ORDINANCE NO. 1418

EXTENSION OF URGENCY INTERIM ORDINANCE NO. 1417 CONTINUING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF ALL COMMERCIAL CANNABIS LAND USES, BUSINESS OPERATIONS AND CULTIVATION

The City Council of the City of Daly City ORDAINS as follows:

SECTION 1. FINDINGS.

WHEREAS, on November 8, 2016, the voters of the State of California approved Proposition 64 (the Adult Use of Marijuana Act “AUMA”) which legalizes recreational use of marijuana for persons 21 years of age and allows the State to regulate cultivation, testing, and sale of nonmedical marijuana, including marijuana products, as well as establish statewide taxes for the commercial growth and retail sale of marijuana; and

WHEREAS, AUMA allows local governments to regulate or prohibit commercial operations and activities relating to marijuana; and

WHEREAS, the City’s General Plan, Zoning Ordinance and Municipal Code do not specifically address the regulation or location of marijuana commercial activities collectives (or “dispensaries”) as a permitted or conditionally permitted use in any zoning district; and

WHEREAS, on January 1, 2018, the State of California will begin processing and issuing permits for nonmedical marijuana commercial operations; and

WHEREAS, the City Council desires to enact this interim urgency ordinance to expressly clarify that the manufacture, processing, laboratory testing, labeling, storing, wholesale distribution, retail sale of marijuana, and commercial cultivation of marijuana, are prohibited in all zoning districts through the City; and

WHEREAS, the immediate ban of all commercial and industrial marijuana activities will enable the City to develop a comprehensive approach to nonmedical marijuana, including analysis of the provisions of Proposition 64’s amendments and revisions to the Health & Safety Code and implementing regulations; and

WHEREAS, the residents of the Daly City will be well-served if the City more fully addresses the potential impacts of commercial marijuana operations; and

WHEREAS the most appropriate way to ensure public review and consideration and to prevent a potential gap in regulation of the cultivation and distribution of nonmedical marijuana in the City is to enact an urgency ordinance; and
WHEREAS, there is an immediate need to prevent unregulated nonmedical marijuana commercial operations in the City, which have the potential to affect the character, aesthetics and public health and safety; and

WHEREAS, the City Council finds that it is necessary to protect the health, safety, and welfare, and specifically the City’s and the public’s interests in the City’s aesthetic, economic, health, safety, and community character until additional staff review has been completed and any necessary code revisions have been adopted and made effective by the City Council; and

WHEREAS, the City Council directs staff to implement policy directives regarding the implementation of Proposition 64 and the issue of nonmedical commercial cultivation, manufacture, processing, laboratory testing, labeling, storing, wholesale, distribution and retail of marijuana; and

WHEREAS, on December 11, 2017, following a duly noticed public hearing required as required by California Government Code Section 65858, the City Council adopted Interim Ordinance No. 1416, which ordinance is effective from December 11, 2017 through January 25, 2018.

WHEREAS, on January 22, 2018, following a duly noticed public hearing required as required by California Government Code Section 65858, the City Council adopted Interim Ordinance No. 1417, which ordinance is effective from January 25, 2018 through July 25, 2018.

WHEREAS, pursuant to state law, Interim Ordinance No. 1417 may be extended, prior to its expiration, by the City Council for up to a maximum of two years.

WHEREAS, the City Council desires to extend Ordinance No. 1417 an additional one year, 4 months and 15 days months (up to the maximum of two years) in order to ensure that the City Council has sufficient time to consider and adopt legislation implementing Proposition 64; and

WHEREAS, this urgency ordinance is adopted pursuant to the requirements of Government Code Section 65858.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DALY CITY DOES ORDAIN AS FOLLOWS:

SECTION 2. REGULATION.

A. The above recitals are incorporated herein and are each relied upon independently by the City Council for its adoption of this interim ordinance.
B. The following regulation is hereby imposed. This regulation shall prevail over any conflicting provisions of the Daly City Municipal Code or other ordinances, resolutions, policies, and regulations of the City of Daly City.

(i) Any commercial or industrial use involving marijuana, including but not limited to, manufacture, processing, laboratory testing, labeling, storing, wholesale, distribution, and retail, is prohibited in every zoning district in the City.

(ii) Outdoor cultivation of marijuana is prohibited in every zoning district in the City. Indoor cultivation of marijuana is governed by State law and is limited to six (6) plants per residence and must be entirely for the personal use of a resident of the residence regarding the indoor cultivation of marijuana at a later date.

(iii) For purposes of this interim urgency ordinance, the term “marijuana” shall mean all items included in Health and Safety Code sections 11018 and 11018.1. The term “indoor cultivation” shall mean cultivation inside a fully enclosed private residence as defined in Health and Safety Code Section 11362.2(b)(2). The term “outdoor cultivation” shall mean any cultivation that is not defined as indoor cultivation as defined in Health and Safety Code Section 11362.2(b)(2).

SECTION 3. INTERIM URGENCY ORDINANCE. The City Council does hereby pursuant to Government Code Section 65858(a) extend Interim Urgency Ordinance No.1416 for a period of one year, 4 months, and 15 days, commencing on the date of adoption of interim ordinance. This interim urgency ordinance requires a 4/5 vote of approval of all of the members of the City Council and goes into effect immediately. This interim urgency ordinance, if not repealed at an earlier date, would automatically expire on December 11, 2019 and would not be eligible for any additional extensions.

SECTION 4. ENVIRONMENTAL DETERMINATION. The City Council finds that this ordinance falls under the California Environmental Quality Act (CEQA) exemption found at Title 14 California Code of Regulations section 15061 (b) (3) because the temporary prohibition of medical marijuana collectives does not have the potential to significantly impact the environment.

SECTION 5. SEVERABILITY. If any section, subsection, provision or part of this Ordinance, or its application to any person or circumstance, is held to be unconstitutional or
otherwise invalid, the remainder of this Ordinance, and the application of such provision to other person or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this Ordinance are severable.

SECTION 6. EFFECTIVE DATE. This ordinance is an urgency interim ordinance and shall take effect and be enforced immediately upon adoption. In accordance with California Government Code section 65858, this ordinance shall be in full force and effect for a period of one year, 4 months, and 15 days, from and after the date of its adoption on December 11, 2017, and shall be of no further force and effect after December 11, 2019 in accordance with California Government Code section 65858.

SECTION 7. PUBLICATION.
This Mayor shall sign this ordinance and the City Clerk shall attest and certify to the passage and adoption of it, and within fifteen (15) days, publish once in a newspaper of general circulation circulated within the City of Daly City. The City Clerk shall post at City Hall a copy of the full text of this Ordinance in accordance with Government Code Section 65858 and 75090.

The foregoing urgency ordinance was introduced and duly adopted by a four-fifths vote of the City Council of the City of Daly City, San Mateo County, at the regular meeting of the City Council, held on the __23rd____ day of _______July____ 2018, by the following vote:

AYES, Councilmembers: Buenaventura, Christensen, Guingona

Sylvester, Manalo

NOES, Councilmembers: None

Absent, Councilmembers: None

[Signature]
ASSISTANT CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

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JUSLYN C. MANALO
MAYOR OF THE CITY OF DALY CITY