

RESOLUTION NO. 2022 - _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN
BRUNO APPROVING APPLICATION PROCEDURES AND
GUIDELINES FOR THE COMMERCIAL CANNABIS OPERATOR'S
PERMIT AND AUTHORIZING THE CITY TO OBTAIN STATE
SUMMARY CRIMINAL HISTORY INFORMATION OF POTENTIAL
CANNABIS OPERATOR PERMITTEES**

WHEREAS, in 2015 the State passed three assembly bills (AB 243, 266, and SB 643) that established the state-level licensing and regulatory framework for medical cannabis (MCRSA) and created a new California Bureau of Medical Cannabis Regulation.

WHEREAS, on November 8, 2016, the voters of the state adopted Proposition 64, the Adult Use of Marijuana Act (AUMA), which legalized adult cannabis use, possession and cultivation for nonmedical purposes and created a regulatory framework for non-medical cannabis businesses; and

WHEREAS, on June 15, 2017, the state passed the Medical and Adult Use of Cannabis Regulation and Safety Act (MAUCRSA), which effectively merged the recreational statutory framework under AUMA and the medical statutory framework under MCRSA and created one uniform licensing and regulatory structure for both medical and recreational marijuana operations.

WHEREAS, MAUCRSA authorizes local jurisdictions to adopt and enforce local ordinances to regulate cannabis businesses licensed pursuant to state law, including local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed pursuant to state law; and

WHEREAS, on October 11, 2022, the City Council adopted two Ordinances to amend the City Municipal Code related to commercial cannabis operations. Ordinance No. _____ will amend the Zoning Code to add a new chapter to permit and regulate commercial cannabis retailers (storefront sales) and commercial cannabis distribution facilities. Ordinance No. _____ includes various Municipal Code Amendments, including amendments to Title 3 (Revenue and Finance) to lower the cannabis business tax to 5%, amendments to Title 4 (Licenses and Regulations) to add a new chapter 4.70 pertaining to Commercial Cannabis Operators Permits, and amendments to Title 6 (Public Peace, Morals and Welfare) to eliminate the prohibition on commercial cannabis business activity in the City;

WHEREAS, to implement the City's newly adopted commercial cannabis operations regulations including the new Municipal Code Chapter 4.70 pertaining to the requirements and process for Commercial Cannabis Operators Permits, the City Council is approving the related Application Procedures and Guidelines for Commercial Cannabis Operator Permits and will be conducting background checks on applicants for Commercial Cannabis Operator Permits.;

WHEREAS, Penal Code Section 11105(b)(11) and 13300(b) (11) authorize cities, counties, districts and joint powers authorities to access state and local summary criminal history information for employment, licensing or certification purposes;

WHEREAS, Penal Code Section 11105(b)(11) and (c) authorizes cities, counties, districts and joint powers authorities to access federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation; and

WHEREAS, Penal Code Sections 11108(b)(11) and 13300(b)(11) authorize the Attorney General and a local criminal justice agency to release summary criminal history information if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct; and

WHEREAS, Ordinance No. ____ identifies the persons prohibited from holding a cannabis operator permit. Specifically, San Bruno Municipal Code section 4.70.060 (A)(1) provides that a person is prohibited from holding a cannabis operator permit if the criminal background check demonstrates that the applicant has committed any of the crimes identified in Section 4.70.050(C) or Section 4.70.060(A)(6) which identify the various felony convictions that disqualify a person from holding a permit; and

WHEREAS, Penal Code Section 11105(b)(11) requires the City Council to authorize access to summary criminal history information for employment, licensing, or certification purposes.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby adopts the attached Application Procedures and Guidelines for Commercial Cannabis Operator's Permits as shown in Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Manager of the City of San Bruno is hereby given authority to obtain State summary criminal background information, and subsequent arrest information, from the California Department of Justice for the purpose of screening applicants for commercial cannabis operators permits. The City Manager is hereby given authority to obtain from the California Department of Justice any and all records of convictions and any arrests pending adjudication involving offenses listed in San Bruno Municipal Code Section 7.40.050(C) and Section 4.70.060(A)(6) with respect to all applicants for commercial cannabis operators permits.

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I hereby certify that foregoing **Resolution No. 2022 - _____**
was introduced and adopted by the San Bruno City Council at a regular meeting on
October 11, 2022, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers

ABSENT: Councilmembers:

Vicky S. Hasha, Deputy City Clerk

Exhibit A: Application Procedures and Guidelines for Commercial Cannabis Operator's
Permits



CITY OF SAN BRUNO APPLICATION PROCEDURES AND GUIDELINES FOR COMMERCIAL CANNABIS OPERATOR PERMITS

Information regarding the Commercial Cannabis Operators Permit (CCOP) Application process for Storefront Sales or Distribution uses can be found on the City's Planning Division website at <https://www.sanbruno.ca.gov/222/Planning-Division> and includes the following:

- California state regulations and resources
- San Bruno Municipal Code (SBMC)
- Commercial Cannabis Operators Permit Application
- Application Procedures and Guidelines
- Background check application and Live Scan form(s)

The application period to apply for a CCOP in San Bruno will open on ____, , and will close at 4:00 p.m. on ____. Applications will be available from the Planning Division located at 567 El Camino Real, San Bruno, CA 94066. Applications must be submitted to Planning Division prior to the deadline. Incomplete and late applications will not be accepted.

Applicants should monitor the City's web page for any additional information, FAQ's, or updates. It is the responsibility of the Applicant to stay informed of this information.

APPLICATION INQUIRIES AND APPOINTMENTS

City staff will not be meeting with applicants or their representatives prior to the application deadline. All questions related to application submission, or the review process should be submitted in writing to the Planning and Housing Manager. Please also consult the F.A.Q. document posted on the City's cannabis website.

CITY'S RESERVATION OF RIGHTS

The City reserves the right to reject any and/or all applications in accordance with the San Bruno Municipal Code (SBMC) and these procedures and guidelines. The City may modify, postpone, or cancel the application period or review process for CCOP applications without liability, obligation, or commitment to any party, firm, or organization. In addition, the City reserves the right to request and obtain additional information from any applicant. Late or incomplete applications at the time of application closing will be rejected. Furthermore, an application **RISKS BEING REJECTED** for the following reasons:

- It is not fully responsive to this request for a CCOP application.
- If the application fails to respond to the Review Criteria as noted in the SBMC and this application packet.
- The issuance of a CCOP at the proposed location would be inconsistent with State law, or other applicable provisions of the SBMC.

APPLICATION PROCESS

Before submitting, review your application in its entirety to ensure that it is complete and accurate. Review the information regarding the CCOP application on the City's website: <https://www.sanbruno.ca.gov/222/Planning-Division>

The following procedures outline the application evaluation and selection process, required materials, and other information necessary to apply for a permit to operate a CCOP in San Bruno.

CCOP APPLICATION SUBMITTAL REQUIREMENTS

All required CCOP Application materials must be submitted together prior to the application deadline. Applicants must hand-deliver one (1) signed original CCOP Application and one (1) USB flash drive containing a scanned copy of the complete, signed CCOP Application (PDF format).

Please Note: All materials must be submitted in both hard copy and on a USB flash drive in a PDF format, broken down into five PDF files, based on the following file organization:

- PDF File #1 – CCOP Initial Application with authorized signatures
- PDF File #2 – Review Criteria responses
- PDF File #3 – Background Check documentation (All required documents for each owner; Board of Directors; and person(s) who will control, direct, or manage the operations of the facility). Upon submission of the online background check application, applicants will receive an email confirmation. This confirmation needs to be printed, scanned, and included within PDF File #3.
- PDF File #4 – Proof of Capitalization (All bank statements, loan documents, promissory notes, and, financial and commitment letters)
- PDF File #5 – A signed and notarized Property Owner Consent form, Lease Agreement, or a “Letter of Intention” to Lease.

BACKGROUND CHECK

Each Owner, as defined in the San Bruno Municipal Code, must undergo a criminal history background check to demonstrate that they are not precluded from holding a permit pursuant to San Bruno Municipal Code Section 4.70.160. Owners who do not meet the criminal history eligibility requirements of SBMC will be disqualified. Background check information can be found online at www.sanbruno.ca.gov. In addition, each successful applicant/owner will be asked to submit to a Live Scan prior to permit issuance in order to complete the background check process. This will require the owner(s) to submit fingerprints to the city. The process will be conducted by the San Bruno Police Department, which will submit the Live Scan to the DOJ/FBI to review for criminal offender record information (CORI). The CORI reports will be provided to the City for the sole purpose of determining eligibility for a CCOP. Each applicant/owner's primary contact will be notified by email with the instructions on how to schedule the Live Scan appointment after the City determines which applicant(s) will be awarded a CCOP. There will be a fee for a provisional background check. Successful applicants will also be subject to a separate Live Scan fee.

FEES

All applicants will be required to submit a deposit based on the current Master Fee Schedule for the City of San Bruno for each CCOP application. As of November 10, 2022, the initial deposit is \$11,161. Time spent by City staff and any City consultant in reviewing applications and administrating the application process will be tracked and charged against this amount. All direct costs including legal and public notices will be charged to the applicant. The deposit amount is based on the preliminary cost estimates analysis; however, applicants are advised that they may be required to post an additional deposit, if necessary, for the City to complete the application review processes. Any remaining deposit balance that is unused at the end of the application process will be returned to the Applicant.

The CCOP Review and Background Check is a separate fee of \$_____ per owner or manager which reflects the actual costs of investigations and background checks. and is due when requesting a criminal background check through the City. Background check application fees are non-refundable.

APPLICATION REVIEW, SCORING AND SELECTION PROCESS SELECTION PROCESS

PHASE I: DETERMINATION OF ELIGIBILITY

Applications must be submitted in their entirety, no later than _____ at 4:00 p.m. LATE APPLICATIONS WILL NOT BE CONSIDERED. Upon receiving a complete application, the City will review the application in its entirety using the Application Submittal checklist on Page 1 of the CCOP Application. Applications that meet the minimum eligibility requirements will proceed to Phase II (Application Completeness Determination). If the City determines in the initial screening that an application does not meet minimum eligibility requirements including but not limited to the background check and, zoning requirements, and distance requirements from sensitive uses, the applicant shall be notified in writing that the application has been denied. Any appeal of that decision must comply with San Bruno Municipal Code section 4.70.160.

PHASE II: APPLICATION COMPLETENESS DETERMINATION

Applications will be reviewed by City staff to determine if the application submittal package is complete. If the application is determined to be incomplete, the City shall provide written notice to the applicant and owner advising what information is required. The applicant shall have fourteen (14) days from the date of the City's notice to file the required information. Failure to provide the required materials within this timeframe shall result in the City's disqualification of the CCOP application from further consideration in the application review.

PHASE III: APPLICATION EVALUATION AND SCORING

Applications will be reviewed by the City, and based on the criteria explained below. As instructed, responses to the Review Criteria must be saved in PDF File #2. See APPENDIX A for a description of the Review Criteria:

- 1) Business Plan
- 2) Labor and Community Benefit Plan
- 3) Neighborhood Compatibility Plan & Odor Control Plan
- 4) Safety and Hazardous Materials Plan
- 5) Security Plan
- 6) Location and Site Plans

Applicants will not be allowed to resubmit information that is determined to be missing or deficient during the Phase III review. Those applications which are determined to provide complete information which address all health and safety concerns in Phase III will move on to Phase IV of the application process.

PHASE IV: SELECTION BY THE CITY COUNCIL

Those CCOP Applications that have been cleared as part of Phase III process will be forwarded to the City Council for review and consideration. The City Council will hold a publicly noticed meeting to initially select up to three (3) CCOP applicants for commercial cannabis retailers (storefront sales) and one (1) commercial cannabis distribution facility. If there are less than three (3) initial submittals, the City Council may open the CCOP process again at any time in the future. At which time there are fewer than three approved retail CCOP's and fewer than one distribution CCOP, the City Council may open the CCOP application process to receive additional applications.

PHASE V: CITY FINAL DETERMINATION AND ISSUANCE OF CCOP LICENSE

Operators selected by the City Council will be eligible to receive a CCOP after receiving Planning Commission and City Council approval of a Conditional Use Permit.

However, the City reserves the right to award a lesser number of CCOP or to award no permits at all.

CONTACT

If you have any questions, please contact the Planning Division at (650) 616-7074, or by email at: planning@sanbruno.ca.gov.

APPENDIX A: DESCRIPTION OF REVIEW CRITERIA

All of the following information must be submitted on a USB flash drive in PDF format (please do not submit any documents in Word format) when the application is initially filed for consideration. Responses to the Review Criteria shall be limited to 300 pages.

REVIEW CRITERIA

1. BUSINESS PLAN

- 1.1. Owner qualifications. Resumes are not to exceed two (2) pages per owner.
- 1.2. A budget for construction, operation, and maintenance, compensation of employees, equipment costs, utility cost, and other operation costs.
- 1.3. Proof of capitalization in the form of documentation of cash or other liquid assets on hand, Letters of Credit, or other equivalent assets.
- 1.4. Proof of corporation status.
- 1.5. Tax compliance.
- 1.6. Proof of insurance (required prior to City approval of the CCOP).
- 1.7. Financial pro forma and budget for at least three years of operation.
- 1.8. Fully describe hours of operation, and opening and closing procedures.
- 1.9. Describe the day-to-day operations per license type:
 - 1.9.1. Additional criteria for **Storefront Sales** applications only:
 - a. Describe customer check-in procedures.
 - b. Identify location and procedures for receiving deliveries during business hours.
 - c. Identify the name of the point-of-sale system to be used and the number of point-of-Sale locations.
 - d. Estimate the number of customers to be served per hour/day.
 - e. Describe the proposed product line to be sold and estimate the percentage of sales of flower and manufactured products.
 - f. If proposed, describe delivery service procedures, number of vehicles and product security during transportation.

2. LABOR AND COMMUNITY BENEFITS PLAN

- 2.1. Describe whether the CCOP holder is committed to offering employees a living wage.
- 2.2. Briefly describe benefits provided to employees such as health care, vacation, and medical leave, to the degree they are offered as part of employment.
- 2.3. Describe compensation to and opportunities for continuing education and employee training.
- 2.4. Describe the extent to which the CCOP holder will be a locally managed enterprise whose owners and/or managers reside, own a commercial business, or operate a non-profit within the City of San Bruno.
- 2.5. Describe the expected number of employees, title/position, and their responsibilities.
- 2.6. Describe any other proposed community benefit programs or provisions (which may include, though not be limited to, donation of equipment and supplies to San Bruno youth programs, provision of park equipment, etc.) related to the proposed commercial cannabis operation.

3. NEIGHBORHOOD COMPATIBILITY PLAN (AND ODOR CONTROL PLAN)

- 3.1. Describe how the CCOP holder will proactively address and respond to complaints related to noise, light, odor, litter, and, vehicle and pedestrian traffic and on-site and/or on-street parking.
- 3.2. Describe how the CCOP holder will be managed so as to avoid becoming a nuisance or having impacts on its neighbors and the surrounding community.
- 3.3. Describe odor mitigation practices.
- 3.4. Identify potential sources of odor and odor mitigation practices.
- 3.5. Describe odor control devices/equipment and techniques employed to ensure that odors from cannabis are not detectable beyond the licensed premises.
- 3.6. Describe all proposed system maintenance.
- 3.7. Describe the waste management plan. This should include handling and disposal of any unused or unsold cannabis products.

4. SAFETY AND HAZARDOUS MATERIALS PLAN

- 4.1. The Safety Plan should consider all possible fire, medical, and hazardous situations, and shall be prepared and/or assessed by a professional fire prevention and suppression consultant. Complete policy/procedures manuals are not required with the initial application materials but may be requested by the City during the application evaluation process. Please describe each of the following:
 - 4.1.1. Types, amounts, use and storage/transport details for any hazardous material to be used as part of project operations.
 - 4.1.2. Accident and incident reporting procedures.
 - 4.1.3. Evacuation routes.
 - 4.1.4. The location of fire extinguishers and other fire suppression equipment.
 - 4.1.5. Procedures and training for all fire and medical emergencies.

5. SECURITY PLAN*

- 5.1. The Security Plan should consider all access control, inventory control, cash handling procedures, and shall be prepared and/or assessed by a professional security consultant. Complete policy/procedures manuals are not required to be submitted with the initial application materials but may be requested by the City during the application evaluation process. Please describe each of the following:
 - 5.1.1. Premises (Security) Diagram. Applicants shall submit a premises diagram (or site plan) which focuses on the proposed security measures and how they relate to the overall business. (This is identical to the state requirement for such a diagram contained in CCR Title 16, Division 42, § 5006. Premises Diagram).
 - a. The diagram shall be accurate, dimensioned and to scale (minimum scale 1/4"). The scale may be smaller if the proposed location exceeds more than a 1/2-acre parcel but must not be printed on larger than an 11" x 17" sheet of paper. (Blueprints and engineering site plans are not required to be submitted with the initial application materials but may be requested by the City during the application evaluation process)
 - b. The diagram must be drawn to scale and clearly identify property boundaries, entrances, exits, interior partitions, walls, rooms, windows, and doorways, as well as lighting plans for proposed exterior and interior lighting that will be used to help in providing necessary security lighting for the site. The activity in each room and the location of all cameras must be identified in the diagram.
 - c. The diagram must describe cannabis activity that will be conducted in each area of

the premises. Commercial cannabis activities that must be identified on the diagram/site plan include the following, if applicable to the business operations: storage areas, batch sampling areas, loading/unloading of shipment areas, packaging and labeling areas, customer sales areas, training areas, employee break room areas, extraction areas, infusion areas, processing areas, and testing areas.

- d. The diagram must include limited-access areas, defined as areas in which cannabis goods are stored or held and only accessible to the permittee, or its employees or contractors and areas used for video surveillance monitoring and storage devices

5.1.2. Number, types and locations of all video surveillance cameras.

5.2. Identify the intrusion alarm and monitoring system including the name and contact information for the monitoring company (if the company has been selected).

5.3. Briefly describe cash handling procedures.

5.4. Discuss whether the CCOP holder will utilize the services of on-site security guards.

Include in the discussion:

5.4.1. Number of guards.

5.4.2. Hours guards will be on-site.

5.4.3. Locations at which they will be positioned.

5.4.4. Guard roles and responsibilities.

* Security Plans will not be made public. (See Government Code Section 6254(f)).

6. LOCATION AND SITE PLANS

6.1. The application shall include a thorough description of the proposed CCOP holder location, including but not limited to the overall property, building, and floor plan.

6.2. The application shall include at least one (1) photograph of the building frontage or street view of the vacant parcel.

6.3. Premises (Site) Diagram for each proposed location. In addition to the Premises (Security) Diagram, applicants shall submit a premises/site and building floor plan diagram that focuses on the overall property and building(s). This diagram should show the parcel and adjoining or neighboring buildings that may be affected by the CCOP holder.

6.3.1. A Premise (Site) Diagram must be accurate, dimensioned and to-scale (minimum scale of 1/4"). The diagram shall provide a detailed description of all available/shared parking spaces, driveway locations, and auxiliary buildings on the parcel. (Blueprints and engineering site plans are not required to be submitted with the initial application but may be requested by the City during the application evaluation process. Security features are not required for this section.)