

RESOLUTION NO. 2022 – 10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN BRUNO RECOMMENDING TO CITY COUNCIL APPROVAL OF VARIOUS AMENDMENTS TO THE MUNICIPAL CODE ALLOWING FOR CANNABIS RETAILERS (STOREFRONT SALES) AND DISTRIBUTION IN THE CITY

WHEREAS, the City Council considered options for allowing for commercial cannabis operations in the city at a Study Session held on February 8, 2022. At the conclusion of the Study Session, Council directed staff to proceed with preparation of draft Municipal Code amendments and related operative procedures that would allow up to three commercial cannabis operations consisting of any combination of cannabis retailers (storefront sales) in zoning districts focused on the downtown, along portions of San Bruno Avenue and El Camino Real, and at The Shops at Tanforan, and for distribution uses in the M-1 Zone north of I-360; and

WHEREAS, staff has completed the draft documents, which consist of an addition to the Municipal Code Article III (Zoning) by adding Chapter 12.300 (Commercial Cannabis Operations), and amending other provisions of Title 12 identifying in which zones cannabis retailers and cannabis distribution facilities will be conditionally permitted uses; and

WHEREAS, the Planning Commission considered the proposed Municipal Code provisions for establishing commercial cannabis storefront sales and distribution uses, along with Commercial Cannabis Operators Procedures and Guidelines, at a public hearing held on July 19, 2022, and continued the hearing to August 16, 2022; and

WHEREAS, establishment of commercial cannabis regulations do not have the potential for creation of a significant environmental impact pursuant to the California Environmental Quality Act (CEQA), and as such are exempt from further environmental consideration per CEQA Guidelines Section 15061(b)(3). The commercial cannabis program involves relatively minor amendments to the Municipal Code to provide for a limited number of commercial cannabis retailers and/or distribution uses (three maximum), with such potential uses focused in the downtown core, including portions of San Bruno Avenue and El Camino Real, and at Tanforan where a wide range of retail uses are already permitted. Further, the anticipated location of such uses within existing buildings or lease spaces, combined with the regulatory requirements for commercial cannabis operations imposed by the city as part of the cannabis program, would not have the potential for creation of any potentially significant environmental impacts. Once a commercial cannabis program is enacted through Municipal Code changes, each individual commercial cannabis projects would be subject to submittal of a Commercial Cannabis Operators Permit and Conditional Use Permit and would also be subject to potential environmental review; and

WHEREAS, a Notice of Public Hearing was mailed on July 8, 2022, and duly posted in the *San Mateo Times* on Saturday, July 9, 2022, for consideration of the proposed commercial cannabis operating provisions, with additional notice provided in the *San Mateo Times* on Saturday, August 6, 2022, and;

NOW, THEREFORE, BE IT RESOLVED by Planning Commission of the City of San Bruno, based on facts in the staff reports, written and oral testimony, and exhibits presented makes the following findings:

1. The Planning Commission hereby finds that the proposed amendments to the Municipal Code (Zoning Ordinance) to establish provisions for commercial cannabis retailers and distribution uses are consistent with the San Bruno General Plan.
2. The amendment of the Zoning Ordinance has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and the San Bruno environmental review procedures and is exempt from review as the project would not have the potential for creation of significant environment impacts.
3. The proposed Zoning Ordinance amendment allowing for cannabis retailers and distribution uses will not be detrimental to the health, safety, morals, comfort and general welfare of the Citizens of San Bruno.

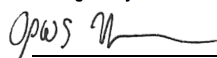
NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Bruno, based on facts in the staff report, written and oral testimony, and exhibits presented, recommends to the City Council approval of the proposed amendments to the Zoning Ordinance adding a new Chapter 12.300, Commercial Cannabis Operations, and amending other provisions of Title 12 identifying in which zones cannabis retailers and cannabis distribution facilities will be conditionally permitted uses, as provided in Attachment A hereto, with the following modifications:

1. Expand the locations where retail cannabis businesses could be conditionally permitted uses to include the Bayhill Shopping Center and Towne Center properties; and
2. Remove the requirement that "mosquitos" be used on site (Section 12.300.100(A)(17) of the draft ordinance).

9/15/2022

Date

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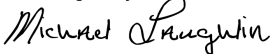
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ATTEST

APPROVED AS TO FORM

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Planning Commission Secretary

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City Attorney

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I, Planning Commission Secretary, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of San Bruno this 16th day of August 2022 by the following vote:

AYES	Commissioners:	<u>Harman, Lethin, Biasotti, Morgan</u>
NOES	Commissioners:	<u>Madden, Johnson</u>
ABSENT	Commissioners:	<u>Durazo</u>
RECUSED	Commissioners	<u>None</u>

Attachment A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN BRUNO AMENDING ARTICLE III (ZONING) OF TITLE 12 (LAND USE) OF THE MUNICIPAL CODE BY ADDING CHAPTER 12.300 TO AUTHORIZE COMMERCIAL CANNABIS RETAILERS (STOREFRONT SALES) IN THE TRANSIT CORRIDORS PLAN AREA C-B-D, MX-R, TOD-1, TOD-2, AND PD ZONES AND IN THE PD ZONES FOR THE SHOPS AT TANFORAN MALL, AND CANNABIS DISTRIBUTION FACILITIES IN THE M-1 ZONE, AND MAKING A FINDING OF EXEMPTION UNDER CEQA

THE CITY COUNCIL OF THE CITY OF SAN BRUNO DOES ORDAIN AS FOLLOWS:

Section 1. Based on the facts in the Staff Report, written and oral testimony, and exhibits presented, the City Council hereby makes the following findings of facts in support of the proposed Municipal Code amendments regarding establishment of commercial cannabis storefront sales and distribution operations:

1. The zoning code amendments were considered by the San Bruno Planning Commission on July 19, 2022 and August 16, 2022 at duly noticed public hearings. At the conclusion of the August 16, 2022 public hearing, the Planning Commission adopted Resolution No. 2022-10 recommending that the City Council adopt the zoning code amendments allowing for establishment of commercial cannabis storefront sales and cannabis distribution facilities as conditionally permitted uses in certain zones in the City.
2. A notice of public hearing was duly posted for consideration of this proposed ordinance at the City of San Bruno City Council meeting of ____, 2022, and on said date, the public hearing was opened, held and closed.
3. The proposed ordinance is consistent with the General Plan of the City of San Bruno, including the following goals and policies:

LUD-A: Promote development of El Camino Real as a boulevard with a series of “districts”, with distinctive uses weaved together with unified streetscape, sidewalk improvements, and pedestrian amenities. Encourage residential development to promote walkability and transit use.

LUD-C: Stimulate reuse and intensification with multi-use, transit-oriented development along El Camino Real, San Bruno Avenue, and San Mateo Avenue. Provide amenities serving pedestrians, bicyclists, and transit riders along these corridors.

LUD-D: Promote Downtown as the civic and cultural center of San Bruno, based on expansion of the ethnically diverse array of businesses and restaurants. Foster a vibrant, continuous, pedestrian-oriented mix of land uses within Downtown. Increase the market supporting Downtown through new mixed-use opportunities, including housing above the ground floor.

LUD-17: Encourage new development in Downtown to accommodate small retail shops, with larger anchor stores at the northern and southern gateways.

LUD-47: Allow high-intensity mixed-use development – including retail, offices, services, and housing – along San Bruno Avenue, between Elm Avenue and Huntington Avenue.

ED-A: Maintain a positive business climate within San Bruno, including resources for business attraction and expansion.

ED-B: Provide development opportunities that allow for establishment of jobs within San Bruno, commensurate with local residents' education and skills.

ED-C: Capture the entire spectrum of retail sales and services within San Bruno, from regional uses in The Shops at Tanforan to Downtown commercial uses.

ED-1: Improve the image of San Mateo Avenue in Downtown as an appealing commercial street to shop, dine, and conduct business.

4. The proposed ordinance has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and the San Bruno environmental review procedures and is determined to be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines.
5. The proposed ordinance to establish provisions for commercial cannabis storefront sales and distribution uses will not be detrimental to the health, safety, morals, comfort and general welfare of the Citizens of San Bruno.

Section 2. Article III (Zoning) of Title 12 (Land Use) of the Municipal Code is hereby amended by adding Chapter 12.300 to read as follows:

“12.300 COMMERCIAL CANNABIS OPERATIONS

12.300.010 Purpose and Intent

It is the purpose and intent of the City Council to regulate commercial cannabis operations consistent with state law and to protect the health, safety, and welfare of the residents of the city. The regulations in this chapter do not interfere with a qualified patient's right to obtain and use cannabis as authorized under state law, nor do they criminalize the possession or cultivation of cannabis by certain individuals as authorized under state law. Commercial cannabis operations shall comply with all provisions of the San Bruno Municipal Code, state law, and all other applicable local codes and regulations, including all applicable land use and zoning regulations imposed on commercial cannabis operations. It is neither the intent of this chapter to condone or legitimize the illegal use or consumption of cannabis under federal, state, or local law, nor to authorize the operation of a legal business in an illegal manner.

12.300.020 Definitions

As used in this chapter, the following words and phrases shall have the following meanings, unless otherwise specified:

Cannabis means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation

of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

Cannabis distribution facility means a business that is authorized to engage in the distribution of cannabis and cannabis products without having a cannabis retailer component.

Cannabis retailer means any establishment which engages in the retail sale of cannabis for adult-use purposes.

Cannabis Operator means an interested person who has obtained a Commercial Cannabis Operators Permit and has a commercial cannabis operation.

Cannabis products has the same meaning as in Section 11018.1 of the Health and Safety Code.

City Manager means the city manager and designee.

Commercial cannabis operation means a cannabis retailer or cannabis distribution facility.

Commercial Cannabis Operators Permit means a permit issued by the City of San Bruno pursuant to this chapter to a commercial cannabis operation.

Conditional use permit means any zoning approval issued by the Planning Commission pursuant to the Zoning Code to a commercial cannabis operation.

Day care center has the same meaning as set forth in Section 1596.76 of the Health and Safety Code.

Director means the Director of Community and Economic Development.

Distribution means the procurement, sale, and transport of cannabis and cannabis products between State licensed cannabis businesses.

Hazardous materials include any hazardous substance regulated by any federal, state, or local laws or regulations intended to protect human health or the environment from exposure to such substances.

Interested persons means any of the following:

- (1) Any individual that has an aggregate ownership interest, other than a security interest, lien, or encumbrance, of twenty percent or more in the commercial cannabis operation;
- (2) Partners, officers, directors, and stockholders of every corporation, limited liability company, or general or limited partnership that owns at least twenty percent of the commercial cannabis operation or that is one of the partners in the commercial cannabis operation;
- (3) The chief executive officer of a nonprofit or other entity, or a member of the board of directors of a nonprofit;
- (4) A manager or an individual who will be participating in the direction, control, or management of the commercial cannabis operation; and
- (5) The staff of the commercial cannabis operation.

Juvenile means any natural person who is under the age of eighteen years.

Manager means a person or persons with responsibility for the establishment, registration, supervision, or oversight of the operation of a commercial cannabis operation, including, but not limited to, a person who performs the functions of a board member, director, officer, owner, operating officer, or manager of the commercial cannabis operation.

MAUCRSA means the Medicinal and Adult Use Cannabis Regulation and Safety Act, codified in Business and Professions Code section 26000 et seq., as the same may be amended from time to

time.

Park means a playground or recreational area specifically designed to be used by children which has play equipment installed, including public grounds designed for athletic activities such as baseball, softball, soccer, or basketball or any similar facility located on a public or private school grounds, or on City, county, or state parks. Park does not include small “pocket parks,” such as Posy Park.

School means any school providing instruction in kindergarten or any grades I through 12, (whether public, private, or charter, including pre-school, transitional kindergarten, and K-12).

Sensitive uses mean a day care center, park, school or youth center, as defined herein.

Staff means a person other than a manager who works or provides services on the site of a commercial cannabis operation, whether as an employee, contractor, or volunteer.

Youth center has the same meaning as Section 11353.1 of the Health and Safety Code that includes the following:

1. A public or private facility that is primarily used to host recreation or social activities for minors, including, but not limited to:
 - a. Private youth membership organizations or clubs,
 - b. Social service teenage club facilities,
 - c. Video arcades where 10 or more video games or game machines or devices are operated, and where minors are legally permitted to conduct business, or
 - d. Similar amusement park facilities, and
 - e. Must be used for youth activities at least 60 percent of the time in a calendar year.
2. A youth center shall not include any private martial arts, yoga, ballet, music, art studio or similar studio of this nature nor shall it include any private gym, athletic training facility, pizza parlor, dentist office, doctor’s office primarily serving children or a location which is primarily utilized as an administrative office or facility for youth programs or organizations.

12.300.030 Prohibitions

Except as expressly authorized pursuant to this Title 12, all commercial cannabis activity is prohibited in the City.

12.300.040 Permits and approvals required.

- A. Conditional Use Permit. Every property for which a commercial cannabis operation is proposed to be established, maintained, operated, or conducted in the City shall obtain a conditional use permit pursuant to Chapter 12.112.
- B. Commercial Cannabis Operators Permit. Every person who proposes to establish, maintain, operate, or conduct a commercial cannabis operation in the City shall obtain a commercial cannabis operators permit pursuant to Chapter 4.70. A commercial cannabis operators permit shall not be issued until a conditional use permit has been obtained by the commercial cannabis operation.
- C. Business License. Every person who proposes to establish, maintain, operate, or conduct a commercial cannabis operation in the City shall obtain a business license.

- D. State License. Every person who proposes to establish, maintain, operate, or conduct a commercial cannabis operation in the City and every property for which a commercial cannabis operation is proposed to be established, maintained, operated, or conducted shall obtain all state licenses for the activity to be conducted.
- E. Operations Plan. Before commencing any commercial cannabis operation, the business shall submit an operations plan to the Director for approval by the Director. The operations plan shall address the following: the security measures that will be implemented to protect the customers and employees as well as the general community; water preservation; financial record keeping; procedures for safely and securely storing and transporting cannabis and cannabis products, and any hazardous materials that may be used by the business; how currency will be stored and taken off-site; any other information requested by the Director.
- F. Duty to Maintain Copies of All Permits, Licenses, Permits and Conditions of Approval. A copy of all conditional use permits, commercial cannabis operators permits, business license, State License or other permit or license required by the City, County, or State for the establishment of a commercial cannabis operation shall be maintained on site along with all conditions of approval associated thereof. Such permits may be inspected from time to time by City, County or State representatives or law enforcement personnel and shall be furnished immediately upon request. The on-site manager, in addition to the property owner, business owner, or representative shall be responsible for ensuring compliance with all applicable codes, permits, licenses, and conditions of approval.

12.300.050 Compliance with State and Local Laws and Regulations.

It is the responsibility of the owners and/or operators of any commercial cannabis operation within the City to ensure that the business operates in a manner compliant with this Chapter, all applicable State and local law, and any other regulations promulgated thereunder, including but not limited to the MAUCRSA and regulations promulgated the Department of Cannabis Control.

12.300.060 Additional Procedures and Findings for Approval of Conditional Use Permit for Cannabis Operations.

- A. A conditional use permit for any cannabis operation shall be processed in accordance with the procedures set forth in Chapter 12.112, Conditional Use Permits, with the following revisions:
 - 1. The Planning Commission shall be the recommending body with the City Council being the final approving authority on which commercial cannabis operations obtain a conditional use permit.
 - 2. In addition, to the findings set forth in Section 12.112.050, the Planning Commission and City Council must make the following findings::
 - a. Whether the use would fully comply with the operational regulations set forth in Chapter 4.70;

- b. Whether the use would enhance the economic viability of the area in which it is proposed to be located;
- c. Whether the applicant has adequately addressed potential community benefits of the use to offset the potential adverse impacts;
- d. The extent of the support or opposition to the proposed use and location from members of the community;
- e. The presence of any permitted commercial cannabis operation within 600 feet of the proposed location;
- f. The extent to which the proposed use would cause a further overconcentration of the particular type of commercial cannabis operation in the area;
- g. The background and history of the applicant, including the nature and extent of problems on any premises where the applicant has operated a commercial cannabis operation in the past;
- h. Whether there is a history of police or crime-related problems in the vicinity of the proposed location; and
- i. Whether the proposed use would enhance recreational or entertainment opportunities in the area.

B. Any conditional use permit for a cannabis operation shall comply with the California Environmental Quality Act ("CEQA"). No conditional use permit for any cannabis operation shall be granted until the requisite CEQA review has been conducted.

12.300.070 Development Standards

All commercial cannabis operations shall comply with the following requirements, and the following applicable requirements of this Section shall be deemed conditions of all cannabis conditional use permit approvals. The Planning Commission and/or City Council may also impose any other development standards that do not conflict with the standards set forth below. Failure to comply with applicable requirement contained in this Code shall be grounds for revocation of any permit issued in compliance with this Code.

- A. Underlying Zone Standards. The establishment of a commercial cannabis operation shall comply with all applicable City zoning site development standards of the zone in which the commercial cannabis operation is located, the building and construction codes, maximum occupancy loads, fire codes, and health and safety regulations in effect in the City, except as explicitly modified by this chapter. Non-conforming uses or properties must be brought into conformity with all applicable standards including, but not limited to, parking, landscaping, and signage.
- B. Permitted Locations. Commercial cannabis operations shall only be permitted in the following zones:
 - 1. Cannabis retailers shall be permitted only in:
 - a. The Transit Corridors Plan areas: C-B-D, MX-R, TOD-1, TOD-2, and PD zones.
 - b. The PD zone for the Shops at Tanforan Mall.
 - 2. One cannabis distribution facilities shall be permitted only in the M-1 zone, and limited

to the geographic area located north of San Bruno Avenue and east of El Camino Real.

- C. **Maximum Number.** A maximum of three commercial cannabis retail operators shall operate in the City, a total of up to four for any combination of cannabis retailers (3) or cannabis distribution facilities (1).
- D. **Proximity to Sensitive Uses.** No commercial cannabis operation shall be established or located within 600 feet of sensitive uses. The distance between any commercial cannabis operation and any sensitive uses shall be measured in a straight line, without regard to the boundaries of the City and intervening structures, from the nearest property line of the site containing the commercial cannabis operation to the nearest property line of the sensitive uses. In the case of The Shops at Tanforan, the distance shall be measured from the perimeter of any individual lease space or store.

12.300.080 Cannabis Distribution Facility.

- A. Transportation safety standards, in addition to those imposed by the State of California, shall approved by the Director including without limitations, the type of vehicles in which cannabis or cannabis product may be distributed, and minimal qualification for persons eligible to operate such vehicles.
- B. A list of the make, model and license plate of all vehicles used for distribution shall be registered with the Police Department before a vehicle may be used to transport cannabis and cannabis products.
- C. A person conducting distribution shall comply with requirements of Business and Professions Code Section 26070 (sections c through n, inclusive), as the same may be amended from time to time.
- D. No cannabis distribution facility shall conduct or permit to be conducted any retail sales of any good or services to the general public on or from the business site.

12.300.090 Cannabis Retailers.

- A. **Main entrance and lobby.** A cannabis retailer shall have a building with a main entrance that is clearly visible from the public street, sidewalk, or public parking lot. Inside of the main entrance, there shall be a lobby or other receiving area satisfactory to the City to receive persons into the site and to verify whether they are allowed in the retail customer areas. All entrances into the building shall be secured at all times with entry controlled by the cannabis retailer's managers and staff.
- B. **Transport area.** If the cannabis retailer will conduct sales by delivery, each building shall have an area designed for the secure transfer of cannabis from the business to the delivery vehicle. Delivery drivers shall be accompanied by a security escort during the transfer of cannabis from the business to the delivery vehicle.
- C. **Storage area.** Each building that will be used for storing cannabis or cannabis products as part of cannabis retailer shall have adequate storage space separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the cannabis retailer.

D. Cannabis retailers shall verify the age and all necessary documentation of each individual to ensure the customer is not a juvenile. Cannabis retailers shall verify that all customers are 21 years of age or older for the purchase of cannabis or cannabis products.

E. Individuals must show their government-issued identification in order to gain access into the cannabis retailer. A cannabis retailer shall only sell cannabis and cannabis products to individuals who are at least 21 years of age.

F. Cannabis retailers may have only that quantity of cannabis and cannabis products to meet the daily demand readily available for sale on-site in the retail sales area of the cannabis retailer. Additional product may be stored in a secured, locked area to which customers, vendors, and visitors shall not have access.

G. All restroom facilities shall remain locked and under the control of management.

H. The cannabis retailer shall notify patrons of the following through posting of a sign in a conspicuous location:

1. Secondary sale, barter or distribution of cannabis is a crime and can lead to arrest.
2. Loitering on and around the cannabis retailer is prohibited by California Penal Code § 647(e) and that patrons must immediately leave the site and not consume cannabis in the vicinity of the cannabis retail site or on the property or in the parking lot.
3. A warning that patrons may be subject to prosecution under federal cannabis laws.
4. That the use of cannabis may impair a person's ability to drive a motor vehicle or operate machinery.

I. Cannabis retailers shall only serve customers who are within the permitted premises, or at a delivery address that meets the following requirements:

1. The sale and delivery of cannabis goods shall not occur through a pass-through window or a slide-out tray to the exterior of the premises.
2. Cannabis retailers shall not operate as or with a drive-in or drive-through at which cannabis goods are sold to persons within or about a motor vehicle.
3. No cannabis goods shall be sold and/or delivered by any means or method to any person within a motor vehicle.
4. All cannabis goods sold by a retail business shall be contained in child-resistant packaging.

J. Cannabis retailers shall record point-of-sale areas and areas where cannabis goods are displayed for sale on the video surveillance system. At each point-of-sale location, camera placement must allow for the recording of the facial features of any person purchasing or selling cannabis goods, or any person in the retail area, with sufficient clarity to determine identity.

K. Delivery. Prior to commencing delivery operations, a cannabis retailer shall provide the following information to the City:

1. Proof of ownership of the vehicle or a valid lease for any and all vehicles that will be used to deliver cannabis or cannabis products.

2. The year, make, model, color, license plate number, and numerical Vehicle Identification Number (VIN) for any and all vehicles that will be used to deliver cannabis goods.
3. Proof of insurance for any and all vehicles being used to deliver cannabis goods.
4. The cannabis retailer shall provide the City with the information required by this section in writing for any new vehicle that will be used to deliver cannabis goods prior to using the vehicle to deliver cannabis goods. The cannabis retailer shall provide the City with any changes to the information required by this section in writing within thirty (30) calendar days.

12.300.100 Security

- A. A commercial cannabis operation shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing cannabis or cannabis products and to deter and prevent the theft of cannabis or cannabis products at the commercial cannabis operation. The specific security measures shall be identified in the operations plan. Except as may otherwise be determined by the Director these security measures shall include, but shall not be limited to, all of the following:
 1. Perimeter fencing and exterior lighting systems (including motion sensors) for after-hours security as approved by the Director were applicable.
 2. Preventing individuals from remaining on the premises of the commercial cannabis operation if they are not engaging in an activity directly related to the permitted operations of the commercial cannabis operation. In cases in which the individual will not voluntarily leave the premises, the cannabis employee shall contact the Police Department.
 3. Establishing limited access areas accessible only to authorized commercial cannabis operation personnel.
 4. All finished cannabis goods at a commercial cannabis operation shall be stored in secured and locked vault or vault-equivalent during non-operating hours. All safes and vaults used to store cash and/or cannabis goods shall be burglary-resistant and fire-resistant. All cannabis and cannabis products, including live clone plants that are being sold, shall be kept in a manner as to prevent diversion, theft, and loss.
 5. Sensors shall be installed to detect entry and exit from all secure areas and shall be monitored in real time by a security company licensed by the State of California Bureau of Security and Investigative Services.
 6. Panic buttons shall be installed with direct notification to the Police Department dispatch and shall be configured to immediately alert dispatch for the Police Department.
 7. A professionally installed, maintained, and monitored real-time alarm system shall be installed by a security company licensed by the State of California Bureau of Security and Investigative Services. The commercial cannabis operation shall maintain up-to-date records and existing contracts on the premises that describe the location and operation of each security alarm system, a schematic of security zones, the name of the licensed alarm company, and the name of any vendor monitoring the premises.
 8. A commercial cannabis operation shall only use commercial-grade, nonresidential door locks.
 9. Any security measures, such as bars, installed on the windows or the doors of the commercial cannabis operation shall be installed only on the interior of the building.

10. Security personnel shall be on-site 24 hours a day and must have a verified response security patrol when closed. Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the Police Chief, with such approval not to be unreasonably withheld.

11. A commercial cannabis operation shall have the capability to remain secure during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

12. Entrance areas are to be locked at all times and under the control of a designated responsible party that is either; (a) an employee of the commercial cannabis operation; or (b) a licensed security professional.

13. Each commercial cannabis operation shall have an accounting software system in place to provide point of sale data as well as audit trails of both product and cash, where applicable.

14. Each commercial cannabis operation shall demonstrate to the Police Chief, City Manager or their designees, compliance with the state's track and trace system for cannabis and cannabis products.

15. Exterior vegetation shall be planted, altered and maintained in a fashion that precludes its use as a hiding place for persons on the premises.

16. Emergency access and emergency evacuation plans that are in compliance with state and local fire safety standards.

17. Installation of "mosquitos" (high-pitch frequency devices) as a deterrent to vandalism/loitering.

B. Video surveillance. The commercial cannabis operation shall install a 24-hour security video surveillance cameras of at least high-definition (HD) quality with a night vision capability, and must record in color. The video surveillance system shall meet the following requirements and shall be included in the operations plan:

1. All entrances and exits to and from the commercial cannabis operation must be monitored by the video surveillance system. All entrances and exits to the commercial cannabis operation shall be recorded from both indoor and outdoor vantage points.

2. All interior spaces within the commercial cannabis operation which are open and accessible to the public, all interior spaces where cannabis, cash, or currency, is being stored for any period of time on a regular basis and all interior spaces where diversion of cannabis could reasonably occur must also be monitored by the video surveillance system.

3. All exterior cameras shall be in weather-proof enclosures, shall be located so as to minimize the possibility of vandalism, and shall have the capability to automatically switch to black and white in low light conditions.

4. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the commercial cannabis operation and shall be capable of enlargement via projection or other means.

5. The video security system must be compatible with software and hardware utilized by the City as determined by the Police Chief and set forth in the operations plan.

6. Surveillance video must be recorded to a device that is securely located on the premises and all footage must be maintained for a minimum of 90 days. The video surveillance

system specifications must be set forth in the operations plan before the City issues a certificate of occupancy for the facility.

7. All video surveillance systems must be equipped with a failure notification system that provides prompt notification to the commercial cannabis operation of any prolonged surveillance interruption and/or the complete failure of the surveillance system.

8. A commercial cannabis operation is responsible for ensuring that all surveillance equipment is properly functioning and maintained so that the playback quality is suitable for viewing and the surveillance equipment is capable of capturing the identity of all individuals and activities in the monitored area. All video surveillance equipment shall have sufficient battery backup to support a minimum of 4 hours of recording in the event of a power outage.

9. Camera placement shall be capable of identifying activity occurring within 20 feet of all points of ingress and egress and shall allow for the clear and certain identification of any individual and activities at the commercial cannabis operation.

10. The video surveillance system shall be capable of recording all pre-determined surveillance areas in any lighting conditions.

11. Areas in which cannabis is grown, cured, manufactured, or stored shall have camera placement in the room at a height that provides a clear, unobstructed view of activity without sight blockage from lighting hoods, fixtures, or other equipment.

12. Cameras shall also be placed at each location where weighing, packaging, transport, preparation, or tagging activities occur.

13. At least one camera must be dedicated to record the access points to the secured surveillance recording area.

C. Each commercial cannabis operation shall identify a designated security representative/liaison to the City, who shall be reasonably available to meet with the City Manager regarding any security related measures and/or operational issues. The designated security representative/liaison shall maintain a copy of the current operations plan, that shall include a security plan, on the premises of the business, to present to the City Manager upon request that meets the following requirements:

1. Confirms that a designated manager will be on duty during business hours and will be responsible for monitoring the behavior of employees.

2. Identifies all managers of the commercial cannabis operation and their contact phone numbers.

3. Confirms that first aid supplies and operational fire extinguishers are located in the service areas and the Manager's office.

4. Confirms that burglar, fire, and panic alarms are operational and monitored by a licensed security company 24 hours a day, seven days a week, and provides contact information for each licensed security company.

5. Identifies a sufficient number of licensed, interior, and exterior security personnel who will monitor individuals inside and outside the commercial cannabis operation, the parking lot, any adjacent property under the commercial cannabis operation's control, and ensure that the parking lot is cleared of employees and their vehicles one-half hour after closing.

D. The commercial cannabis operation shall cooperate with the City whenever the City Manager makes a request, with or without prior notice, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.

E. A commercial cannabis operation shall notify the City Manager within twenty-four (24) hours after discovering any of the following:

1. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager.

2. Diversion, theft, loss, or any criminal activity involving the commercial cannabis operation or any agent or employee of the commercial cannabis operation.

3. The loss or unauthorized alteration of records related to cannabis, customers or employees or agents of the commercial cannabis operation.

4. Any other breach of security.

F. Compliance with the foregoing requirements shall be verified by the City Manager prior to commencing business operations. The City Manager may supplement these security requirements once operations begin, subject to review by the City Manager if requested by the commercial cannabis operation owner.

12.300.110 Additional Performance Standards.

A. Restriction on Alcohol and Tobacco Sales or Consumption. A commercial cannabis operation shall not allow the sale, dispensing, or consumption of alcoholic beverages or tobacco on the premises of the commercial cannabis operation.

B. Restriction on Cannabis Consumption. A commercial cannabis operation shall not allow the consumption of cannabis or cannabis products on the premises of the commercial cannabis operation.

C. Graphics. No cannabis or cannabis products or graphics depicting cannabis or cannabis products shall be visible from the exterior of the commercial cannabis operation, or on any of the vehicles owned or used as part of the commercial cannabis operation.

D. Storage. No outdoor storage of cannabis or cannabis products is permitted at any time.

E. Emergency Contact. Each commercial cannabis operation shall provide the City Manager with the name, telephone number (both land line and mobile, if available) of an on-site employee or owner to whom emergency notice can be provided at any hour of the day.

F. Signage and Notices.

1. In addition to the requirements otherwise set forth in this section, business identification signage for a commercial cannabis operation shall conform to the requirements of Chapter 12.104, including, but not limited to, seeking the issuance of a City sign permit.

2. No signs placed on the premises of a commercial cannabis operation shall obstruct any entrance or exit to the building or any window.

3. Each entrance to a commercial cannabis operation shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the commercial cannabis operation is prohibited.

4. Business identification signage shall be limited to that needed for identification only and shall not contain any logos or information that identifies, advertises, or lists the services or the products offered. No commercial cannabis operation shall advertise by having a person holding a sign and advertising the business to passersby, whether such person is on the premises of the commercial cannabis operation or elsewhere including, but not limited to, the public right-of-way.

5. Signage shall not depict any image of cannabis or cannabis products. No banners, flags, snipe signs, billboards, or other prohibited signs may be used at any time.

G. Cleanliness. All exterior areas of any commercial cannabis operation, including the building, landscaping, and parking areas, shall be maintained in a clean and orderly manner free of trash, weeds, and debris.

H. Lighting. A commercial cannabis operation shall comply with the City's lighting standards including, without limitation, fixture type, wattage, illumination levels, shielding, and secure the necessary approvals and permits as needed. The commercial cannabis operation shall ensure that minimum lighting levels in exterior building and parking lot areas are adequate for the safe operation of vehicles and other modes of travel. A commercial cannabis operation shall submit an exterior lighting plan that includes a photometric survey of proposed light standards, heights, fixtures, light sources, spacing and shielding.

I. Noise. A commercial cannabis operation shall comply with all applicable standards of Chapter 6.16.

J. Odor Control. Odor control devices and techniques shall be incorporated in all commercial cannabis operations to ensure that odors from cannabis are not detectable off-site. Commercial cannabis operations shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the commercial cannabis operation that is distinctive to its operation is not detected outside of the commercial cannabis operation, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the commercial cannabis operation. Failure to control odors from being detectable from outside the commercial cannabis operation shall constitute a public nuisance and shall be grounds for suspension or revocation of the cannabis conditional use

permit. As such, commercial cannabis operations must install and maintain the following equipment, or any other equipment which the Director or his/her designee(s) determine is a more effective method or technology:

1. An exhaust air filtration system with odor control that prevents internal odors from being emitted externally; and
 2. An air system that creates negative air pressure between the commercial cannabis operation's interior and exterior, so that the odors generated inside the commercial cannabis operation are not detectable on the outside of the commercial cannabis operation.
- K. Management. A manager with operational authority shall be on the premises during all times the use is operating and must be included on the associated commercial cannabis operation permit.
- L. Cannabis Waste. All waste and disposal containers shall be stored in a secure area, and under the control of the commercial cannabis operation's staff.
- M. Windows. All windows of the commercial cannabis operation shall be secured and all cannabis securely stored.
- N. Copies of State Permits. The applicant shall provide the City with copies of all applications, plans and security plans submitted to the State for a State License.
- O. Parking. On-site parking shall be provided as determined as retail use or as determined by the Director based on the operation of the facility.
- P. The Planning Commission and/or City Council may also impose any other development standards that do not conflict with the standards set forth below.

12.300.120 Promulgation of Regulations, Standards and Other Legal Duties.

- A. In addition to any regulations adopted by the City Council, the City Manager is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of cannabis conditional use permits, the ongoing operation of commercial cannabis operation and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- B. Regulations shall be published on the City's website.
- C. Regulations promulgated by the City Manager shall become effective upon date of publication. Commercial cannabis operations shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager.

12.300.130 Limitations on City's Liability.

- A. To the fullest extent permitted by law, the City does not assume any liability whatsoever, with respect to approving any permit pursuant to this chapter or the operation of any commercial cannabis operation approved under to this chapter.
- B. As a condition of approval of a permit as provided in this chapter, the applicant or its legal representative shall do the following:

- 1. Execute an agreement indemnifying the City from any claims, damages, injuries, or liabilities of any kind associated with the operation of the commercial cannabis operation, issuance of a permit to a commercial cannabis operation, or the prosecution of the commercial cannabis operation or its owners, managers, directors, officers, employees, or its qualified patients or primary caregivers for violation of federal or state laws;
- 2. Maintain insurance in the amounts and of the types that are acceptable to the City Manager or designee; and
- 3. Reimburse the City for all costs and expenses, including but not limited to legal fees and costs and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the cannabis conditional use permit or commercial cannabis operators permit or related to the City 's approval of a cannabis activity. The City, at its sole discretion, may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any of the obligations imposed hereunder."

Section 3. Subsection C of Section 12.96.150 (M-1 Industrial district.) of Chapter 12.96 (Establishment of districts) of Article III (Zoning) of Title 12 (Land Use) of the Municipal Code is hereby amended to read as follows, with additions shown in underlined text, with the remainder of Section 12.96.150 remaining unchanged:

"C. Conditional Uses. Conditional uses, conducted entirely within an enclosed structure, subject to obtaining a use permit and architectural review permit, are as follows:

- 1. Industrial and manufacturing uses that may be obnoxious by reason of the emission of dust, odor, noise, glare or other nuisance, including uses such as the following:
 - a. Auto-related uses such as vehicle repair and maintenance and gas and service stations;
 - b. Auto wrecking;
 - c. Building materials;
 - d. Contractor yards;
 - e. Manufacture, handling, or storage of dangerous materials;
 - f. Lumberyards;
 - g. Any use which in the opinion of the planning commission is similar to the above conditional uses.
 - h. Firearm dealers, subject to the limitations set forth by Section [6.08.070\(H\)](#).
 - i. Cannabis distribution facilities subject to the provisions of Chapters 4.70 and 12.300."

Section 4. Table 12.280-1: Permitted Uses in Mixed-Use Zoning Districts of Section 12.280.020 (Permitted Uses.) of Chapter 12.280 (Mixed-Use Zoning Districts) of Article III (Zoning) of Title 12 (Land Use) of the Municipal Code is hereby amended to add new lines under “Commercial Uses” to read as follows, with the remainder of Table 12.280-1 remaining unchanged:

Land Uses	CBD	TOD-S	TOD-1	TOD-2	CC	MX-R
Commercial Uses	C ⁴	-	C ⁴	C ⁴	-	C ⁴
Cannabis retailer						

Footnote 4: Subject to obtaining the necessary permits pursuant to Chapters 4.70 and 12.300.

Section 5. This ordinance is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it is not a project and there is not a possibility that the ordinance may have a significant effect on the environment.

Section 6. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of San Bruno hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 7. This Ordinance shall take effect and be in force 30 days after its adoption.

Section 8. The City Clerk shall publish this Ordinance according to law.

Rico E. Madina, Mayor

ATTEST:

Vicky Hasha, Deputy City Clerk

APPROVED AS TO FORM

Trisha Ortiz, City Attorney

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

AYES: COUNCILMEMBERS:_____

NOES: COUNCILMEMBERS:_____

ABSENT: COUNCILMEMBERS:_____

RECUSE: COUNCILMEMBERS:_____

Vicky Hasha, Deputy City Clerk