significant nuisance issues or problems are likely or anticipated, and that compliance with other applicable requirements of the City's Zoning Ordinance will be accomplished.
  - (4) That the operations plan and site plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements section. These features may include, but are not limited to, on-site security; procedure for allowing entry; openness to surveillance and control of the premises; the perimeter and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.
  - (5) That all reasonable measures have been incorporated into the operations plan and site plan or consistently taken to successfully control and/or prevent disturbances, vandalism, traffic problems, cannabis use in public, public or private nuisances, or interference in the operation of another business.
  - (6) That the commercial cannabis activity is likely to have no potentially adverse effect on the health, peace, or safety of persons living or working in the surrounding area, overly burden a specific neighborhood, or contribute to a public nuisance.
  - (7) That any provision of the Municipal Code or condition imposed by a City-issued permit, or any provision of any other local or State law, regulation, or order, or any condition imposed by permits issued in compliance with those laws, will not be violated.
  - (8) That the applicant has not made a false statement of material fact or has omitted to state a material fact in the application for a permit.
  - (9) That the applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices with respect to the operation of another business.
  - (10) Conditions of approval may require that a commercial cannabis activity be subject to conditions that mitigate potential impacts of the sale of cannabis products in the community.
- (b) Indemnification. The applicant or its legal representative shall:
- (1) Indemnify and hold the City harmless from any and all claims, damages, legal or enforcement actions, including, but not limited to, any actions or claims associated with violation of Federal law associated with the operation of the commercial cannabis activity; defend, at its sole expense, any action against the City, its agents, officers, and employees related to the approval of an entitlement for or the operation of the commercial cannabis activity; reimburse

the City for any court costs and attorney fees that the City may be required to pay as a result of any legal challenge (or Federal enforcement action) related to the City's approval of an entitlement for or the operation of the commercial cannabis activity.

- (2) Maintain insurance in the amounts and of the types that are acceptable to the City pursuant to guidelines and policies set forth by the local licensing authority and name the City as an additionally insured on all City-required insurance policies.

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

## § 9-17.009. Commercial cannabis operational requirements.

### (a) Operational Requirements.

- (1) A cannabis testing facility permitted under this section may only operate between the hours of 7:00 a.m. and 8:00 p.m. Pacific Time.
- (2) A retail non-storefront delivery facility permitted under this section may only operate between the hours of 6:00 a.m. and 10:00 p.m. Pacific Time.
- (3) Any commercial cannabis activity permitted under this chapter must comply with all applicable State cannabis laws, including, but not limited to, the requirement of a valid State license to operate a commercial cannabis activity.
- (4) A commercial cannabis activity permitted under this chapter must comply with all applicable provisions of Titles **5** and **8** of this code.
- (5) A commercial cannabis activity permitted under this section may not employ any person who is not at least 18 years of age.
- (6) A commercial cannabis activity permitted under this section shall not conduct or engage in the commercial or retail sales of any cannabis or cannabis products on the premises of the cannabis facility.
- (7) No cannabis cultivation may occur on the property of a commercial cannabis activity permitted under this chapter.
- (8) A commercial cannabis activity permitted under this chapter may not allow or permit the use, inhalation, smoking, eating, ingestion, or consumption of cannabis or cannabis products on the property of the commercial cannabis activity, including in the parking areas of such property.
- (9) Criminal Background Requirements.
  - (i) All owners, corporate officers, partners, managers, employees, or volunteers of a commercial cannabis activity permitted under this chapter shall comply with background criminal history requirements under State law. No person who is currently charged with or has been convicted within the previous ten years of a felony or misdemeanor involving moral turpitude or any crime involving the sale, possession for sale, manufacture, transportation, cultivation, or distribution of a controlled substance shall be employed by a cannabis business in the City.
  - (ii) Prior to commencing any work within or on behalf of a commercial cannabis facility permitted under this chapter, each owner, corporate officer, partner, manager, employee, and volunteer must complete a current criminal history background check that demonstrates compliance with subsection (a)(9)(i). Each criminal history background check must be updated every 12 months.
  - (iii) A commercial cannabis activity permitted under this section shall maintain a complete register of each owner, corporate officer, partner, manager, employee, and volunteer working for and/or associated with the commercial cannabis activity, including a copy of each required criminal history background check. The register and required records must

be made available for inspection by any city officer or official for purposes of determining compliance with this chapter.

- (iv) A commercial cannabis activity permitted under this chapter shall notify the city in writing of any disqualifying conviction described in subsection (a)(9)(i) for an owner, corporate officer, partner, manager, employee, or volunteer within 10 days of the conviction.
  - (v) A commercial cannabis activity permitted under this chapter may submit to the Police Chief a written request for a waiver of the prohibition in subsection (a)(9)(i) with regard to a particular owner, corporate officer, partner, manager, employee, or volunteer, on the ground that such person's involvement with the commercial cannabis activity will not pose a threat to public safety. The Police Chief, in his or her unfettered discretion, may deny such a written request, subject to the appeal procedures set forth in Municipal Code Sections **1-2.13** through **1-2.16**.
- (10) A commercial cannabis activity permitted under this chapter shall provide the name, phone number, facsimile number, and e-mail address of a manager or representative who can be reached 24 hours a day in the event that the city decides to provide notice of an operating problem associated with the commercial cannabis facility.
  - (11) Disposal of chemical, dangerous, or hazardous waste must be conducted in a manner consistent with Federal, State and local laws, regulations, rules or other requirements. Cannabis waste must be made unusable and unrecognizable prior to leaving the licensed premises by grinding it and incorporating it with 50% non-cannabis waste.
  - (12) A commercial cannabis activity permitted under this chapter must pay any applicable taxes pursuant to Federal, State, and local law.
  - (13) A commercial cannabis activity permitted under this chapter shall provide a secured storage area on-site. All cannabis and cannabis products shall be stored in this area during non-business hours.
  - (14) A commercial cannabis activity permitted under this chapter may be required to provide a video surveillance system that is accessible by the City of Atascadero.
  - (15) A commercial cannabis activity permitted under this chapter may be required to provide a security plan that outlines private security services on site for 24 hours a day.
  - (16) A retail non-storefront facility location in the City of Atascadero shall include an on-site concealed location within the building where all cannabis products and cash are loaded onto or unloaded from a delivery vehicle. The concealed location shall be within an enclosed area not visible or accessible to the public.
  - (17) A commercial cannabis business location permitted under this chapter shall be required to maintain a backup power source to maintain security features in the event of a power failure.
  - (18) The premises of a commercial cannabis activity must be equipped with an odor absorbing ventilation and exhaust system so that odor generated inside the premises that is distinctive to the operation of the commercial cannabis activity is not detected outside the premises, anywhere on adjacent property or public rights-of-way, on or about any exterior or interior common area walkways, hallways, breeze-ways, foyers, lobby areas, or any other areas available for common use by tenants or the visiting public, or within any other unit located within the same building as the commercial cannabis activity. As such, a commercial cannabis activity must install and maintain the following equipment or any other equipment which local licensing authority determines has the same or better effectiveness:
    - (i) An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; or
    - (ii) An air system that creates negative air pressure between the premises' interior and exterior so that the odors generated inside the premises are not detectable outside the

premises.

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

## § 9-17.010. Suspension and revocation of entitlement.

### (a) Suspension, Modification and Revocation.

- (1) Authority to Suspend or Revoke. Any permit issued for a commercial cannabis activity facility may be suspended, modified or revoked by the Planning Commission if it shall appear to the Commission that the permittee has violated any of the requirements of this chapter or the Municipal Code, the permittee is operating in a manner which violates the operational requirements or operational plan required by this chapter, the permittee is operating in violation of any conditions of approval applicable set forth in the use permit approval, the permittee is operating in a manner which constitutes a nuisance, the permittee's State license under MAUCRSA has been suspended, revoked, or terminated, or the permittee is operating in a manner which conflicts with State or Federal law.
- (2) Annual Review of Permitted Commercial Cannabis. The Community Development Department and the Police Department are hereby authorized to conduct an annual review of the operation of each permitted commercial cannabis activity within the City for full compliance with the business license regulations, cannabis tax collection requirements, operational recordkeeping, nuisance and all other requirements of this chapter, the Atascadero Municipal Code, and State licensing. A fee in an amount set by resolution of the City Council may be established in order to reimburse the City for the time involved in the annual review process. The staff may initiate a permit suspension or revocation process for any commercial cannabis activity which, upon completion of an annual review, is found not to be in compliance with the requirements of this chapter or which is operating in a manner which constitutes a public nuisance. Staff may, based upon its annual review of the operation of a commercial cannabis activity, place on a Planning Commission meeting agenda, a proposal to suspend or revoke a commercial cannabis activities permit.
- (3) Except as otherwise provided in this chapter, no permit shall be revoked or suspended by the Planning Commission under the authority of this section until written notice of the intent to consider revocation or suspension of the permit has been served upon a permittee at least 10 days prior to the date set for such review hearing. Such revocation or suspension notice shall state the specific reasons for the proposed suspension or revocation and must have been provided to the permittee in writing prior to the hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the permittee, or by depositing such notice in the U.S. mail in a sealed envelope, postage prepaid (via regular mail and return receipt requested), addressed to the person to be notified at his or her address as it appears in his or her application for a permit.

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

## § 9-17.011. Enforcement.

The City may enforce this chapter in any manner permitted by law. Any violation of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief.

(Ord. 612 § 2, 2017; Ord. 647 § 5, 2021)

## § 9-17.012. Limitation on liability.

To the fullest extent permitted by law, the City shall not assume any liability, whatsoever, with respect to approving any entitlement or permit pursuant to this chapter or the operation of any commercial cannabis activity approved for such permit pursuant to this chapter

(Ord. 647 § 5, 2021)