

**Chapter 5.94**

**Medical Cannabis Dispensaries**

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**Section 5.94.010 Purpose and Intent**

The purpose of this chapter is to establish a comprehensive set of regulations with attendant regulatory permits applicable to the operation of medical cannabis dispensaries. The regulations are intended to ensure such operations are consistent with the overall health, welfare and safety of the city and its populace, and that such operations are in compliance with California's Compassionate Use Act of 1996 as well as California's Medical Marijuana Program Act of 2003. Furthermore, the purpose of this chapter is to establish a framework for regulation consistent with the Medical Marijuana Regulation and Safety Act of 2015 as drafted, and also any future regulations contemplated by the Bureau of Medical Marijuana, Department of Consumer Affairs, the Department of Health and Safety, the Department of Agriculture, or any other governmental agency in its promulgation of rules and laws pertaining to commercial cannabis activities throughout the State of California.

This chapter is not intended to permit activities that are otherwise illegal under state or local law. This chapter is not intended to conflict with federal or state law.  
(Measure Z, Added, 12/11/18)

**Section 5.94.020 Operation Prohibited Without Permit**

It shall be unlawful to own, establish, operate, use, or permit the establishment or operation of a medical cannabis dispensary, or to participate as an employee, contractor, agent, volunteer, or in any manner or capacity other than as provided in this chapter. The general prohibition contained in this section shall include renting, leasing, or otherwise permitting a medical cannabis business to occupy or use a location, vehicle, or other mode of transportation.

(Measure Z, Added, 12/11/18)

**Section 5.94.030 Definitions**

The following definitions shall apply to this chapter unless the context clearly denotes otherwise:

**“Applicant”** means a person or legal entity who is required to file an application for a license under this chapter.

**“Attorney General Guidelines”** shall refer to the California Attorney General Guidelines for the Security and Non-diversion of Marijuana Grown for Medical Use, issued by the Attorney General’s Office in August 2008, as amended from time to time, which sets regulations intended to ensure the security and non-diversion of Cannabis grown for medical use by qualified patients or primary caregivers.

**“Business Licensing Division”** as used in this Chapter is defined to mean the department within the City that reviews, issues, and manages business licenses.

**“Cannabis Business” or “Commercial Cannabis Business”** shall have the meaning assigned to the term “commercial cannabis activity” by Section 26001 of the Title XVI of the California Code of Regulations.

**“Cannabis Dispensing Room”** means the location in a medical cannabis dispensary where medical cannabis is stored and dispensed to qualified patients as opposed to a lobby area within the dispensary.

**“City”** means the city of Vista.

**“Collectives”** and **“Cooperatives”** when referring to medical cannabis organizations, both mean associations of qualified patients or primary care givers who associate, as an incorporated or unincorporated association, to collectively or cooperatively cultivate, process, and distribute medical cannabis for use exclusively by their registered members, in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 et seq.

**“Concentrated Cannabis”** shall have the same definition as given such term in California Health and Safety Code § 11006.5, as may be amended, and which defines “Concentrated Cannabis” as the separated resin, whether crude or purified, obtained from Cannabis.

**“Edible”** shall have the same definition as set forth in Health and Safety Code Section 113781, until such time that MMRSA or the Department of Public Health sets forth a new definition.

**“Gross Sales”** shall have the same meaning as is given to the term “Gross Receipts” pursuant to Section 7.10.020 of the Vista Municipal Code.

**“Identification card”** has the same definition as set forth in Health and Safety Code section 11362.7.

**“Location”** means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.

**“Live scan”** means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice (DOJ) which involves digitizing fingerprints and electronically transmitting the fingerprint image data along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the city council.

**“Marijuana”** has the same definition as set forth in the Health and Safety Code section 11018, and includes cannabis.

**“Medical Cannabis”** means marijuana or cannabis used for medical purposes in accordance with the Compassionate Use Act (Health and Safety Code section 11362.5) and the Medical Marijuana Program Act (Health and Safety Code sections 11362.7 et seq.).

**“Qualified member”** means either a qualified patient, a person with an identification card, or a primary caregiver who has joined the collective.

**“Notice of Completed Registration”** means a written notice to an applicant for collective or cooperative registration issued by the City as a ministerial duty indicating that the application is complete and accurate.

**“Person”** means an 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, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

**“Person or entity engaged in the operation of a commercial cannabis business”** means a registered business commencing, conducting, operating, or managing a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

1. Such person or person’s employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
2. Such person or person’s employee owns or leases real property within the City for business purposes;
3. Such person or person’s employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;
4. Such person or person’s employee regularly conducts solicitation of business within the City; and
5. Such person or person’s employee performs work or renders services in the City.

The foregoing specified activities shall not be a limitation on the meaning of “engaged in business.”

**“Person with an identification card”** has the same definition as set forth in Health and Safety Code section 11362.7, and as may be amended, and which provides that “Person with an identification card” means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article [being Article 2.5 of Chapter 6 of Division 10 of the Health and Safety Code].

**“Physician’s referral”** means a written recommendation for a patient from a licensed medical doctor indicating that Cannabis would be a beneficial treatment for a serious medical condition of the patient.

**“Qualified Patient”** has the same definition as set forth in Health and Safety Code section 11362.7(f).

**“Reasonable Compensation”** means compensation commensurate with wages and benefits paid to officers and employees of other not-for-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked, including without limitation, the proportionate cost of cultivation, materials, time, experience, and other expenditures reasonably related to the cultivation, transportation, treatment, and storage of medical Cannabis.

**“Registered business”** means a person which is included on a registration list maintained by the City in accordance with Chapter 5.94 of the Vista Municipal Code, until such time that the registration expires.

**“Registration list”** means the list of registered medical cannabis collective and cooperative maintained by the City.

12. **“School”** means any pre-existing public or private school with students in any grade K-

**“Tax administrator”** means the Director of Finance of the City of Vista, the Director of Finance’s designee(s), or any other City officer charged with the administration of the provisions of this Chapter.

(Measure Z, Added, 12/11/18; Ord. No. 19-09, Amended, 6/25/19)

**Section 5.94.040 Registration Required and Effect Thereof**

Nothing in this Article shall be construed to grant any registrant any status or right other than the right to be identified on the City’s registration list, and to receive a Notice of Completed Registration, a Certificate of Occupancy, and a gross receipts business license, and the right to assert an affirmative defense to administrative, civil, and criminal enforcement of the City of Vista Municipal Code based on conduct in compliance with this Article and with California law. A duly registered medical cannabis business, its members, officers, directors, managers, employees, and volunteers, shall not be subject to administrative, civil, or criminal sanctions based on the City of Vista Municipal Code solely on the basis of conduct in compliance with this Article and with California law.

(Measure Z, Added, 12/11/18)

**Section 5.94.050 Applications for Medical Cannabis Dispensary Business License**

A. The owner, operator, or agent of a proposed medical cannabis business or dispensary shall file an application with the City or its designee upon a form provided by the City and shall pay a filing fee as established by resolution adopted by the City Council as amended from time to time. Additionally, Applicants shall be required to deposit into a trust account held by the City of Vista, the amount of one hundred thousand dollars (\$100,000.00), as an initial showing of the resources available to Applicant for any fees, improvements to the building/structure, or any other costs associated with the application process, including fees incurred by the City in its evaluation of the application.

B. Each application for a medical cannabis business or dispensary business license shall be submitted to, and as directed by the City on forms of his or her devising, in the name of each applicant for registration, and shall be signed by each applicant or an authorized agent thereof. The application shall include the following information:

1. A written request to be registered and placed on the medical cannabis business registration list.

2. The name, mailing address, and telephone number of the applicant.

3. The business name and street address for which registration is sought, as well as any other names under which the business may operate.

4. Address of the location where the medical cannabis business will be located.

5. Proof that the applicant owns or currently leases the property. If the property is being leased, rented or purchased under contract, a copy of such contract or fully executed lease must be submitted with the application.

6. If the property is being rented or leased, the applicant must submit a signed and notarized authorization acknowledging that the current owner of the property is aware of the intended use as a medical cannabis business and consents to such use.

7. A site plan describing the property with fully dimensioned interior and exterior floor plans including: electrical, mechanical, plumbing, and disabled access compliance pursuant to Title 24 of the State of California Code of Regulations and the Americans with Disabilities Act. Any improvements or alterations to the property that require building permits must be submitted to the Building and Safety Division separately for review/approval.

8. Exterior photographs of the entrance(s), exit(s), street frontage(s), parking, front and rear side(s) of the property.
9. Photographs depicting the entire interior of the proposed property.
10. If the medical cannabis business/collective is a non-profit corporation, a certified copy of the Collective's Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information.
11. If the medical cannabis business or collective is an unincorporated association, a copy of the Articles of Association must be provided.
12. A one-page description of the business and its plans for security and non-diversion of medical cannabis.
13. A copy of the Medical Cannabis operating standards with a statement dated and signed by the responsible party on-site stating under the penalty of perjury, that they read, understand, and shall ensure compliance with the aforementioned operating standards.
14. Applicant(s) must not have suffered any felony drug convictions within the last 4 years. This may be evidenced by a "live-scan" completed within 60 days of the filing of the application showing no felony drug convictions within the last 4 years.
15. Documentation that the business is located in a zone allowed by this Chapter and documentation indicating that the business conforms with the appropriate buffer zones described in this Chapter.
16. Applicant's business must have been in existence for a minimum of six (6) contiguous months prior to the issuance of a business license under this Article.
17. Applicant must have a current Board of Equalization Seller's Permit that has been in existence for a minimum of six (6) contiguous months prior to the issuance of a business license under this Article.
18. A security plan including the following measures:
  - a. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 30 days of digitally recorded documentation.
  - b. The business space shall be alarmed with a centrally monitored fire and burglar alarm system, and monitored by an alarm company.
  - c. Entrance to the dispensing area or "medication room" and any storage areas shall be locked at all times, and under the control of employees.
  - d. Interior Lighting. The premises within which the medical cannabis business is operated shall be equipped with and, at all times during which is open to the public or any portion thereof, shall remain illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which members of the public or portions thereof are permitted access with an illumination of not less than two foot-candles as measured at the floor level.
  - e. Exterior Lighting. The exterior of the premises upon which the medical cannabis business is operated shall be equipped with and, at all times between sunset and sunrise, shall remain illuminated with fixtures of sufficient intensity and number to illuminate every portion of the property with an illumination level of not less than one foot-candle as measured at the ground level, including, but not limited to, landscaped areas, parking lots, driveways, walkways, entry areas, and refuse storage areas.
  - f. All windows on the building that houses the dispensary shall be appropriately secured and all cannabis securely stored, and a reliable, commercial alarm system shall be installed and maintained.
19. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.  
(Measure Z, Added, 12/11/18)

**Section 5.94.060 Registration Application Form, Manner, Timing, and Priority Order**

A. The City shall, within 15 calendar days of the date of the adoption of this Article, create registration application forms and instructions that strictly require only the information required pursuant to Sec. 5.94.50 of this Article, and shall begin accepting applications on a published date within 30 calendar days of the date of the adoption of this Article.

B. At least seven calendar days prior to the date the City will begin accepting applications for registration, the City shall publish, on the City's website and once in a daily newspaper of general circulation, the date, time, and manner on and in which the medical cannabis businesses must submit registration application forms and the required fee, and shall make publicly available those forms and instructions at City Hall and on the City's website.

C. Each applicant shall deposit into a trust account held by the City of Vista, the amount of one hundred thousand dollars (\$100,000) to be used in the application process and to ensure the applicant's ability to pay for various security and compliance measures as determined by the City throughout the application process.

D. As each applicant submits its registration application and fee pursuant to this Article, the City shall time-stamp the application with the date and time received. Seven calendar days after the date the City begins accepting applications, the City shall stop accepting applications and shall that day establish a priority list that identifies by name, address, date and time the order in which the applications were received. The City shall rank the applications in the order in which they are first filed. The City shall process each application according to its rank. An applicant may only be assigned one place on the priority list, and multiple submissions will result in immediate disqualification from the registration process.

E. Within seven calendar days of establishing the priority list, the City shall publish the priority list on the City's website and once in the local daily newspaper of general circulation.

F. The order set forth in the priority list shall remain in effect until all applicants on the priority list have either been issued a medical marijuana business license, or have been determined to not qualify, at which time, should the number of current valid registrations fall below that established by Sec. 5.94.90 of this Article, a new date and time will be set for submission of the additional applications following the process set forth herein, but not more frequently than once every 180 days.

G. Following establishment of the priority list, the City shall begin processing, as ministerial duty, the registration applications for medical cannabis businesses in the order established by the priority list. The City shall continue processing the applications until the maximum number of medical cannabis businesses registrations have been issued a Notice of Completed Registration and placed on the registration list. This processing shall consist of verification of the information required by Sec. 5.94.50 as complete and accurate.

H. No medical cannabis business' rank on the priority list shall be assigned, transferred, or sold. Any attempt to assign, transfer, or sell a priority ranking shall render the application null and void. Any person, collective, or cooperative attempting to assign, sell, or transfer a priority ranking or any person, collective, or cooperative attempting to acquire a priority ranking outside the provisions set forth herein shall be immediately disqualified from the registration process for three years.

(Measure Z, Added, 12/11/18)

**Section 5.94.070 Issuance and Renewal of Registration**

A. Upon receipt of an application for registration, the City shall, as a ministerial duty, complete the processing and issue a Notice of Completed Registration and place the applicant on the registration list within 30 calendar days, to be tolled if, and only if, requested by the applicant to allow processing time unless:

1. The application is incomplete or inaccurate; or
2. The applicant has failed to provide information reasonably necessary for processing the registration application or has knowingly answered an application question or request for information falsely; or
3. The application seeks registration for a medical cannabis business that is located within 1000 feet of a school, as herein defined, or is not located in an allowable zone or outside the required buffer zones listed in this Article; or
4. The Applicant does not possess a California State Board of Equalization Seller's Permit or License to Sell Nursery Stock has been granted for the applicant; or
5. An applicant is a licensed physician actively making patient recommendations

B. If the City fails to either issue a Notice of Completed Registration or deny the application for registration in writing stating the reasons for denial, within 30 calendar days of receipt of the application, the registration shall be deemed complete, the Notice of Completed Registration deemed issued, and the medical cannabis business deemed to be on the registration list, and thus deemed eligible for a Certificate of Occupancy and business license as below.

C. Once all available Notices of Completed Registration are issued or deemed issued, no applications will be accepted or considered until such time as additional Notices of Completed Registration are available. When additional Notices of Completed Registration become available, applications will then be taken and will be considered as provided herein upon the timely filing of a new application therefrom.

D. Registration shall be valid for two years and an application for renewal must be filed not later than 30 calendar days prior to the expiration of the registration, but no earlier than 60 calendar days prior to the expiration of the registration. A registration may be renewed every two years by submitting an application for renewal to the City.

E. Once an applicant has been issued a Completed Registration, the applicant may not be charged with violation of 5.94.020 or 5.94.110, unless or until such time that the application is deemed to have not qualified for a medical cannabis business license.

F. Once issued a Notice of Completed Registration and placed on the registration list, the collective or business shall be eligible for a Certificate of Occupancy, which shall be issued upon completion of all standard building and fire inspections, including all parking requirements as are determined by Section 5.94.080 of this code. If the Certificate of Occupancy is not issued, or denied in a writing stating the grounds upon which it is denied, it shall be denied.

G. Once issued its Certificate of Occupancy, a medical cannabis business shall be eligible for a business license that shall be issued as a ministerial duty immediately upon application.

H. The City shall not require a medical cannabis business to obtain any special use or conditional use permit other than is required in Sec. 5.94.50 above. This provision is included to meet the requirements and concerns expressed by the California Court of Appeal in *Pack v. Superior Court* (2011). City officials will not be required to violate any Federal criminal statute. No special site plan, variance, or any other permit or certificate other than those specified in this Ordinance, shall be required by the City and none shall be issued for said collectives, cooperatives, and businesses. The City shall issue, as a ministerial duty, Notices of Completed Registration, Certificates of Occupancy, and business licenses to qualified cannabis businesses in priority order as received and processed.

(Measure Z, Added, 12/11/18)

**Section 5.94.080 General Operating Standards and Restrictions**

A medical cannabis dispensary shall operate in conformance with the following minimum standards, and such standards shall be deemed to be part of the conditions of approval on the permit for a medical cannabis business to ensure that its operation is in compliance with California law, the Attorney General Guidelines, the Medical Marijuana Regulation and Safety Act, and the Vista Municipal Code, and to mitigate any potential adverse impacts of the medical cannabis business on the public health, safety or welfare.

**A. Security**

1. At least one (1) security guard, armed or unarmed, who is licensed by the State of California shall be present at the location of the medical cannabis business during all business hours. The security guard shall only be engaged in activities related to providing security for the medical cannabis business, except on an incidental basis. Each security guard shall possess a "Security Guard Card" at all times.

2. Security cameras shall be installed and maintained in good condition, and used in an on-going manner with at least 30 days of digitally recorded documentation.

3. The location of the medical cannabis business shall be alarmed with a centrally monitored fire and burglar alarm system, and monitored by an alarm company.

**B. Records**

1. Medical cannabis dispensary shall maintain records reflecting:  
a. The full name, address, and telephone number(s) of the owner and/or lessee of the property.

b. The full name, address, and telephone number(s) of all employees.

c. Results of annual live scans of all employees.

d. The state issued identification card number of all members to whom the medical cannabis business provides medical Cannabis. If a member does not have a state issued identification card, then the medical cannabis dispensary shall assign the member a unique identifying number for the use of the medical cannabis business, and maintain a written copy of the physician's referral for the member.

e. A copy of the medical cannabis dispensary's commercial general liability insurance policy and all other insurance policies related to the operation of the medical cannabis dispensary.

f. Proof of a valid and current permit issued by the city in accordance with this chapter. Every medical cannabis dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter in a conspicuous place so that it may be readily seen by all persons entering the location of the medical cannabis dispensary.

**C. Employees**

1. A medical cannabis dispensary shall not have any employees, operators, or volunteers who have suffered a conviction for a felony offense having occurred within the past four (4) years. This requirement shall be confirmed through the results of a live scan being conducted annually by the medical cannabis business on all employees, the written results of such live scans being maintained at the location of the medical cannabis dispensary.

2. All employees must have a current and valid recommendation or California Issued Medical Marijuana Card.

**D. Volume**

A medical cannabis dispensary may dispense, store or transport medical Cannabis in aggregate amounts tied to its members' needs. To that end a medical cannabis dispensary shall ensure compliance with state law limits on amount of dried Cannabis and

amount of Cannabis plants allowed per qualified patients and persons with identification cards and/or primary caregivers.

E. No Recommendations On-site

A medical cannabis dispensary shall not have a physician or an attending physician at the location of the medical cannabis business to evaluate patients or provide a recommendation for medical Cannabis.

F. Notification

The following signs in measurements of not less than eight (8) by ten (10) inches shall be clearly and legibly posted in a conspicuous location inside the medical cannabis business where they will be visible to members in the normal course of a transaction, stating:

1. "Use of medical Cannabis shall be limited to the patient identified on the doctor's recommendation. Secondary sale, barter or distribution of medical Cannabis is a crime and can lead to arrest."

2. "Loitering on and around the collective site is prohibited by California Penal Code § 647(e) and patrons must immediately leave the site and not consume medical Cannabis in the vicinity of the collective or on the property or in the parking lot."

3. "Forgery of medical documents is a crime."

4. "Patrons may be subject to prosecution under the federal marijuana laws."

5. "Use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery."

6. "Smoking, ingesting or consuming marijuana anywhere on the premises is strictly prohibited."

7. "Minors are prohibited from entering this property unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian."

8. "All Medical Cannabis has been tested by an independent testing agency for content, mold, pesticides, and other harmful contaminants."

G. No Alcohol

Any Medical cannabis dispensary shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages on site and there shall be no alcohol consumption on site.

H. Quality control

In accordance with the provisions set forth in the Medical Marijuana Regulation and Safety Act, all Medical Marijuana shall be analyzed in representative samples of all strains that are to be distributed to members of the dispensary. The representative samples shall be analyzed by an independent laboratory, holding a state license for testing (if and when such is available) for harmful pesticides, molds, and other contaminants. Any medical cannabis from which the representative sample tested positive for a harmful pesticide or other contaminant at a level that exceeds the local, state or federal regulatory or statutory standards shall be destroyed forthwith and not dispensed to members or qualified patients.

I. Labeling

1. Any medical cannabis provided to members shall be properly labeled.

2. A distinct and clearly legible label must be affixed onto all medical cannabis items provided by a medical cannabis business which states:

a. This item contains medical cannabis.

b. Warning that the item is a medication and not a food.

c. Warning that the item is to be kept away from children

d. Warning if nuts or other known allergens are used.

e. Date of manufacture.

f. Any other or further labeling as may be made a requirement by the Bureau of Medical Marijuana, Department of Health and Safety, or any other State or Federal agency.

3. Any edible cannabis product that is made to resemble a typical food product (i.e. brownie, cake) must be in a properly labeled opaque (non see-through) package before it leaves the medical cannabis business.

J. Edibles

All medical cannabis edibles shall comply with the California Sherman Food, Drug, and Cosmetic Law, as codified in section 109875, et seq. of Part 5 of Division 104 of the Health and Safety Code, and as amended from time to time. Further minimum requirements for all medical cannabis edibles include:

1. No edible medical marijuana products requiring refrigeration or hot holding shall be manufactured for sale or distribution at a medical marijuana business, due to the potential for food-borne illness. Baked medicinal products (i.e. brownies, bars, cookies, cakes), tinctures and other non-refrigerated type items are acceptable for manufacture and sale at a medical cannabis business.

2. Any such other or further requirements as propagated by the Bureau of Medical Marijuana or the Department of Public Health.

K. Signage

1. Signs on the premises shall not obstruct the entrance or the video surveillance system. The size, location, and design of any signage must conform to the sign provisions in the Vista Municipal Code.

2. Business identification signage shall comply with the appropriate sign requirements with the applicable zoning district.

L. Employee Training

All employees of a medical cannabis business shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding maintaining compliance by the operation with State and local law.

M. Supply

Each Medical Marijuana Dispensary shall acquire its medical marijuana from a state and locally licensed distributor, once the same is available. If no such licensed distributor exists, the Dispensary shall acquire its medical marijuana from its members.

N. Operating Hours for Medical Marijuana Dispensary

The maximum hours of operation for a medical marijuana dispensary shall be daily from 9:00 a.m. to 10:00 p.m.

O. Use Restrictions

Smoking, ingesting or consuming marijuana by customers at the location of the medical cannabis dispensary is prohibited.

P. No Minors

No one under 18 years of age shall be permitted to enter establishment, unless such person is a qualified patient and is accompanied by his or her Primary Caregiver, licensed Attending Physician, parent(s) or documented legal guardian.

Q. Odors

A medical cannabis dispensary shall have an air treatment system that ensures offsite odors shall not result from its operations. This requirement at a minimum means that the medical cannabis dispensary shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location of the medical cannabis dispensary is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the medical cannabis business, if the use only occupies a portion of a building.

R. Insurance

A medical cannabis dispensary shall carry with minimal coverage provided of comprehensive commercial general liability insurance and comprehensive automotive liability insurance (if automobiles are used by the medical cannabis business for any purpose) protecting the medical cannabis business in an amount of not less than one million dollars (\$1,000,000.00) per occurrence, combined single limit, including bodily injury and property damage and not less than one million dollars (\$1,000,000.00) aggregate for each personal injury liability, products liability and each accident.

S. Site management

The medical cannabis dispensary permit holder shall make available to members who are dispensed medical marijuana a list of the rules and regulations governing medical marijuana use and consumption within the city and recommendations on sensible medical marijuana etiquette.

T. Parking

Each medical cannabis dispensary shall have at least one (1) dedicated parking space for every 1,000 square feet of the permitted building. The medical cannabis dispensary must also have shared access to at least one (1) handicap accessible parking space.

(Measure Z, Added, 12/11/18)

**Section 5.94.090 Location Restrictions and Limitations**

A. The maximum number of medical cannabis businesses shall be limited to one medical cannabis business per 10,000 (or fraction thereof) residents of the City, as determined by the last Federal Census or as determined by the latest population estimate by the Department of Finance of the State of California whichever is higher and in no case less than six (6) shall be registered by the City if there are that many eligible applicants. The City Council may increase, but not decrease, the number of medical cannabis businesses registered in the City under the formula above which shall be the maximum number registered unless raised by the City Council.

B. Medical cannabis businesses may only be located in a C-1 zone (Commercial), C-2 zone (Commercial), C-3 zone (Commercial), RLI zone (Research Light Industrial), M U Zone (Mixed Use), I-P (Industrial Park), or M-1 zone (Light Manufacturing) as designated of the Vista Municipal Code. Medical cannabis businesses are explicitly prohibited in the residential zones: R-1, R-1-B, and R-M.

C. Medical cannabis businesses are prohibited within six hundred (600') feet of a pre-existing public or private K-12 school pursuant to Health and Safety Code Section 11362.768.

D. Medical cannabis businesses are prohibited within five hundred (500') feet of any other permitted medical cannabis dispensary. The distance is measured from front door to front door, without regard to intervening structures.

E. Medical cannabis businesses are prohibited from operating out of a residence or dwelling as defined by Section 18.02.270 of this Code.

F. Unless otherwise provided, all distances specified in this Section shall be measured in a straight line, without regard to intervening structures, from the front door of the medical cannabis business to the nearest property line of those uses described herein.

(Measure Z, Added, 12/11/18)

**Section 5.94.100      Transferability of Medical Cannabis Business License and Certificate of Occupancy**

Notwithstanding any other provision of the Vista Municipal Code, a medical cannabis business license and/or certificate of occupancy is transferable only if transferee successfully completes all of the requirements that a new applicant would otherwise need to meet.  
(Measure Z, Added, 12/11/18)

**Section 5.94.110      Violations and Penalties**

Any person, whether as principal, employee, agent, partner, City officer, stockholder, or trustee, or otherwise, violating or causing the violation of any of the provisions of this chapter shall be guilty of a misdemeanor or Infraction pursuant to Section 1.16.010 of this Code.  
(Measure Z, Added, 12/11/18)

**Section 5.94.120      Appeals**

Any decision regarding approval, conditional approval, denial, suspension or revocation may be appealed to the city council in accordance with the provisions of the Vista Municipal Code.  
(Measure Z, Added, 12/11/18)

**Section 5.94.130      Prohibited Operations and Nonconforming Use**

All medical cannabis businesses in violation of Health and Safety Code Section 11362.7 et seq. and 11362.5 et seq., this chapter, or any other applicable State law are expressly prohibited. It is unlawful for any medical cannabis dispensary in the city, or any agent, employee or representative of such medical cannabis business, to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct on the premises of the medical cannabis business, or to violate any State law, or this chapter.  
(Measure Z, Added, 12/11/18)

**Section 5.94.140      Taxes**

A.      Imposition of Tax

Every person or entity engaged in the operation of a commercial cannabis business, regardless of where such person or entity has been issued a license by the City, shall pay to the City an amount equal to seven percent (7%) of all gross sales as a special use tax. The revenue generated from the taxation of Medical Marijuana Businesses shall be placed in a City's general fund.

B.      Payment Obligation

All taxpayers subject to this Chapter must pay the full tax imposed by this Chapter regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in this Code, except as required by California or Federal Law. Failure to pay the tax shall subject the taxpayer to penalties, interest charges, and other assessments as the City may establish from time to time. No provision in this Code shall lower the tax rate or reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

C.      City Council Authorization to Adjust Tax Rates

The City Council may impose the tax authorized by this Chapter at a lower rate and may establish exemptions, incentives, or other reductions as it deems proper from time to time. The City Council may impose penalties, interest charges, or other assessments for the failure of a taxpayer to pay the tax in a timely manner, as otherwise allowed by the Charter and

California Law. No action by the City Council under this Section shall prevent it from later increasing or decreasing the tax, or imposing or removing any exemption, incentive, or reduction and restoring the maximum or minimum tax specified in this Chapter.

D. Payment of Tax Does Not Authorize Activity

The payment of the tax required pursuant to this Chapter shall not, under any circumstance, be construed as authorized the conduct or continuance of any illegal or unpermitted business. Nothing in this Chapter implies or authorizes that any activity connected with the sale, distribution, or possession of cannabis is legal unless otherwise authorized and allowed in strict compliance with the provisions of this Code, the Medical Marijuana Program Act, and the Medical Marijuana Regulation and Safety Act.

(Measure Z, Added, 12/11/18)

**Section 5.94.143 Tax Reporting, Remittance, Penalization, and Administration Rules**

A. Purpose

Section 5.94.140.C authorizes the City Council to adopt ordinances relating to the reporting, collection, auditing, interest assessment, penalties and other matters pertaining to taxes owed or delinquent pursuant to this Chapter. In adopting this section, the City Council intends to create a consistent program for the City's administration of all cannabis taxes owing to Vista under this Chapter and Chapter 7.10 as allowed by applicable law.

B. Reporting

All taxes owed pursuant to Chapter 5.94 shall be reported and remitted to the City in accordance with Section 7.10.030 of the Vista Municipal Code.

C. Penalties and Interest

If any person fails or refuses to pay taxes owed under this Chapter on or before the date on which the taxes are due, penalties and interest shall be imposed in the amounts and manner provided in Section 7.10.050 of the Vista Municipal Code.

D. Exemptions

Taxes imposed pursuant to this Chapter shall not be collected with respect to the personal cultivations or other personal use of cannabis to the limited extent described in Section 7.10.065 of the Vista Municipal Code.

E. Administration of Tax

It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this Chapter.

F. Constitutionality and Legality

The taxes owed pursuant to this Chapter shall be applied in a manner consistent with the rules contained in Section 7.10.085 of the Vista Municipal Code.

G. Audit and Examinations

For purposes of conducting audits and examinations with respect to taxes owed pursuant to this Chapter or property, materials, information, operations or items relating to this Chapter, the City, City Manager, City Attorney and Tax Collector shall have those powers enumerated in Section 7.10.090.A and C of the Vista Municipal Code.

H. Records Retention

Every person liable for the collection and payment of any tax owed pursuant to this Chapter shall have a duty to keep and preserve those records described in Section 7.10.090.B for the periods prescribed therein.

(Ord. No. 19-09, Added, 6/25/19)

**Section 5.94.147 Coordination of Tax Provisions of Chapters 5.94 and 7.10**

A. Any person which is a registered business pursuant to Chapter 5.94 shall pay taxes on all gross receipts of the business in accordance with Chapter 5.94 of the Vista Municipal Code and all regulations adopted pursuant to that Chapter.

B. Except for registered businesses paying taxes on gross receipts pursuant to Chapter 5.94, a person engaged in the operation of a commercial cannabis business shall pay taxes in accordance with Chapter 7.10 of the Vista Municipal Code and all regulations adopted pursuant to that Chapter.

C. Where a person in successive periods qualified as both a registered business and an unregistered business when operating as a cannabis business, the tax provisions of Chapter 5.94 shall be applied to the person during the periods it was a registered business, and the tax provisions of Chapter 7.10 shall be applied at the times it was not a registered business. However, if a court determines that a successive application of the tax provisions is improper and a simultaneous application must occur, the simultaneous application shall occur in a manner to assure that no gross receipts or gross revenues escape lawful taxation.  
(Ord. No. 19-09, Added, 6/25/19)

**Section 5.94.150 Severability**

If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this initiative is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Vista hereby declare that they would have adopted this initiative and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words, or portions thereof be declared invalid or unconstitutional.  
(Measure Z, Added, 12/11/18)

**Section 5.94.160 Consistency with Statewide Regulation of Cannabis**

This chapter shall be read consistent with any statewide regulation of medical marijuana that is promulgated by the California legislature or by voter approval in the future. Specifically, this Chapter shall be read consistent with the Medical Marijuana Regulation and Safety Act.  
(Measure Z, Added, 12/11/18)

**Section 5.94.170 Amendments and Administration**

A. This Chapter was submitted to the voters for approval. Any amendment to 5.94.040 to increase the Tax rate expressly provided in such section shall not be effective unless and until such amendment is approved by the voters. The voters may authorize the City Council to amend, modify, change, or revise any other provisions of this Chapter as the City Council deems to be in the best interests of the City.

B. The City Manager or any designee thereof shall promulgate any other rules, regulations, and procedures necessary and consistent with this Chapter in order to implement and administer the intent of this Chapter, including any rules and regulations necessary to ensure the efficient and timely collection of the tax imposed by this Chapter.  
(Measure Z, Added, 12/11/18)