

**** WORKING DRAFT ****

**CITY OF HUNTINGTON BEACH
COMMERCIAL CANNABIS REGULATIONS**

Pursuant to the authority granted under Chapter 5.130 of the Huntington Beach Municipal Code and under state law, the City Manager and designee (or approved via Council Resolution) hereby promulgates these Regulations necessary to carry out the purposes of Chapter 5.130 and which shall apply in addition to the requirements set forth in Chapter 5.130 and applicable local and state law.

In the absence of, specific provisions in the HBMC or these Regulations, the relevant laws and regulations of the State of California shall apply.

The City Commercial Cannabis Regulations shall govern the following areas:

- Commercial Cannabis Permit application and renewal criteria and processes,
- Regulation and oversight of Commercial Cannabis Facilities,
- Operational requirements imposed on such Facilities, and
- Any other subject determined to be necessary to carry out the purposes of Chapter 5.130 of the Huntington Beach Municipal Code.

Compliance with the City's Commercial Cannabis Regulations is required to engage in Commercial Cannabis Activity, and failure to do so is grounds for revocation, suspension or non-renewal of a Commercial Cannabis Permit, as well as the other penalties set forth in Chapter 5.130 of the Huntington Beach Municipal Code.

Section I. Application and Approval Procedures

TBD

Section 2. Application Requirements

TBD

Section 3. Premises Requirements

TBD

Section 4. General Operational Standards.

A. Pre-Operational Requirements

Prior to commencing operations, and as a precondition for commencing such operations, a Commercial Cannabis Facility and its Owners and operators shall:

- 1) Obtain any and all required land use entitlements and approvals and comply with any California Environmental Quality Act requirements related thereto.
- 2) Be subject to a mandatory building inspection and obtain all required permits and approvals that would otherwise be required for any business of the same size and

intensity operating in the Industrial or Commercial zone. This includes but is not limited to obtaining any required building permit(s), certificates of occupancy, Fire Department approvals, and other zoning and land use permit(s) and approvals.

- 3) Remedy any expired building permits for the subject tenant space.
- 4) The Huntington Beach Fire Department shall perform a fire and life safety inspection prior to occupancy of the facility. Any deficiencies identified during the inspection shall be corrected prior to approval of occupancy. Any hazardous materials that will be used or stored within a facility must be disclosed to the Huntington Beach Fire Department.
- 5) Execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend (at Applicant's sole cost and expense), and hold the City of Huntington Beach, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance or failure to issue a Commercial Cannabis Permit, the City's decision to approve or its refusal to approve the operation of the Commercial Cannabis Facility, the process used by the City in making its decision, or the alleged violation of any federal, State or local laws by the Commercial Cannabis Facility or any of its Owners, officers, Employees or agents.
- 6) Obtain and consistently maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate by the City Attorney.
- 7) Obtain a Commercial Cannabis Permit and pay all fees and charges required by the City or any other local, State, or federal agency for the operation of a Commercial Cannabis Facility.
- 8) Comply with all State and local laws and regulations, including but not limited to the requirements of Chapter 5.130 of the Huntington Beach Municipal Code, the City Commercial Cannabis Regulations, the requirements of the Commercial Cannabis Permit, and State Law.
- 9) Obtain a valid State Licenses allowing for the operation of a Commercial Cannabis Facility.
- 10) Apply for and obtain a City of Huntington Beach business licenses.

B. Operational Standards Applicable to All Cannabis Facilities

While engaged in Commercial Cannabis Activities, all Commercial Cannabis Facilities shall comply with the following operational requirements:

- 1) Conform to the City's General Plan, any applicable specific plans, master plans, and design requirements.
- 2) Comply with all applicable zoning and related development standards.
- 3) Dual Permits Posted and Visible. A copy of the Commercial Cannabis Permit issued by the City pursuant to Chapter 5.130 of the Huntington Beach Municipal Code, together with a copy of the appropriate State License(s) for the Commercial Cannabis Activity being conducted, shall be posted and readily visible to the public at all time, at each location where Commercial Cannabis Activity occurs.
- 4) Any Permittee shall keep the Commercial Cannabis Permit in or upon the Permittee's business vehicles the business permit or other form of Licenses as designated by the City Manager issued for such vehicle.
- 5) Any Permittee transacting and carrying on business but not operating at a fixed place of business in the City shall keep the Commercial Cannabis Permit upon his or her person at all times while transacting and carrying on such business and have in or upon each of the Permittee's business vehicles, at the time of operation in this City, the business permit or other form of Licenses as designated by the City Manager issued for such vehicles.
- 6) Be sited and/or operated in a manner that prevents cannabis odors from being detected off site. Commercial cannabis activities shall not create offensive or excessive odors, dust, heat, noise, light, glare, smoke, traffic, or hazards due to the use or storage of materials, processes, products or wastes, or other unreasonable impacts to people of normal sensitivity living, working or lawfully present in the vicinity of the commercial facility. Commercial Cannabis Facilities shall be constructed in a manner that promotes quality design and construction, and consistency with the surrounding properties.
- 7) Be provided with adequate electricity, sewerage, disposal, water, fire protection and storm drainage facilities for the intended purpose.
- 8) Maintain 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 Facility, consistent with State Law.
- 9) Cooperate with the City if it makes a request, upon reasonable notice to the Commercial Cannabis Facility, to inspect or audit the effectiveness of any security plan or of any other requirement of this Section.
- 10) Production of Originals for Inspection. Any Owner, operator, Employee or person in charge of a Commercial Cannabis Activity shall produce for inspection and copying, upon request of an authorized City personnel during normal operating hours, the

original of the current and valid Commercial Cannabis Permit and the appropriate, current and valid Licenses(s) of the State of California for the Commercial Cannabis Activities or commercial Cannabis Businesses being conducted.

- 11) Refrain from displaying Cannabis Products or graphics depicting Cannabis or Cannabis Products so as to be visible from the exterior of any property issued a Commercial Cannabis Permit, or on any of the vehicles owned or used as part of the Commercial Cannabis Facility.
- 12) Refrain from displaying any signage, packaging, or other display that is “attractive” to minors as defined by State Law, as well as from any outdoor storage or display of Cannabis or Cannabis Products.
- 13) Provide the City with the name, telephone number of an on-site Employee or Owner to whom emergency notice can be provided at any hour of the day.
- 14) Prohibit any person under the age of twenty-one (21) years old from entering upon the Commercial Cannabis Facility premises or being employed by the Commercial Cannabis Facility.
- 15) Prohibit the sale, dispensing, or consumption of alcoholic beverages or tobacco products on or about the premises of the Commercial Cannabis Facility.
- 16) Permitted Commercial Cannabis Facilities shall not receive, store, hold or sell Cannabis or Cannabis Products unless the cannabis and cannabis products are labeled and packaged as required by State law and regulations.
- 17) Permitted Commercial Cannabis Facilities are prohibited from giving away any amount of Cannabis or Cannabis Products and are prohibited from providing coupons as part of a business promotion.
- 18) Ensure that the Commercial Cannabis Facility is monitored at all times by web-based closed circuit television for security purposes and maintain and provide the City with access to those recordings as provided in the City Commercial Cannabis Regulations.
- 19) If the Commercial Cannabis Facility employs two (2) or more Employees (computed as “full time” non-supervisory Employee equivalent positions where an Employee full time equivalent works 1700 hours per year), enter into a Labor Peace Agreement and provide City with evidence of such Labor Peace Agreement within ninety (90) days following the date when the number of Employees exceed two (2) full-time positions.
- 20) Signage. Every entrance to licensed commercial Cannabis Business shall be clearly and legibly posted with the following notice: “ENTRY ONTO THESE PREMISES

BY PERSONS UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW. VALID PHOTO ID REQUIRED.”

- 21) Comply with the City’s Commercial Cannabis Regulations and any Commercial Cannabis Facility operational requirements or regulations as are determined by the City Manager to be necessary to protect the public health, safety and welfare.
- 22) Background Check. Pursuant to California Penal Code Sections 111 05(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes; and authorizes access to 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, every person listed as an owner, manager, supervisor, employee, or volunteer of the commercial cannabis business must submit fingerprints and other information deemed necessary by the Police Chief or his/her designee for a background check by the Huntington Beach Police Department. Pursuant to California Penal Code Sections 111 05(b) (11) and 13300(b) (11), which require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record. No person shall be issued a permit to operate a commercial cannabis business or a related work permit unless they have first cleared the background check, as determined by the Police Chief or his/her designee, as required by this Section. A fee for the cost of the background investigation, which shall be the actual cost to the City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a commercial cannabis permit is submitted.
- 23) Employee breakrooms, eating areas, changing facilities, locker rooms and bathrooms shall be completely separated from areas where Cannabis is stored.

C. Security and Safety Measures Applicable to All Commercial Cannabis Facilities

- 1) Each Commercial Cannabis Facility shall have a security plan approved by the Chief of Police or designee prior to issuance of a Commercial Cannabis Permit.
- 2) A permitted Commercial Cannabis Facility 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 Facility. Except as may otherwise be determined by the City Manager or his/her designee, these security measures shall include, but shall not be limited to, all of the following:
 - a. Preventing individuals from remaining on the premises of the Commercial Cannabis Facility if they are not engaging in an activity directly related to the permitted operations of the Commercial Cannabis Activities.

- b. Establishing limited access areas accessible only to authorized Commercial Cannabis Facility personnel.
- c. Except for live growing plants that are being cultivated at a Cultivation site, all Cannabis and Cannabis Products shall be stored in a secured and locked room, safe, display case, or vault. All Cannabis and Cannabis Products, including live plants that are being cultivated, shall be kept in a manner as to prevent diversion, theft, and loss.

Outdoor storage of Cannabis or Cannabis Products is prohibited. All Cannabis and Cannabis Products must be stored on the licensed premises.

- d. Installing 24-hour security surveillance cameras of at least 1080P to monitor all entrances and exits to and from the premises, all interior spaces within the Commercial Cannabis Facility 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. The Permittee shall be responsible for ensuring that the security surveillance camera's footage is available upon demand by the City. Video recordings shall be maintained for a minimum of ninety (90) days and shall be made available to the City Manager or his/her designee upon request.
- e. Electronic copies of video must be made available to the Huntington Beach Police Department (HBPD) within 48 hours of request without a search warrant, court order, or subpoena. Digital recordings shall be made available for viewing on-scene upon request by police personnel conducting investigations. Video shall be of sufficient quality for effective prosecution of any crime found to have occurred on the site of the Commercial Cannabis Facility. The business is required to have someone able to operate the system on duty during all business hours.
- f. The facility shall maintain a map of the camera locations, the direction of camera coverage, and assigned camera numbers at the premises.
- g. Sensors shall be installed to detect entry and exit from all secure areas.
- h. Panic buttons shall be installed in all Commercial Cannabis Facilities.
- i. Commercial Cannabis Facilities shall have a professionally installed, maintained, and monitored alarm system.
- j. Any bars installed on the windows or the doors of the Commercial Cannabis Facility shall be installed only on the interior of the building.

- k. Security personnel shall be on-site 24 hours a day unless alternative security is authorized by the City Manager or his/her designee. 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 City Manager or his/her designee, with such approval not to be unreasonably withheld.
- l. Each Commercial Cannabis Facility 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.
- 3) Each Commercial Cannabis Facility shall identify a designated security representative or liaison to the City of Huntington Beach, who shall be reasonably available to meet with the City Manager or his/her designee at any time regarding any security related measures or and operational issues.
- 4) As part of the application and permitting process, each Commercial Cannabis Facility shall have a storage and transportation plan describing in detail the procedures for safely and securely storing and transporting all Cannabis, Cannabis Products, and any currency.
- 5) The City, County, or any investigating official shall have the right to enter the premises of Commercial Cannabis Facility from time to time during regular business hours to conduct reasonable inspections to enforce compliance with Chapter 5.130 of the Huntington Beach Municipal Code and with building, fire, electrical, plumbing, and/or State and local health and safety regulations.
- 6) No person shall refuse to permit or interfere with a lawful inspection of the establishment by City or County investigating officials.
- 7) A Commercial Cannabis Facility shall notify the City Manager or his/her designee within twenty-four (24) hours after discovering any of the following:
 - a. Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee.
 - b. Diversion, theft, loss, or any criminal activity involving the Commercial Cannabis Facility or any agent or Employee of the facility.
 - c. The loss or unauthorized alteration of records related to Cannabis, registering qualifying patients, primary caregivers, or Employees or agents of the Commercial Cannabis Facility.
 - d. Any other breach of security.

D. Additional Operational Standards Applicable to Cannabis Retailers

- 1) Cannabis Retailers shall be open to the public between the hours of 8:00 a.m. and 8:00 p.m. daily.
- 2) All structures included as part of the permitted Commercial Cannabis Facility shall be permanently affixed to land by a method that would normally cause the structure to ordinarily remain affixed for an indefinite period of time. Cannabis Retailers shall not operate from a vehicle or non-permanent structure.
- 3) Commercial Cannabis Retailers shall provide at least one (1) private security personnel during all hours of operation who is licensed by the State of California Bureau of Security and Investigative Services and possesses a valid California Department of Consumer Affairs “security guard card.”
- 4) No non-Cannabis food or concessions shall be sold or distributed at the Premises.
- 5) Shipments of Cannabis and Cannabis Products may only be accepted during regular business hours.
- 6) A permitted Commercial Cannabis Retail Facility shall have twelve (12) months after Permit issuance by the City of Huntington Beach to commence operations unless permitted by the City.

E. Additional Operational Standards Applicable to Cannabis Retail Deliveries

- 1) Hours of delivery shall be limited to between 6 a.m. and 10 p.m. daily.
- 2) Commercial Cannabis Retail Deliveries may be made only from a Commercial Cannabis Retail Facility permitted by the City in compliance with Chapter 5.130 of the Huntington Beach Municipal Code and State Law. Deliveries from Cannabis Retailers located outside the City of Huntington Beach are prohibited, unless the Retailer obtains a Huntington Beach Business Licenses.
- 3) Cannabis and Cannabis Product shall only be delivered to a residential dwelling, or to a commercial building or structure being lawfully used for lodging or temporary dwelling purposes (e.g., hotels or motels) if such Delivery is expressly permitted by the Owner of the building or structure. Deliveries shall not be made to, or through the use of, any kiosk or temporary building or structure, nor for purposes of re-sale of the Cannabis and Cannabis Product that is delivered.
- 4) All Employees who deliver Cannabis and Cannabis Product shall have valid identification and a copy of the Commercial Cannabis Retail Facility Permit and State Licenses at all times while making Deliveries.
- 5) During Delivery, the Delivery Employee shall maintain a physical or electronic copy of the Delivery request and shall make it available upon request by the licensing

authority and law enforcement officers. The Delivery request documentation shall comply with State Law.

- 6) A Commercial Cannabis Retail Facility shall maintain a list of all Deliveries, including the address delivered to, the amount and type of product delivered, and any other information required by State Law.

F. Additional Operational Standards Applicable to Cannabis Manufacturers

- 1) Any Manufacturing that will be conducted by a commercial Cannabis Manufacturer shall be included on the Commercial Cannabis Permit application. No additional Manufacturing activity shall be conducted without notifying the City Manager, after which a determination will be made if the new activity may commence with or without modification to the Commercial Cannabis Permit or if a new Commercial Cannabis Permit is required.
- 2) At all times, the commercial Cannabis Manufacturing facility shall comply with all State regulations for Cannabis Manufacturing. Signage shall be posted regarding the type(s) of chemicals and products being used at the Manufacturing facility such as materials safety data sheet requirements.
- 3) Commercial Cannabis Manufacturing facilities shall not contain an exhibition or product sales area or allow for Retail Distribution of products at that location.
- 4) Extraction equipment and extraction processes utilizing hydrocarbon solvents shall be located in a room or area dedicated to extraction.
- 5) All commercial Cannabis Manufacturing facilities shall submit plans to the Huntington Beach Fire Department showing that the facility is compliant with the applicable California Fire Code at permit issuance. The submittal shall disclose all materials, identify any hazardous processes within the facility, and identify all fire protection systems that are required for the facility.
- 6) Outdoor Manufacturing of Cannabis or Cannabis Products is prohibited.

G. Additional Operational Standards Applicable to Cannabis Distributors

- 1) A Distributor shall ensure that Cannabis and Cannabis Products are stored in compliance with applicable State Laws and regulations in conformity with all applicable track and trace systems required by the State.

H. Additional Operation Standards Applicable to Cannabis Cultivators

- 1) There shall be no exterior evidence of Cannabis Cultivation from a public right-of-way. The Building Official may impose additional specific requirements to meet the

California Building Code and Fire Code, including but not limited to installation of fire suppression sprinklers.

- 2) Compliance with Section 13149 of Water Code as enforced by the State Water Resources Control Board is required.
- 3) Pesticides and fertilizers shall be properly labeled, stored, and applied to avoid and prevent contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.
- 4) All commercial Cannabis Cultivation facilities shall submit plans to the Huntington Beach Fire Department showing that the facility is compliant with the applicable California Fire Code at permit issuance. The submittal shall disclose all hazardous materials, identify any hazardous processes within the facility, and identify all fire protection systems that are required for the facility.
- 5) Commercial Cannabis Cultivation facilities shall not contain an exhibition or product sales area or allow for Retail Distribution of products at that location.

I. Additional Operational Standards Applicable to Cannabis Testing Laboratories.

- 1) A Licensed Cannabis Testing Laboratory and/or its Owners or Employees may not hold an interest in any other Cannabis Business except another Testing Laboratory business.
- 2) All Cannabis Testing Laboratories shall be accredited by an appropriate accrediting agency as approved by the State.
- 3) The cannabis testing laboratory operating plan demonstrates proper protocols and procedures for statistically valid sampling methods and accurate certification of cannabis and cannabis products for potency, purity, pesticide residual levels, mold, and other contaminants according to adopted industry standards.
- 4) All commercial Cannabis Testing Laboratory facilities shall submit plans to the Huntington Beach Fire Department show that the facility is compliant with the applicable California Fire Code at permit issuance. The submittal shall disclose all hazardous materials, identify any hazardous processes within the facility, and identify all fire protection systems that are required for the facility.