

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DALY CITY
ADDING CHAPTER 5.104 TO THE DALY CITY MUNICIPAL CODE RE:
COMMERCIAL CANNABIS REGULATIONS

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

SECTION 1: Chapter 5.104 of Title 5 of the Daly City Municipal Code is hereafter repealed and replaced to read as follows:

Chapter 5.104
COMMERCIAL CANNABIS REGULATIONS

- 5.104.00 Findings**
 - 5.104.10 Purpose and Intent**
 - 5.104.20 Definitions**
 - 5.140.30 Types of Cannabis Operations Permitted**
 - 5.104.40 Commercial Cannabis Business License and State License Required**
 - 5.104.50 Commercial Cannabis Business License Fees**
 - 5.104.60 Conditions of Operation**
 - 5.104.70 Commercial Cannabis Business License – General Provisions**
 - 5.104.80 Commercial Cannabis Business License – Approval and Denial**
 - 5.104.90 Expiration and Renewal of Commercial Cannabis Business Licenses**
 - 5.104.100 Suspension and Revocation by City**
 - 5.104.110 Inspection of Operations**
 - 5.104.120 License Non-Transferrable**
 - 5.104.130 Indemnification, Insurance, Limitation of City’s Liability**
 - 5.104.140 Outdoor Commercial Cannabis Cultivations and Activities Prohibited**
- 5.104.00 Findings.**

The City Council finds:

- A. Since 1996, Cannabis for personal medicinal purposes, when recommended by a physician, has been legal in the State of California; and
- B. In 2016, California voters enacted Proposition 64, intended to create a comprehensive system to legalize, control, and regulate the Cultivation, Processing, Manufacturing, Distribution, testing, and sale of non-medical cannabis, including Cannabis products, for use by adults twenty-one (21) years and older, and to tax the Cultivation and Retail sale of cannabis for non-medical use; and
- C. In 2017, the Governor signed a bill to combine the regulation of both medical and non-medical cannabis under one (1) umbrella licensing and regulatory system, entitled the "Medical and Adult-Use Cannabis Regulation and Safety Act" (MAUCRSA or Act); and
- D. The Act does not limit the authority of a local governing body to adopt and enforce local ordinances regulating businesses licensed under the Act or to completely prohibit such businesses within the local jurisdiction to the full extent authorized to a local agency by the Act; and

E. The use, Cultivation, Distribution, production, possession and transportation of Cannabis or Cannabis products remains illegal under Federal law, and Cannabis remains classified as a "controlled substance" by both California and Federal law; and

F. The City Council intends to regulate the use, acquisition, Cultivation, production, Distribution, and Retail sale of commercial cannabis in a manner that is consistent with the California Constitution and the Act. The regulations are intended to apply to all commercial cannabis operations in the city by any cannabis business licensed under the state law. Commercial Cannabis Activity can have an impact on health, safety, and community resources, and this chapter is intended to license commercial cannabis businesses where it will have a minimal impact; and

G. To the extent that commercial cannabis businesses are registered and authorized by the State of California to operate in the corporate limits of the city, the City Council desires to provide for their licensing and regulation to protect the public health, safety and general welfare of the citizens of the city; and

H. This chapter is to be construed to protect the public over commercial cannabis business interests. Operation of a commercial cannabis business is a revocable privilege and not a right in the city. There is no property right for an individual or business to have a commercial cannabis business in the city; and

I. Commercial cannabis is a heavily regulated industry in the city, and the city has a zero-tolerance policy for violations of this chapter.

5.104.10 Purpose and Intent.

A. It is the purpose and intent of this chapter to provide for the orderly regulation of the commercial cannabis industry within the City of Daly City with the intent of encouraging economic growth and job creation while protecting the public health, safety and welfare of the residents and patients of the city. The City Council may adopt by resolution any regulations or policies that will further the purpose of this chapter, and that do not conflict with the provisions herein.

B. All definitions, authority, scope, responsibilities, requirements, standards, conditions, exemptions, procedures and penalties described within state law are adopted and incorporated. The City Manager or her/his designee shall administer and enforce the provisions of this Chapter, applicable state law, and the rules and regulations promulgated by the City Council and any applicable state departments. This Chapter and the regulations contained herein apply to the entire city.

5.104.20 Definitions.

A. "Applicant" shall mean a person or entity that submits an Application or an Application for Renewal of a Commercial Cannabis Business License.

B. "Application for Renewal" shall mean an application for a renewed Commercial Cannabis Business License, which application may be submitted by a Licensee.

- C. “Cannabis” shall have the meaning set forth in Business and Professions Code section 26001(f) and Business and Professions Code section 19300.5(f).
- D. “Cannabis Operation” shall mean any Commercial Cannabis Activity permitted under this Article.
- E. "Cannabis products" has the same meaning as in Section 11018.1 of the Health and Safety Code.
- F. “Commercial Cannabis Activity” shall have the meaning set forth in Business and Professions Code section 26001(k).
- G. “Cultivation” shall mean any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- H. “Delivery" means the commercial transfer of cannabis or Cannabis products to a customer. "Delivery" also includes the use by a Retailer of any technology platform.
- I. “Distribution" means the procurement, sale, and transport of cannabis and Cannabis products between entities licensed pursuant to state regulations.
- J. “Eligibility Zone” refers to the areas within which the Retail sale of cannabis is permitted as further described in Daly City Municipal Code Section 17.56.050
- K. “Licensee” shall mean the Cannabis Operation Owner identified to the City as such, and to whom a City Commercial Cannabis Business License has been issued.
- L. "Manufacturer" means a Licensee that conducts the production, preparation, propagation, or compounding of cannabis or Cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or Cannabis products or labels or relabels its container.
- M. “Processing" means any method used to prepare cannabis or its byproducts for commercial sale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create cannabis related products and concentrates.
- N. “Retail sale” shall mean any exchange between a Retailer and a customer.
- O. "Retailer" means a facility where cannabis, Cannabis products, or devices for the use of cannabis or Cannabis products are offered, either individually or in any combination, for Retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, cannabis and Cannabis products as part of a Retail sale.
- P. “Testing laboratory” means a laboratory, facility, or entity in the state that offers or performs tests of cannabis or Cannabis products and that is both of the following:
1. Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.

2. Licensed by the Bureau of Cannabis Control within the Department of Consumer Affairs.

Q. “Operator” shall mean any person or entity responsible for management of the Cannabis Operation, any person listed on the Cannabis Operation’s Articles of Incorporation or Articles of Organization, any person or entity owning an interest in the Cannabis Operation, and any person that supervises another employee of the Cannabis Operation.

R. “Owner” shall mean the person or entity in whom is vested interest and title to the Cannabis Operation.

S. “State Cannabis Laws” shall include the Compassionate Use Act, the Medical Cannabis Program Act, the Medical Cannabis Regulation and Safety Act, and the Adult Use of Cannabis Act, and all other State laws regulating Cannabis and Cannabis products, as they may be amended.

T. “State License” shall mean a license from the State issued pursuant to sections 26050 et seq. of the California Business and Professions Code.

5.104.30 Types of Cannabis Operations Permitted.

A. Cannabis Operations including Cannabis Retailers and Testing laboratories shall be permitted to operate in the City pursuant to this ordinance.

B. Cannabis Retailers shall be permitted to operate in designated Eligibility Zones as further defined in Daly City Municipal Code Section 17.56.050.

C. Cannabis Testing laboratories shall be permitted to operate in any commercial or industrial zone where a similar medical or testing facility is allowed.

D. City of Daly City does not allow for any other types of Commercial Cannabis Operations such as Cultivation, Distribution, and Manufacturing.

5.104.40 Commercial Cannabis Business License and State License Required.

A. 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 Daly City unless such person holds a valid Commercial Cannabis Business License, 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 Commercial Cannabis Business License. A separate Commercial Cannabis Business License is required for each location.

B. Operation of a Cannabis Operation shall not commence until a Licensee has obtained a valid State License. Licensees shall maintain a valid State License at all times during operation of a Cannabis Operation and shall comply with any applicable State licensing requirements.

C. A copy of the Cannabis business license shall be displayed at all times in a place visible to the public.

D. A Commercial Cannabis Business License issued by the City of Daly City shall be valid for one year or until September 30th each year, unless sooner revoked. No license granted herein shall confer any vested right to any person or for more than the above-referenced period.

E. A Commercial Cannabis Business License shall be issued to the specific person or persons listed on the Business License application.

F. A Commercial Cannabis Business License is not transferable and does not run with the land or with the business. Any change to the business location, organizational structure, or ownership requires a new application with associated fees.

5.104.50 Commercial Cannabis Business License Fees.

A. Every application for a Commercial Cannabis Business License or renewal of such license shall be accompanied by a non-refundable license application fee in an amount set forth by separate resolution of the City Council, which amount is calculated to recover the City's full cost of reviewing, issuing and administering said license. The adoption of such fees shall not prevent the city from recovering enforcement costs not specified in such resolution.

B. A fee for renewal of a Commercial Cannabis Business License will be due annually.

5.104.60 Conditions of Operation.

A. Security Plan.

A Licensee shall provide adequate security on the premises of the Cannabis Operation. All security measures must be fully operational in the event of a power outage. The following minimum-security standards shall be maintained at all times:

B. Surveillance system.

1. Each Cannabis Operation shall be monitored at all times by closed-circuit television surveillance system. The camera and video recording surveillance system must be capable of providing surveillance of both interior and exterior areas of the Cannabis Operation and must be of adequate quality, color rendition and resolution to allow the ready identification of an individual on or adjacent to the Property. The video surveillance system must have the capability to document each Retail sale and shipping/receiving transactions and all storage and processing areas.

2. The security cameras must be Internet Protocol (IP) cameras capable of providing real time footage over the internet. Operators must provide the Daly City Police Department with access to this real-time camera footage in case of an emergency.

3. Security cameras shall be in use 24-hours per day, seven days per week, and shall cover all cannabis dispensing areas, storage areas, all doors and windows with access into the facility, parking areas if applicable, and any other areas not mentioned as determined by the Chief of Police or his/her designee.

4. The recordings shall be maintained at the Cannabis Operation for a period of not less than thirty (30) days and shall be provided to the City Police Department within twenty-four (24) hours of a written request from the Police Department for any recordings.

5. Each Licensee shall notify the Chief of Police immediately after discovering any of the following: diversion, theft, loss, or any criminal activity involving the Cannabis

Operation; significant discrepancies identified during inventory; or any other breach of security.

6. A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

7. Window and door areas shall not be covered, tinted, or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment, or the like.

8. Cannabis Operations shall be equipped with motion activated lighting at both front and back doors.

C. Loitering Adjacent to a Cannabis Operation.

Licensees shall take reasonable measures to reduce loitering by Cannabis Operation patrons, guests and invitees in public areas, sidewalks, alleys and areas surrounding the Property and adjacent premises during the business hours of the Cannabis Operation.

D. Nuisances Prohibited.

A Licensee shall take reasonable steps to correct objectionable conditions that constitute a nuisance on any public sidewalk or public space abutting the Cannabis Operation premises.

1. For purposes of this section, "objectionable conditions that constitute a nuisance" means public consumption of Cannabis products, disturbance of the peace, drug trafficking, disposing of litter or trash, or excessive loud noise.

2. For purposes of this section, "reasonable steps" means all of the following:

a. Calling the local law enforcement agency. Timely calls to the local law enforcement agency that are placed by the Licensee, or his or her agents or employees, shall not be construed as evidence of objectionable conditions that constitute a nuisance.

b. Requesting those persons engaging in activities causing objectionable conditions to cease those activities, unless the Licensee, or his or her agents or employees, feel that their personal safety would be threatened in making that request.

c. Making good faith efforts to remove items that facilitate loitering, such as furniture, except those structures approved or permitted by the City. The Licensee shall be liable for the removal of those items that facilitate loitering.

E. On-Site Security.

1. Cannabis Operators engaged in Retail sale shall hire and/or contract for security personnel to provide security services for the licensed retail premises. All security personnel hired or contracted for by the Licensee shall comply with Chapters 11.4 and 11.5 of Division 3 of the Business and Professions Code.
2. Security personnel must be at least 21 years of age and be licensed by the Bureau of Security and Investigative Services.
3. All Cannabis Operators engaged in Retail sale must have at least one (1) active security guard on duty during operating hours.
4. Security guards and commercial cannabis business personnel shall monitor the site and the immediate vicinity around the site to ensure that patrons leave the site following their purchase and do not consume cannabis in the vicinity of the business, on the property, or in the parking lot.
5. The Security guard shall ensure that no persons under the age of twenty-one (21) be allowed to enter the commercial cannabis business unless persons under twenty-one (21) possess a valid Medical Marijuana Identification Card issued by the State of California.

F. Security Alarm System.

1. Where Commercial Cannabis Operations take place, Applicants shall maintain a centrally-monitored fire and security alarm system covering doors, windows, glass break and interior motion.
2. A panic button shall be required to be integrated into the Commercial Cannabis Operations' security and alarm system.

G. Product Storage.

Operators shall ensure that any cannabis or Cannabis products stored at their retail location is in a secure area equipped with commercial locks and reinforced doors.

H. State Laws and Regulation.

Licensee shall comply with all security requirements as established by state law and regulations, as they may be updated from time to time.

5.104.70 Commercial Cannabis Business License – General Provisions.

A. Application Procedures

1. Commercial Cannabis Business Licenses shall not be issued until after the Planning Division has issued a Zoning Clearance and has approved the proposed location of the

Cannabis Operation; moreover, Commercial Cannabis Business Licenses shall not be issued until after the Police Department has approved the Security Plan associated with the proposed Cannabis Operation.

2. Application Fee. The non-refundable application fee to apply for a Commercial Cannabis Business shall be set by resolution of the City Council and shall be calculated so as not to exceed that amount which would recover the total costs of both license administration and license enforcement.

3. Application Filing Requirements. A complete Commercial Cannabis Business License Application or Application for Renewal along with all required fees and materials required by this Article, shall be submitted in order for a person, entity, and/or business to be considered for a Commercial Cannabis Business License. All Commercial Cannabis Business License applications or Applications for Renewal shall be filed using forms and authorizations provided by the City.

4. Commercial Cannabis Business License Applications and Applications for Renewal shall include:

a. For each Licensee, Owner, Operator and employee of the Cannabis Operation, a fully legible copy of one valid government-issued form of photo identification, such as a state driver's license or identification card. Acceptable forms of government-issued identification include, but are not limited to, driver's license or photo identity cards issued by the state Department of Motor Vehicles (or equivalent) that meet REAL ID benchmarks, a passport issued by the United States or by a foreign government, U.S. Military ID cards (active duty or retired military and their dependents) or a Permanent Resident card.

b. If the Cannabis Operation is a corporation, a certified copy of the Corporation Secretary of State Articles of Incorporation, Certificate(s) of Amendment, Statement(s) of Information.

c. If the Cannabis Operation is a partnership, a copy of the articles of or partnership.

d. The name, address, electronic mail address and mobile phone number of the Applicant's or Licensee's current designated Agent for Service of Process.

e. Emergency Business Contact. The name, electronic mail address, and mobile phone number of at least three (3) responsible emergency contact names on file with the Police Department. Emergency Business Contacts can be an Owner, Operator, or manager; they will act as an on-site community relations staff person to whom the City may provide notice of any operating problems associated with the Cannabis Operation.

f. Emergency Contact. The name, electronic mail address, and mobile phone number, of at least one person City may contact in the event of an emergency.

g. A statement dated and signed by each Applicant, under penalty of perjury, that the Applicant has personal knowledge of the information contained in the Application, that the information contained therein is true and correct.

5. In addition to a completed Commercial Cannabis Business License Application or Application for Renewal, Applicants or Licensees shall provide and submit the following information to the City:

a. The Applicant and each Owner, Operator and employee shall consent to fingerprinting and a criminal background investigation and shall undergo fingerprinting and a criminal background investigation.

b. Security Plans. Applicants shall provide a plan to provide adequate security on the premises of the Cannabis Operation. The Plan shall include standards showing the Cannabis Operation's ability to comply with the conditions of Section 5.104.60 of this Chapter.

c. Premises Diagram. Applicants shall submit a preliminary premises diagram which focuses on proposed security measures and how they relate to the overall business (Pursuant to Bureau of Cannabis Control regulations, Title 16, Division 42 §5006 and CCR Title 17, Division 1, Chapter 13, § 40105, Premises Diagram, as applicable).

1. The diagram shall be accurate, dimensioned and to scale (minimum 1/8th" scale).

2. The diagram shall show the property boundaries, premises boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, windows, and doorways and shall include a brief statement or description of the principle activity to be conducted in each area of the premises and all limited-access areas.

3. The premises shall not be in a location that requires persons to pass through an establishment that sells alcohol or tobacco to access the cannabis premises or requires persons to pass through the cannabis premises to access an establishment that sells tobacco or alcohol.

Approval is not in place of permitting.

B. Ongoing Filing Requirements. Where a Cannabis Operation or Licensee replaces, hires, appoints or employees new Operators and/or employees to its Cannabis Operation, all such Operators and employees shall be required to submit to fingerprinting and a criminal background investigation pursuant to Section 4-16.04(b)(3)(i) of this Article.

5.104.80 Commercial Cannabis Business License – Approval and Denial.

A. The City Council may set by resolution additional rules and regulations regarding the approval of Commercial Cannabis Business License Applications and selection of Commercial Cannabis Business Operators. In addition to any such criteria established by Resolution, to be considered for a Commercial Cannabis Business License in City of Daly City, Applicants must submit a completed Commercial Cannabis Business License Application that meets the following minimum criteria:

1. The Planning Division has issued a Zoning Clearance and approved the proposed location of the commercial cannabis business operations.

2. The Planning Division has received evidence that the Commercial Cannabis Business has sufficient control/approvals on the property on which they would like to conduct business in the form of a lease (can be contingent upon license award), property ownership, or signed letter from property owner.
 - a. Only one Commercial Cannabis Business License application can be submitted for each eligible retail space; Applicants should confirm with the property owner that they are the sole Applicant for any eligible retail space.
 - b. Applicants can submit multiple Commercial Cannabis Business License applications insofar as each application is located within a separate Eligibility Zone as further detailed and described in Daly City Municipal Code Section 17.56.050
3. The Police Department has issued a security clearance and approved the proposed Security Plan of the commercial cannabis business operations (minimum standards set forth in Section 5.104.60 of this Chapter).
4. The Applicant and each Owner, Operator and employee of the Cannabis Operation have authorized and completed fingerprinting.
5. The Applicant and each Owner, Operator and employee of the Cannabis Operation have authorized the use of their fingerprinting results to run a State and nationwide criminal background check.
6. The results of the criminal background checks establish that the Applicant, Owner(s), Operator(s), and employees have not been convicted of an offense that is substantially related to the qualifications, functions, or duties of a Cannabis Operation. The following offenses are substantially related to the qualifications, functions, or duties of a Cannabis Operation:
 - a. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
 - b. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
 - c. A felony conviction involving fraud, deceit, or embezzlement.
 - d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
 - e. A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8.
 - f. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

7. The Applicant has not been convicted, cited, fined, or penalized by the State or any city, county, or city and county, or enjoined by any court of law, in the five years immediately preceding the application for a Commercial Cannabis Business License or Commercial Cannabis Business Renewal License, for any unauthorized Cannabis activities.

8. The Applicant has not been convicted, cited, fined, or penalized by the State or any city, county, or city and county, or enjoined by any court of law, in the five years immediately preceding the application for a Commercial Cannabis Business License or Commercial Cannabis Business Renewal License, for Cultivation or production of a controlled substance on public or private lands.

9. The Applicant has paid the non-refundable Commercial Cannabis Business License application fee.

B. Lottery System

1. All applications for a given year will be due by a date determined by the City. Application windows will be articulated online.

2. City Staff will review submitted Commercial Cannabis Business License Applications to ensure that they meet the minimum criteria outlined above in Section 5.104.60 and 5.104.70.

3. Applications that do not meet the minimum criteria outlined above in Section 5.104.70 will be removed from consideration. Proposing Operators will be notified if their application does not meet City's minimum criteria prior to application selection.

4. After closing the application acceptance window, the City will categorize received eligible applications by Eligibility Zone as further detailed and described in Daly City Municipal Code Section 17.56.050.

5. City Staff shall randomly select one (1) eligible application for each Eligibility Zone unless no applications have been received for a given Eligibility Zone. Selected Applicants shall be issued a provisional Commercial Cannabis Business License with an invitation to apply for a formal Commercial Cannabis Business License pending final verification of Security Plans and site control in the form of an executed lease or property ownership.

6. All Applicants must show continual good faith efforts to obtain the Commercial Cannabis Business License or else communicate that they are no longer pursuing the application.

7. If the City determines that the Applicant is not acting in good faith, the City shall notify the Applicant of the intent to deny the application and the required next steps for the Applicant to rectify. The Applicant shall have 30 days from the date of the issuance of the notification to meet the next steps, or the application shall be denied.

8. If an application is denied or the Applicant decides not to pursue the application, the City shall select at random (1) eligible application from the pool of remaining

Applicants with a proposed location in the same Eligibility Zone from which the denied or abandoned application was selected.

9. Applications for renewal of Commercial Cannabis Business Licenses will not be selected through a lottery process. Previously licensed and operating Cannabis Retailers will be given the option to continue their operations pending review and final approval of a Commercial Cannabis Business License Application for Renewal by City Staff.

C. Criteria for Denial.

Commercial Cannabis Business Licenses shall not be issued or renewed where the City confirms that one or more of the criterions set forth in this Chapter have not been met. If the City denies the Commercial Cannabis Business License Application or Application for Renewal, the City Manager or his or her designee shall specify in writing the reasons for the denial of the Application or Application for Renewal and notify the Applicant that the decision shall become final unless the Applicant seeks an appeal pursuant this Section.

D. Appeal from City Determination.

An Applicant who disagrees with the City's decision to issue or deny a Commercial Cannabis Business License may appeal the City's decision to the City Council. All appeals must be in writing, submitted to the City Clerk within ten (10) days following the City's determination. Upon receipt of a timely filed appeal, the City shall schedule a public hearing to consider the appeal no less than 90 days from the date of the appeal.

5.104.90 Expiration and Renewal of Commercial Cannabis Business Licenses.

A. Commercial Cannabis Business Licenses shall expire one year after their issuance.

B. Commercial Cannabis Business Licenses must be renewed on an annual basis prior to expiration by filing a Commercial Cannabis Business License Application for Renewal with the City and a renewal fee in an amount set forth by separate resolution of the City Council, which amount is calculated to recover the City's full cost of reviewing, issuing and administering said license.

C. The Application for Renewal and the renewal fee shall be filed at least 30 days, but not more than 60 days, prior to the expiration of the Commercial Cannabis Business License. If a timely renewal application is filed, the Cannabis Operation's Commercial Cannabis Business License shall not expire until the date that the City approves or denies the Commercial Cannabis Business License Application for Renewal.

D. An Application for Renewal shall be subject to all filing requirements set forth in Section 5.104.60 and 5.104.70 of this Chapter.

E. The City shall issue or deny an Application for Renewal in accordance with the provisions of Section 5.104.80 of this Chapter.

5.104.100 Suspension and Revocation by City.

A. A Commercial Cannabis Business License issued under the terms of this Chapter shall be suspended or revoked by the City if he or she concludes any of the following:

1. The Cannabis Operation has violated any of the requirements of this Chapter.
2. The Cannabis Operation is being operated in a manner which violates the Security Plan required by this Chapter.
3. The Cannabis Operation is being operated in a manner which constitutes a nuisance.
4. The Cannabis Operation has failed to comply with the conditions of operation set forth in Chapter.
 - a. The Cannabis Operation will be given a reasonable amount of time to resolve violations issued pursuant to this Chapter or other city code violations.
5. Results of a criminal background check establish that the Licensee, Owner(s), Operator(s), and/or employees have been convicted of an offense that is substantially related to the qualifications, functions, or duties of a Cannabis Operation. The following offenses are substantially related to the qualifications, functions, or duties of a Cannabis Operation:
 - a. A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
 - b. A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
 - c. A felony conviction involving fraud, deceit, or embezzlement.
 - d. A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
 - e. A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8.
 - f. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.
 - g. Conviction for Cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.
 - h. Conviction for unauthorized commercial Cannabis activities in any city, county or city and county in the five years immediately preceding the issuance of a Commercial Cannabis Business License or Commercial Cannabis Business Renewal License.
6. The Applicant has been convicted, cited, fined, or penalized by the State or any city, county, or city and county, or enjoined by any court of law, in the five years immediately preceding the application for a Commercial Cannabis Business License or

Commercial Cannabis Business Renewal License, for any unauthorized Cannabis activities.

7. The Applicant has been convicted, cited, fined, or penalized by the State or any city, county, or city and county, or enjoined by any court of law, in the five years immediately preceding the application for a Commercial Cannabis Business License or Commercial Cannabis Business License, for Cultivation or production of a controlled substance on public or private lands.

8. The Cannabis Operation is being operated in a manner which conflicts with or violates State Cannabis Laws.

9. A Licensee has attempted to transfer or has transferred a Commercial Cannabis Business License to another person or entity.

10. A Licensee's State License has been suspended, terminated, or revoked.

a. Expiration. Any Commercial Cannabis Business License revoked pursuant to this subsection shall be deemed to be expired and shall no longer entitle the Licensee to any privileges authorized by the Commercial Cannabis Business License.

b. Appeal from City Determination.

B. A Licensee who disagrees with the City's decision to suspend or revoke a Commercial Cannabis Business License may appeal the City's decision to the City Council. All appeals must be in writing, submitted to the City Clerk within ten (10) days following the City's determination. Upon receipt of a timely filed appeal, the City shall schedule a public hearing to consider the appeal no less than 90 days from the date of the appeal.

5.104.110 Inspection of Operations.

A. City officials may enter and inspect a Cannabis Operation at any time during normal business hours without notice, and to ensure compliance and enforcement of the provisions of this Chapter.

B. No Licensee or any other person shall refuse, impede, obstruct, or interfere with an inspection pursuant to this Article.

5.104.120 License Non-Transferable

A. Licenses issued pursuant to this Article shall be non-transferable to a different person or entity. Any attempt to transfer or any transfer of ownership or control of a Cannabis Operation shall be grounds for revocation of the Commercial Cannabis Business License by the City.

5.104.130 Indemnification, Insurance, Limitation of City's Liability.

A. To the fullest extent permitted by law, the City of Daly City shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Business License pursuant to this Chapter or otherwise approving the operation of any commercial cannabis business pursuant to this Chapter. As a condition of approval of any Commercial Cannabis Business License issued

pursuant to this Chapter, the person to which a Commercial Cannabis Business License is issued shall be required to meet all of the following conditions:

1. Execute an agreement indemnifying, defending (at its sole cost and expense), and holding the City of Daly City and its officers, employees, representatives, and agents harmless from any and all claims, losses, damages, injuries or liabilities associated with the permitting or approving the operation of a Commercial Cannabis Activity or the operation thereof or associated with the commercial cannabis business or its members' violation of any federal, state or local laws.
2. Maintain insurance at coverage limits and with conditions thereon determined necessary by the City Attorney.
3. Reimburse the City of Daly City for any and all costs and expenses, including attorney fees and costs and court costs that the City of Daly City may be required to pay as a result of any legal challenge related to the City's approval of a Commercial Cannabis Business License pursuant to this Chapter or the City of Daly City's approval of the operation of a Commercial Cannabis Activity. The City of Daly City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the obligations imposed under this section.

5.104.140 Outdoor Commercial Cannabis Cultivations and Activities Prohibited.

A. Outdoor commercial Cannabis Cultivation, including, but not limited to, Cultivation in greenhouses, hoop structures, and by mixed light (part daylight/part artificial light), is prohibited and unlawful. This section prohibits all outdoor commercial Cannabis Cultivation, including Cultivation for profit or not for profit Cultivation, and including commercial Cultivation for adult recreational use or medicinal purposes. Outdoor storage, harvesting, drying, Processing, or Manufacturing of commercial Cannabis or Cannabis products is prohibited and unlawful.

SECTION 2. Severability. If any provision of this Ordinance is held by any court or by any Federal or State agency of competent jurisdiction, to be invalid as conflicting with any Federal or State law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct, and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision thereof which had previously been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall thereupon return to full force and effect and shall thereafter be binding.

SECTION 3: Environmental Determination. The City Council of the City of Daly City finds and determines that the implementation of measures described in this Chapter is in furtherance police powers of the City of Daly City, and that these purposes are exempt from the provisions of the California Environmental Quality Act (CEQA); Chapter 3 (commencing with Section 21100) of Division 13 of the Public Resources Code, as provided in categorical exemption within CEQA's categorical exemption for activities involving regulation of activities.

SECTION 4: Publication/Summary Pursuant to the provisions of Government Code Section 36933, a summary of this ordinance shall be prepared by the City Attorney. At least five

(5) days prior to the Council meeting at which this ordinance is scheduled to be adopted, the City Clerk shall (1) publish the summary, and (2) post it in the City Clerk's office a certified copy of this ordinance. Within fifteen (15) days after the adoption of this ordinance, the City Clerk shall (1) publish the summary and (2) post in the City Clerk's office a certified copy of the full text of this ordinance along with the names of those City Council members voting for and against this ordinance or otherwise voting. This Ordinance shall be in full force and effect thirty (30) days from and after its passage.

Introduced this _____ day of _____ 2021.

Passed and adopted as an Ordinance of the City of Daly City at a regular meeting of the City Council of the City of Daly City held on the _____ day of _____ 2021, by the following vote:

AYES, Councilmembers _____

NOES, Councilmembers _____

Absent, Councilmembers: _____

CITY CLERK OF THE CITY OF DALY CITY

APPROVED:

MAYOR OF THE CITY OF DALY CITY