



City Council Agenda

City of Campbell, 70 North First Street, Campbell, California

CAMPBELL CITY COUNCIL STUDY SESSION

Tuesday, October 18, 2016 - 6:30 p.m.

Council Chamber – 70 N. First Street

NOTE: No action may be taken on a matter under Study Session other than direction to staff to further review or prepare a report. Any proposed action regarding items on a Study Session must be agendized for a future Regular or Special City Council meeting.

CALL TO ORDER, ROLL CALL

ORAL REQUESTS

NEW BUSINESS

1. Medical Marijuana

Recommended Action:

Conduct study session and provide direction to staff.

ADJOURN

In compliance with the Americans with Disabilities Act, listening assistive devices are available for all meetings held in the City Council Chambers. If you require accommodation, please contact the City Clerk's Office, (408) 866-2117, at least one week in advance of the meeting.

MEMORANDUM



City Manager's Office

To: Honorable Mayor and City Council

Date: October 18, 2016

From: Mark Linder, City Manager

A handwritten signature in black ink, appearing to be "ML", written over the name "Mark Linder, City Manager".

Subject Continuing Study Session – Medical Marijuana

On October 4, the City Council held a Study Session to discuss and consider a proposal from the petitioners of an ordinance initiative to allow permitting dispensaries, delivery and limited cultivation of medical cannabis and medical cannabis products in the City of Campbell.

After a 90-minute session that included presentations, public comments and brief Council questions and discussion, the Council voted to continue the Study Session discussion after the conclusion of the Regular City Council meeting. At approximately 11:00 p.m., the Study Session was re-convened. Due to the late hour, the Council voted to continue discussion of this item to a later date and requested follow up information regarding Proposition 64 (Adult Use of Marijuana Act) on the November Presidential Election Ballot. In particular, the sections related to delivery, indoor cultivation and growing six plants have been highlighted.

Attachments:

1. October 4, 2016 Study Session Reports
2. Proposition 64 Text – Secretary of State Website
3. Proposition 64 Analysis – Legislative Analyst's Office

MEMORANDUM



City Manager's Office

To: Honorable Mayor and City Council

From: Margarita Mendoza, Administrative Analyst
William Seligman, City Attorney
Wendy Wood, City Clerk

Via: Mark Linder, City Manager

Subject: Study Session – Medical Marijuana

Date: October 4, 2016

PURPOSE

Discuss and consider a proposal from the petitioners of an ordinance initiative to allow permitting dispensaries, delivery and limited cultivation of medical cannabis and medical cannabis products in the City of Campbell.

BACKGROUND

In late January 2016, the City Council introduced an ordinance to impose a ban on marijuana processing, marijuana delivery, and marijuana dispensaries in the City of Campbell. On March 1, the Council approved the second reading of the ordinance thus adopting it as Ordinance 2197. However, the use of medical marijuana in the City remained legal and authorized, in accordance with State law.

The neighboring City of San José does have an active medical marijuana regulation program which currently permits 16 dispensaries. On August 18, 2016, staff also provided Council with information regarding the City of San José's regulations of medical marijuana dispensaries (Attachment 1). Although San José does not currently allow medical marijuana deliveries, San Jose's staff is researching potential policy and regulatory models to allow for deliveries.

DISCUSSION

On February 12, 2016, the City received a request from Kale Schulte (petitioner) to circulate an initiative petition to adopt a new City ordinance permitting dispensaries, delivery and limited cultivation of medical cannabis and medical cannabis products in the City of Campbell. This initiative petition included the text of the proposed ordinance. As required by the California Elections Code, the City Attorney prepared an official Title and Summary statement which had to be printed on each petition that was circulated. Signatures from ten percent of Campbell registered voters were required in order to qualify this initiative for the November 8, 2016 General Presidential Election ballot.

On May 20, 2016, the petitioner filed the signed petitions with the City Clerk's Office. The City Clerk began a first count of signatures to verify that the required number of signatures

was submitted. Once the number of signatures were counted, the City Clerk closely reviewed the petition language. It was upon this inspection that the City Clerk found that the petition omitted language of the Title and Summary that was prepared and approved by the City Attorney. On May 24, the City Clerk notified the petitioner that the initiative petitions submitted omitted the words “land, unless the commercial cannabis activity is separated from the residentially zoned property” from the eighth sentence of the Title and Summary. Given the omission, the City Clerk is legally obligated to reject the petition (Attachment 2).

After this rejection, a revised petition for a similar initiative ordinance was submitted on June 22, 2016. If it were to receive a qualifying number of signatures, the Council would need to either adopt the initiative ordinance itself, or place it before the voters. If the petition were to be signed by 15% of the registered voters in the City, the City would be required to hold a Special Election, unless the Council adopted the ordinance. If the petition were to be signed by 10% of the registered voters, it would be scheduled for a regular election, if the Council did not adopt it. The cost for a Special Election would be \$220,000 for a vote-by-mail only election, and \$380,000 for an election where polling places would open.

When the petitioners learned of the additional costs to the City, they asked if the City would be willing to discuss a compromise. The City Attorney advised that once signatures were submitted it would be too late to create a compromise.

On August 30, Mayor Baker, the City Manager, City Clerk, and City Attorney met with petitioner to discuss a possible compromise. Mayor Baker clearly stated that he had concerns about any ordinance that would allow cultivation and dispensaries close to residences. Following this meeting, the proponents submitted a list outlining their position such as maintaining cultivation on a pilot basis, as well as permitting dispensaries in Planned Development areas, commercial and industrial zones. The number of dispensaries remained at three. The bulleted items are as follows:

- Delivery – Three licensed dispensaries in Campbell will be allowed to deliver to patients in Campbell.
- Zoning - Number of eligible zones (3) that currently exist from the original number (7) of eligible zones, including downtown which was removed.
- Cultivation:
 - A 6-12 month moratorium on individual cultivation rights from the time the ordinance is enacted. Petitioner could potentially consider a full ban on cultivation.
 - No large-scale cultivation of any kind is permitted in the City of Campbell.
 - The allowance for caregivers to cultivate up to 500 sq. ft. of space will be removed to not invite people to grow for profit rather than personal use.
 - It is the right of the property owner(s) to restrict indoor and outdoor cultivation of a tenant despite the legality of the action.

Representatives of the City countered that the City may be willing to discuss the permitting of up to three dispensaries located only in commercial and industrial areas, no cultivation and deliveries by employees of the dispensaries only, subject to the approval of the Council.

On September 16, a second meeting was held with the petitioners, the City Clerk and City Manager. At that meeting, the petitioners proposed two options that eliminated 90% of the Planned Development areas leaving only those along Winchester Boulevard, Bascom Avenue, and Hamilton Avenue. One option also eliminated cultivation. The two options are summarized by the table below.

Option 1	Option 2
Allow for 2 dispensaries including PD zones	Allow for 3 dispensaries including PD zones
Allow up to 250 sq. ft. of personal cultivation	No cultivation permitted of any kind.
Place two restrictions on zoning: a. The dispensary location is only permitted on the main thoroughfares including (Winchester, Hamilton and Bascom). b. The main entrance to the dispensary must be facing the main thoroughfares including (Winchester, Hamilton and Bascom).	Place two restrictions on zoning: a. The dispensary location is only permitted on the main thoroughfares including (Winchester, Hamilton and Bascom). b. The main entrance to the dispensary must be facing the main thoroughfares including (Winchester, Hamilton and Bascom).

The petitioners have indicated that they would like to wait no more than four weeks to come to a compromise and formally withdraw the initiative or submit the signed petitions to seek a special election.

Since this meeting, the City Attorney has advised staff that even though the ordinance would allow dispensaries in certain areas of the Planned Development zone, nothing in the ordinance removes the discretion that the City has to condition or deny a Planned Development Permit for any use that the decision making body found was not harmonious with development of the immediate area, or would be detrimental to the welfare of the neighborhood or of the city as a whole.

For your reference, the first and second proposed initiative ordinances are attached (Attachments 3 and 4).

FISCAL IMPACT

There are several costs related to permitting dispensaries, delivery and limited cultivation of medical cannabis and medical cannabis products. As staff learned from speaking to and reading reports related to San José's medical marijuana program—the cost of regulating and monitoring its 16 dispensaries was \$1,913,237 in fiscal year 2015-16. San José collects an annual fee of \$95,661 to off-set the cost of the monitoring, as well as collecting an additional 10% gross receipts tax on medical cannabis sales, which brought in an estimated \$5 million this past year. Although the number of permitted dispensaries in this ordinance is significantly lower, current staff could not absorb this work load. The City would likely need to hire new staff in Code Enforcement and assign Police and Finance department staff with specific duties relating to medical cannabis. An Operating Fee and tax on gross sales could be considered to offset the fiscal impact, but voter approval is required in order to impose the gross receipts tax.

There are also fiscal impacts resulting from the filing of an initiative petition. As mentioned earlier, there is a cost just to hold the special election, but there are other ancillary costs that also have an impact on our budget, such as:

Santa Clara County Registrar of Voters (SCC ROV) Fees. The City has to pay the SCC ROV to verify the signatures on the filed initiative petitions. Depending on whether the City conducts a "sample" or "full" check of the signatures, the fees vary between \$8,300 - \$52,700 (based on a 500 signature random verification and 5,000 signature full verification). Please be advised that these amount are estimates only and are subject to change upon final computation of the actual cost.

- The Council could direct staff to conduct either a "sample" or "full" signature check; however, if the City opts for a "sample" check which results in 95-110% of valid signatures, a "full" signature check will be required, thus incurring additional fees.

Election Timing and Fees. Should the initiative petition receive the required number of signatures, the following are considerations related to dates and fees:

- **Vote-by-mail only option.** Cost for this type of election is \$220,000.
- The City Clerk has spoken extensively with the SCC ROV and has found that the according to California Elections Code 1500, there are only three established dates in which vote-by-mail elections could be held. Of the three dates, only May 2, 2017 would seem to fit the desired timeline of the petitioner.

In order to meet this target date, there are other actions and strict timelines which must also be met. Some of these actions and timelines are up to the petitioner and the City cannot dictate the petitioners chosen actions or timelines. It is important to note that any delays or deviations from the process would likely result in the City missing the narrow window to place the initiative ordinance on the ballot via a vote-

by-mail option on May 2, 2017 and thus requiring an election where both polling locations and vote-by-mail options are available. The following are the actions and estimated calendar timelines that are required should the Council prefer the vote-by-mail option:

- Petition filed with the City Clerk (at petitioners discretion)
 - Window for SCC ROV to certify signatures: 30 days (excluding Saturdays, Sundays, and Holidays) for “sample” check; additional 30 days (excluding Saturdays, Sundays, and Holidays) for “full” check.
 - Once SCC ROV certifies the signatures, the City Council is required to call the election within 30 days (excluding Saturdays, Sundays, and Holidays).
 - The election must then be held no earlier than 88 days, but no later than 103 days after the Council action to call the election.
- **Special election with polling locations and vote-by-mail.** Cost for this type of election is \$380,000 and can be held on any Tuesday except on the day before, day of, or day after a State holiday.

ALTERNATIVES

Council could direct staff with the following options:

1. Return to Council at a regular meeting with a proposed ordinance based on one of the two options proposed by the petitioner.
2. Direct staff to negotiate a more limited proposal.
3. Direct staff to end discussions with the proponents and let the special election process continue.
4. If there are sufficient valid signatures on the petition to require an election, direct staff to prepare an alternative measure for the special election and/or a gross receipts tax proposal.

Attachments:

1. Medical Marijuana Regulations in San José (Information Memorandum)
2. Letter from City Clerk rejecting the initiative petition
3. First proposed initiative ordinance
4. Second proposed initiative ordinance

MEMORANDUM



City Manager's Office

To: Honorable Mayor and City Council
From: Margarita F. Mendoza, Administrative Analyst
Via: Mark Linder, City Manager
Subject: Medical Marijuana Regulations in San José

Date: August 18, 2016

INFORMATION

The City of San José's Medical Marijuana Program is contained within the following ordinances:

- The Regulatory Ordinance, which regulates how medical marijuana collectives shall operate; and
- The Zoning Ordinance, which regulates where medical marijuana collectives may locate.

Under the Regulatory Ordinance, the City Manager may require additional regulations as necessary for the Program. The regulations apply to all types of medical marijuana operations including collectives, dispensaries, manufacturing facilities, delivery services, cultivation, extraction, etc.

San José's Zoning Ordinance allows collectives to locate in the following zoning districts: Light Industrial, Heavy Industrial, Combined Industrial/Commercial, Industrial Park, and Downtown Primary Commercial (2nd Story only). They are not allowed in Planned Development districts, residential, or other commercial zones. They also are not allowed in three development policy areas in North San José, Edenvale, or the International Business Park. To protect certain operations, collectives are not allowed to locate within:

- 1,000 feet of public or private preschools, elementary schools, or secondary schools; child daycare centers; community and recreation centers; parks; or libraries
- 500 feet of substance abuse rehabilitation centers or emergency residential shelters
- 150 feet of places of religious assembly; adult daycare centers; or residential uses (including legal non-conforming residential uses)
- 50 feet of another collective

Restrictions on who can own, manage or work at collective include:

- At least 21 years old of age
- Not serving parole/probation for possession, sale, distribution or transportation of controlled substance
- Must not have a conviction for crime of moral turpitude

- Must not have a misdemeanor/felony in past 10 years involving:
- Use of violence, force, fear, fraud or deception
- Unlawful possession, sale, manufacture, use, distribution or transportation of a controlled substance;
- May not use money to engage in criminal activity.

Collectives are subject to inspection by the City and other authorities at any time. They must comply with all security requirements and requirements for cultivation, processing, manufacturing, and transferring medical marijuana, as well as state and local laws.

Collectives cannot violate the City's Good Neighbor Rules. Collectives cannot create a public nuisance. There is to be no onsite consumption of medical marijuana. In addition, the collective cannot have any of the following activities occurring onsite or within 300 feet of their property:

- | | |
|------------------------------|--------------------------|
| a. Disturbance of the peace; | g. Sale of stolen goods; |
| b. Illegal drug activity; | h. Public urination; |
| c. Public Drunkenness; | i. Theft; |
| d. Drinking in public; | j. Assaults; |
| e. Gambling; | k. Batteries; or |
| f. Prostitution; | l. Acts of vandalism |

As of October 2014, 16 collectives (out of 65 applications) were approved for registration with the City's Medical Marijuana Regulation Program. The registration process required Collectives to submit both a Registration Application, establishing they would operate in compliance with the Regulatory Ordinance; and a Zoning Code Verification Certificate establishing that they were operating in an area that complied with the Program's land use ordinance. Dispensaries/Collectives that did not complete all required applications, pay for associated permit fees, or comply with the land use ordinance were not selected.

The first phase was to comply with zoning laws, and receive a Zoning Code Verification Certificate. Only 29 of the 65 applications received this certificate. The rest then proceeded through the second phase of the registration process, the review and processing of their Registration Application. That process involved verification of payment of the City's Marijuana Business Tax (MBT), a criminal background check of individuals involved in the Collective's operations and a site inspection of the Collective's premises. Some were disqualified during this phase for reasons ranging from failure to pay the City's MBT to failure to provide information required.

At this time, San José is no longer taking applications for new collectives and only the City Council can reopen the application period.

Fees and charges

In Fiscal Year 2015-16, the City anticipates that it will collect \$5 million in Marijuana Business Tax Revenue, plus an additional \$1,530,576 from the Annual Operating Fee. The

City also receives its local share of the State sales tax from medical marijuana sales. The following fees and charges are authorized under the Municipal Code and Fees and Charges schedule:

Application receipt fee for the cost to the city of accepting an application for registration;	\$94 per application
Application processing fee for the cost to the city of processing an application for registration;	\$2,145 per application,
Hourly investigation fee for any costs incurred by the city above those costs included in the application processing fee which are associated with further investigation and review of an application for registration;	Code Enforcement Hourly Inspection Fee of \$126.50 per hour after 1 hour; plus Police Hourly Investigation Fee of \$97 per hour after 15 hours; plus \$162 per employee above 4.
Annual operating fee for the cost to the city of operating a medical marijuana regulatory program. A collective shall have the option of paying the medical marijuana operating fee in annual, semi-annual, or <u>quarterly payments</u> .	\$95,661
Medical marijuana collective amendment fee for the cost to the city of reviewing amendments to the registration form filed by the collective; and	\$1,659 per application, plus hourly investigation fee for any costs incurred by the City
Medical marijuana collective renewal registration fee for the cost to the city of processing an application to renew a collective's registration.	\$2,145 plus hourly investigation fee for any costs incurred by the City
Zoning Code Verification Certificate and Processing Fee	\$1,156.50; plus Planning Services Hourly Inspection of \$154 per hour after 6 hours; plus Code Enforcement Hourly Inspection Fee of \$126.50 per hour after 1 hour
Marijuana Business Tax	10% of Gross Receipts (approved by Voters).

Cultivation and Deliveries

Collectives are allowed to manufacture at either their dispensing location or their off-site cultivation location, if those sites are not one and the same. The City regularly inspects off-site cultivation locations for compliance with the Regulatory Ordinance. If the manufacturing occurs outside of San José and within one of the counties specified in the Regulatory Ordinance, the Collective is still responsible for finding a location where the activity is allowed by the jurisdiction in which the location is situated.

San José follows State law (Proposition 215) in regards to personal cultivation. Medical marijuana patients can cultivate up to 100 square feet for personal use, and primary caregivers with five or fewer patients are allowed up to 500 square feet. However, under Proposition 215, local governments may further restrict or ban the cultivation of medical marijuana.

Currently, delivery businesses are illegal in San José, and any businesses that deliver are doing so in violation of local and state law. Violators are subject to closure and fines of up to \$50,000 per offense, per day, as well as criminal prosecution. However, staff is in the process of developing policy guidelines to allow deliveries. The draft policy and process will be presented to the City Council in October 2016 and may include various “trace and track” mechanisms to allow for the tracking of medical marijuana, GPS location of the driver, and various notifications related to the delivery process.

Next Steps

For the past two years, the rules and regulation of medical marijuana have been handled by a multi-departmental team (Finance, Police, Code Enforcement, City Attorney, and the City Manager’s Office). Staff is in the process of formalizing the work of the Medical Marijuana team into a division in the Police Department. A civilian Division Manager will be hired to oversee the regulation and future policy work related to marijuana collectives. The Annual Operating Fee is expected to increase to \$149,000 in FY 17-18.

Attachments:

1. Registration Application
2. Zoning Code Verification Application
3. Marijuana Business Tax Form

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE



SAN JOSE POLICE DEPARTMENT



GENERAL REQUIREMENTS

This Application for Registration as a Medical Marijuana Collective (“Application”) and its attachments shall be completed by each medical marijuana establishment (“Collective”) seeking to register and legally operate in the City of San Jose. If the Collective strictly complies with Chapter 6.88 of the San Jose Municipal Code (“SJMC”) and is issued a Notice of Completed Registration (“Registration”) by the City of San Jose, the Registration shall expire after one (1) year of its issuance and the Collective shall thereafter be responsible for applying to renew that Registration on an annual basis and pay any associated renewal fees.

Any time a Collective desires to relocate its dispensing or cultivation location or premises, the Collective shall first complete a new Application and shall be subject to the same process and fees set forth for the issuance of Registration in SJMC Section 6.88.330.

For any other change in the information provided in this Application and its attachments, including any change in the Collective’s owners or managers, the Collective shall, within fifteen (15) calendar days, file an updated Application, along with any associated amendment fees, as set forth in SJMC Section 6.88.380.

A Registration issued by the City of San Jose is merely an acknowledgement of the Collective’s compliance with the requirements of Chapter 6.88 of the SJMC and its ability to assert an affirmative defense to civil and criminal enforcement of the SJMC based solely upon conduct which is in strict compliance with the provisions of Chapter 6.88 and the provisions of Title 20 of the SJMC relating to medical marijuana. Any Collective submitting this Application should have no expectation that the City will issue the Collective a Registration, or that once a Registration is issued, it will continue to be valid.

The definitions set forth in Chapter 6.88 of the SJMC shall govern this Application and the interpretation of this Application.

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

COLLECTIVE INFORMATION:

(1) Legal Name of Collective, including any dba's:

(2) Applicant entity structure: _____ Corporation _____ Unincorporated Association _____ Other
If "Other," describe entity structure: _____

(3) If Collective is incorporated, attach a copy of the Collective's Articles of Incorporation, Certificate of Amendment, Statement of Information, By Laws, Restated Articles of Incorporation, and the most recent Annual Report of Officers and Directors; all, as certified by the Secretary of State.

(4) If Collective is an unincorporated association and filed a Statement by Unincorporated Association with the Secretary of State, attach a copy of each Statement By Unincorporated Association, Registration of Unincorporated Nonprofit Association, and original and amended Articles of Association; all, as certified by the Secretary of State.

(5) If Collective is an informal unincorporated association, attach copies of the Collective's fully executed Articles of Association (aka Charter or Constitution).

(6) How long has the Collective entity existed? _____

DISPENSING SITE:

(7) Physical Address(es) of premises and location(s) from where Collective will be dispensing medical marijuana (a P.O. Box will not satisfy this requirement): _____

(8) Physical Description of premises and location(s) from where Collective will be dispensing medical marijuana (e.g., one-story commercial building, etc.): _____

(9) Identify owner(s) of property listed in Item No. (7) of this Application. If more than one person owns the property, list all the owners here. If necessary, attach additional sheets of paper to identify multiple owners: _____

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

(10) Authorization to Use property or location listed in Item No. (7): If the Collective rents, leases, or is in the process of purchasing the property listed in Item No. (7), check the appropriate boxes below to verify that the Collective notified the owner(s), landlord(s) and leasing agent(s) of the proposed use.

_____ Attached is a fully executed copy of the rental/lease agreement, and/or purchase agreement which includes the purpose for which the property will be used.

_____ Attached is an original fully executed letter of authorization to use the property as a Collective signed by each owner, landlord and leasing agent or equivalent.

NOTE: If the property listed for Item No. (7) is owned, rented or leased by more than one person, a separate authorization must be submitted for each owner, landlord and leasing agent or equivalent. Please attach additional authorizations to this Application.

(11) Onsite landline telephone number(s) for the Collective at the premises and location(s) from where Collective will be dispensing medical marijuana: _____

(12) FAX number(s) for Collective at the premises and location(s) from where Collective will be dispensing medical marijuana: _____

(13) Collective’s website address (if one already exists): _____

(14) Name person who will be serving as the “on-site designated representative” at the premises or location from where the Collective will be dispensing medical marijuana: _____

(15) Identify the daily hours of operation proposed by the Collective site listed in Item No. (7) of this application:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

CULTIVATION SITE (If Different Than Collective’s Dispensing Site):

Collective(s) are authorized to cultivate medical marijuana at one (1) off-site location either within the City of San Jose or within one of the following counties: Alameda, Merced, Monterey, San Benito, San Joaquin, San Mateo, Santa Clara, Santa Cruz, or Stanislaus. If the Collective will be cultivating medical marijuana at a location that is separate from where it will be dispensing medical marijuana, the Collective shall provide the following information:

(16) Physical Address of the premises or location from where the Collective will be cultivating medical marijuana (a P.O. Box will not satisfy this requirement): _____

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

(17) Physical description of the premises or location from where the Collective will be cultivating medical marijuana (e.g., one-story commercial building, etc.): _____

(18) Name, Address & Phone Number of the owner(s) of the property listed in Item No. (16) of this Application. If more than one person owns the property, provide information for all the owners. If necessary, attach additional sheets of paper to identify multiple owners: _____

(19) Authorization to use property or location listed in Item No. (16): If the Collective rents, leases, or is in the process of purchasing the property listed in Item No. (16), check the appropriate boxes below to verify that the Collective notified the owner(s), landlord(s) and leasing agent(s) of the proposed use.

Attached is a fully executed copy of the rental/lease agreement, and/or purchase agreement which includes the purpose for which the property will be used.

Attached is an original fully executed letter of authorization to use the property as a Collective signed by each owner, landlord and leasing agent or equivalent.

NOTE: If the property listed for Item No. (16) is owned, rented or leased by more than one person, a separate authorization must be submitted for each owner, landlord and leasing agent or equivalent. Please attach additional authorizations to this Application.

(20) Onsite landline telephone number(s) for the Collective at the premises or location from where the Collective will be cultivating medical marijuana: _____

(21) FAX number(s) for Collective at the premises or location from where Collective will be cultivating medical marijuana: _____

(22) Name, Address & Phone Number of person who will be serving as the “on-site designated representative” at the premises or location from where the Collective will be cultivating medical marijuana: _____

(23) Identify the daily hours of operation proposed by the Collective site listed in Item No. (16) of this Application:

Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

REPRESENTATION:

(24) Name, Address & 24-hour telephone number of attorney or other agent authorized to represent the Collective (a P.O. Box will not satisfy this requirement): _____

(25) Name, Address & 24-hour telephone number of person authorized to accept service of process on behalf of the Collective, if different than the person listed in Item No. (24) of this application (a P.O. Box will not satisfy this requirement): _____

(26) The total number of Collective members as of the date this Application was submitted: _____

(27) Has the Collective previously operated in this City or any other state, county or city? _____

(a) If "Yes," did said operation occur under a license, permit or other regulatory program? _____

(b) If "Yes," list the state, county or city and provide the name of the license/permit or program of the issuing or regulating state, county or city. If applicable, provide the license and/or permit identification numbers: _____

(c) Please advise whether the previously issued licenses or permits were revoked or suspended and the reasons why: _____

ACCOUNT INFORMATION & OPERATIONS PLAN:

(28) Attach a separate sheet of paper providing identifying information for all savings accounts, checking accounts, investment accounts and trusts associated with the operation of the Collective.

(29) Attach the Collective's Operations Plan, which shall be in conformance with Section 6.88.330(A)(1)(i) of the SJMC and include:

(a) A Management Plan naming the managers for the Collective and detailing each manager's responsibilities;

(b) A list of managers responsible for receiving, logging, and responding to complaints regarding the Collective;

(c) A Security Plan which identifies the Collective's security personnel; provides documentation of the proper certification of that personnel by the State, as required by SJMC Section 6.88.420; details the security measures for all locations and premises used by the Collective, including those requirements set forth in Chapter 6.88; and provides the URL address of the on-site web-based video surveillance required pursuant to SJMC Section 6.88.420;

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

- (d) A copy of the Collective’s rules and regulations which comply with those requirements set forth in Chapter 6.88 of the SJMC;
- (e) A copy of the Collective’s cultivation procedures including a detailed explanation of how chemicals and fertilizers will be stored and what measures will be taken to minimize or offset energy use from the cultivation or processing of medical marijuana and what measures will be taken to comply with the requirements of Chapter 6.88 of the SJMC;
- (f) A site floor plan which details the layout of all locations and premises being utilized by the Collective. Include all areas adjacent to those locations and premises, including parking lots, which are owned or controlled by the Collective; and
- (g) An odor management plan detailing steps the Collective will take to install air purification systems and air scrubbers to ensure that the odor of medical marijuana will not emanate beyond the walls of the Collective’s locations or premises.

(30) If edible medical marijuana products will be manufactured/processed at the Collective’s premises or location(s) located in the City of San Jose, describe the type of products that will be manufactured/processed:

(31) Attach proof of payment of any applicable taxes due to the City pursuant to Chapters 4.66 and 4.76 of the SJMC.

(32) If the Collective was the subject of a Compliance Order issued by the City of San Jose pursuant to Chapter 1.14 of the SJMC, attach documentation from the City’s Code Enforcement Division evidencing that the Collective currently has no outstanding compliance orders.

(33) Has the Collective previously been disqualified from the City of San Jose’s Registration process or disqualified from the Registration process?_____ If “Yes,” attach a copy of the prior disqualification.

(34) Has the Collective’s Registration with the City of San Jose or registration, permit, license or any other authorization issued by the City or by any State or local agency, and, required to operate a Collective been deemed null and void or suspended, revoked or otherwise nullified? If “Yes,” please explain: _____

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE



SAN JOSE POLICE DEPARTMENT



QUESTIONNAIRE FOR COLLECTIVE

Next to each question, please answer “Yes” or “No.” **If you answer “Yes” to any of the questions, attach a separate sheet of paper explaining your answer and providing all information necessary for the City to confirm the information you provided, including, but not limited to the jurisdiction where the activity occurred.** A “Yes” answer does not necessarily mean you will be disqualified from the registration process. Additional documentation may be requested by the City if the information presented is deemed insufficient to complete the investigation.

1. _____ Has the Collective ever applied for or received a license, certificate, permits, or registration to practice in a regulated profession under *any* name other than the name listed on this application?

2. _____ Has the Collective ever had a license, certificate, permit, or registration to practice in a regulated profession denied, suspended or revoked, or in any way conditioned, curtailed, limited, or restricted in or by any jurisdiction (including San Jose)?

3. _____ Is any administrative, civil or criminal action pending against the Collective now by any licensing or regulatory agency?

4. _____ Has the Collective ever been the restrained party or petitioner of a Temporary Restraining Order, Preliminary Injunction or Permanent Injunction?

5. _____ In the last five (5) years, has the Collective ever owned or leased a location or premises that has been the subject of an administrative, civil or criminal nuisance abatement action and court judgment or administrative determination finding the location or premises to be a nuisance?

6. _____ Has each member of the Collective provided the Collective with written consent for the City to inspect and copy records pertaining to that member as required by Chapter 6.88 of the San Jose Municipal Code?

Name Of Person Completing Questionnaire:	
Title:	
Signature:	
Date:	
Address (a P.O. Box will not satisfy this requirement):	
City, State, Zip	
Contact Phone No.	

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

COLLECTIVE AFFIDAVIT

I, the undersigned, declare under penalty of perjury that to the best of my knowledge, the information contained in this Application, and its supporting documentation, is truthful, correct, and complete; and, the information contained in this Application, and its supporting documentation, discloses all material facts regarding the applicant and associated individuals necessary to allow the City of San Jose to properly evaluate the applicant's qualifications for Registration.

If the applicant is a business entity, I, as the person signing below do hereby represent and warrant that the business entity is authorized to do business in California and that I have full right, power and authority to sign on behalf of the business entity and carry out all actions contemplated by this Application, and that any Registration issued to the business entity constitutes valid, binding and enforceable obligations of the business. Upon the City's request, I promise to provide the City with evidence reasonably satisfactory to the City confirming the foregoing representations and warranties.

I will ensure that any information subsequently submitted to the City in conjunction with this Application or its supporting documentation meets the same standard as set forth above.

I understand that this Application may be classified as a public record and may be available for inspection by the public, except with regard to the release of information which is classified as controlled, private, or protected under the California Public Records Act or restricted by other law.

I acknowledge that I may be required to provide additional information, as needed, for a complete investigation.

I further understand that any misrepresentations, omissions or falsifications may result in the applicant being disqualified from the Registration process and/or the Registration, once issued, subsequently being deemed null and void by the City.

Print Name Here:	
Title:	
Signature:	
Date:	
Address (a P.O. Box will not satisfy this requirement):	
City, State, Zip	
Contact Phone No.	

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

OWNER & MANAGER AFFIDAVIT **(To Be Completed By Each Owner & Manager)**

I, the undersigned, declare under penalty of perjury that to the best of my knowledge, the information contained in this Application, and its supporting documentation, is truthful, correct, and complete; and, the information contained in this Application, and its supporting documentation, discloses all material facts regarding the applicant and associated individuals necessary to allow the City of San Jose to properly evaluate the applicant's qualifications for Registration.

Upon the City's request, I promise to provide the City with evidence reasonably satisfactory to the City confirming the foregoing representations and warranties.

I will ensure that any information subsequently submitted to the City in conjunction with this application or its supporting documentation meets the same standard as set forth above.

I understand that this Application may be classified as a public record and may be available for inspection by the public, except with regard to the release of information which is classified as controlled, private, or protected under the California Public Records Act or otherwise restricted by law.

I acknowledge that I may be required to provide additional information, as needed, for a complete investigation.

I further understand that any misrepresentations, omissions or falsifications may result in the applicant being disqualified from the Registration process and/or the Registration, once issued, subsequently being deemed null and void by the City.

Print Name Here:	
Title:	
Signature:	
Date:	
Address (a P.O. Box will not satisfy this requirement):	
City, State, Zip	
Contact Phone No.	

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

COLLECTIVE'S AUTHORIZATION FOR RELEASE OF INFORMATION

I, the undersigned, declare that I am the applicant described and identified in this Application, or an agent of the applicant seeking Registration with the City of San Jose.

I authorize all persons, institutions, organizations, schools, governmental agencies, employers, references, or any others not specifically included in the preceding characterization, to release to the San Jose Police Department any files, records, or information of any type regarding:

(If Applicant is Business Entity, Insert Legal Name of Business Entity Below)

ENTITY

(If Applicant is Individual, Insert Legal Name and Date of Birth Below :)

NAME

DATE OF BIRTH

The information is being requested by the San Jose Police Department to properly evaluate the applicant's qualifications for Registration by the City of San Jose. A copy of this Authorization shall be as valid as, and provide the same authorization as, the original.

Print Name of Individual or Person Authorized to sign on behalf of Business Entity:	
Title: (if applicable)	
Signature:	
Date:	
Address:	
City, State, Zip	
Contact Phone No.	

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

**COLLECTIVE’S CONSENT FOR INSPECTION OF LOCATION/PREMISES
AND INSPECTION AND COPYING OF RECORDS**

I, the undersigned, declare that I am the applicant described and identified in this Application, or that I am an agent of the applicant seeking Registration with the City of San Jose.

I authorize the City Manager, the Chief of Police, and their respective designees to inspect and copy any recordings and records required to be maintained under Chapter 6.88 of the San Jose Municipal Code, without requiring them to obtain a search warrant, subpoena or court order, at any time and without notice during regular hours of operation and at any other time upon reasonable notice.

I, the undersigned, further authorize the City Manager, the Chief of Police and their respective designees to inspect every premises and location operated by the applicant, without requiring a search warrant or court order, at any time and without notice during regular hours of operation and at any other time upon reasonable notice.

A copy of this Consent Form shall be as valid as, and provide the same authorization as, the original.

(If Applicant is Business Entity, Insert Legal Name of Business Entity Below)

ENTITY

(If Applicant is Individual, Insert Legal Name and Date of Birth Below :)

NAME

DATE OF BIRTH

Name of Individual Authorized To sign for Collective:	
Title: (if applicable)	
Signature:	
Date:	
Address (a P.O. Box will not satisfy this requirement):	
City, State, Zip	
Contact Phone No.	

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

**OWNER/MANAGER CONSENT FOR INSPECTION OF LOCATION/PREMISES
AND INSPECTION AND COPYING OF RECORDS**

(To Be Completed by *each* Owner & Manager)

I, the undersigned, declare that I am an owner or manager for the applicant described and identified in this Application.

I authorize the City Manager, the Chief of Police, and their respective designees to inspect and copy any recordings and records required to be maintained under Chapter 6.88 of the San Jose Municipal Code, without requiring them to obtain a search warrant, subpoena or court order, at any time and without notice during regular hours of operation and at any other time upon reasonable notice.

I, the undersigned, further authorize the City Manager, the Chief of Police and their respective designees to inspect every Location and Premises operated by the applicant, without requiring a search warrant or court order, at any time and without notice during regular hours of operation and at any other time upon reasonable notice.

A copy of this Consent Form shall be as valid as, and provide the same authorization as, the original.

OWNER OR MANAGER NAME

DATE OF BIRTH

SIGNATURE

DATE

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE



SAN JOSE POLICE DEPARTMENT



INFORMATION REGARDING INDIVIDUALS ASSOCIATED WITH COLLECTIVE

(Unless otherwise stated, the following pages 13 through 19 of this application shall be completed by *each* Owner, Manager and any individual participating in the cultivation, processing, manufacturing, transporting or dispensing of Medical Marijuana. Please use a new set of pages for each individual.)

Background:

1. Last Name _____ First _____ MI _____

Alias(es): _____

2. Date of Birth: _____

3. Height: _____ Weight: _____ Hair: _____ Eyes: _____ Gender: _____

4. Home Address (a P.O. Box will not satisfy this requirement): _____

City _____ State _____ Zip _____

5. Telephone number (where you can be reached 24 hrs a day):

6. California DL/ID Number: _____ Other Government Photo ID _____

NOTE: Attach a fully legible copy of valid government issued photo identification card or license containing the following information: name, date of birth, and physical description (sex, height, weight, eye color and hair color). Acceptable forms of government issued identification include: drivers licenses or photo identity cards issued by the state Department of Motor Vehicles that meet REAL ID benchmarks, a passport issued by the United States government, U.S. Military ID cards, or a Permanent Resident card.

7. Attach a copy of your state issued Medical Marijuana Program Act identification card or a copy of your physician's recommendation for the medical use of marijuana.

8. Name, Address & Telephone Number of physician who recommended you use marijuana for medicinal purposes (a P.O. Box will not satisfy this requirement.) _____

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

9. If you are participating in the Collective as a primary caregiver, attach a copy of the written documentation provided by *each* qualified patient member designating you as his or her primary caregiver.

10. Job Title/Position with the Collective: _____

11. Description of Job Duties/Position Duties: _____

Criminal History:

If you have been convicted of a crime (other than an infraction traffic violation) or you are currently on probation or parole, provide the information requested below. Attach additional sheets if necessary. Incomplete information may be grounds for the Collective being disqualified from the registration process.

Criminal Case No:	
Statute Violated/Charges :	
Date of Conviction:	
Date of Imposition of Probation and/or Parole:	
Name and Address of sentencing court:	

Criminal Case No:	
Statute Violated/Charges:	
Date of Conviction:	
Date of Imposition of Probation and/or Parole:	
Name and Address of sentencing court:	

Criminal Case No:	
Statute Violated/Charges:	
Date of Conviction:	
Date of Imposition of Probation and/or Parole:	
Name and Address of sentencing court:	

Prior Experience At A Collective:

Provide a detailed explanation of your involvement with any other Collective including, but not limited to: the name and address of the Collective; the capacity in which you were involved with the Collective; whether the Collective is or was the subject of any criminal investigation or prosecution, civil investigation, administrative action or civil lawsuit; whether you or the Collective with which you are or were associated has ever been

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

denied, or is in the process of being denied registration, a permit, a license or any other authorization to operate a Collective in any other city, county or state; and whether you or the Collective with which you are or were associated has ever had a registration, license, permit or any other authorization to operate a Collective in any other city, county or state suspended or revoked, and the reasons therefore. Attach additional pages if necessary.

--	--

Residence History:

List all residences you have had for the past three (3) years. Attach additional pages if necessary.

Number & Street Name:	
City, State, Zip:	
Length of Stay:	
Contact Person / Phone	

Number & Street Name:	
City, State, Zip:	
Length of Stay:	
Contact Person / Phone	

Number & Street Name:	
City, State, Zip:	
Length of Stay:	
Contact Person / Phone	

Employment History:

Beginning with your current employment, list your work history for the previous three (3) years. Attach a separate sheet of paper to complete your list if necessary.

Company Name:	
Address:	
City, State, Zip	
Phone No.	
Supervisor/Contact Name:	
Dates of Employment:	
Description of Job Duties: Reason Left Employment?	

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

Company Name:	
Address:	
City, State, Zip	
Phone No.	
Supervisor/Contact Name:	
Dates of Employment:	
Description of Job Duties: Reason Left Employment?	

Company Name:	
Address:	
City, State, Zip	
Phone No.	
Supervisor/Contact Name:	
Dates of Employment:	
Description of Job Duties: Reason Left Employment?	

Fingerprinting:

Each Collective owner, manager and any individual participating in the cultivation, processing, manufacturing, transporting or dispensing of medical marijuana shall be fingerprinted for the City to conduct a complete criminal background check. Please contact San Jose Police Sergeant David Woolsey at (408) 277-4115 to receive information on how to schedule an appointment for fingerprints and fee payment.

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE



**SAN JOSE POLICE
DEPARTMENT**



**Questionnaire For Owners, Managers & Individuals Participating In The
Cultivation, Processing, Manufacturing, Transporting Or Dispensing
Of Medical Marijuana**

Next to each question, please answer “Yes” or “No.” **If you answer “Yes” to any of the questions, attach a separate sheet of paper explaining your answer and providing all information necessary for the City to confirm the information you provided, including, but not limited to the jurisdiction where the activity occurred.** A “Yes” answer does not necessarily mean the Collective will be disqualified from the registration process. Additional documentation may be requested by the City if the information presented is deemed insufficient to complete the investigation.

1. _____ Have you ever applied for or received a license, certificate, permits, or registration to practice in a regulated profession under *any* name other than the name listed on this application?
2. _____ Have you ever had a license, certificate, permit, or registration to practice in a regulated profession denied, suspended or revoked, or in any way conditioned, curtailed, limited, or restricted in or by any jurisdiction (including San Jose)?
3. _____ Is any administrative, civil or criminal action pending against you now by any licensing or regulatory agency?
4. _____ Have you ever been the restrained party or petitioner of a Temporary Restraining Order, Preliminary Injunction or Permanent Injunction?
5. _____ In the last five (5) years, have you owned or leased a location or premises that has been the subject of an administrative, civil or criminal nuisance abatement action and court judgment or administrative determination finding the location or premises to be a nuisance?
6. _____ Have you ever applied for a permit to carry a concealed weapon?

Name Of Person Completing Questionnaire:	
Title:	
Signature:	
Date:	
Address (a P.O. Box will not satisfy this requirement:	
City, State, Zip	
Contact Phone No.	

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

INDIVIDUAL AFFIDAVIT

(To Be Completed By *Each* Owner, Manager and Member Participating In the Cultivation, Processing, Manufacturing, Transporting or Dispensing of Medical Marijuana)

I, the undersigned, declare under penalty of perjury that to the best of my knowledge, the information pertaining to me and contained in this Application, and its supporting documentation, is truthful, correct, and complete; and, the information pertaining to me and contained in this Application, and its supporting documentation, discloses all material facts necessary to allow the City of San Jose to properly evaluate the applicant's qualifications for Registration.

Upon the City's request, I promise to provide the City with evidence reasonably satisfactory to the City confirming the foregoing representations and warranties.

I will ensure that any information related to me and subsequently submitted to the City in conjunction with this Application or its supporting documentation meets the same standard as set forth above.

I understand that this Application may be classified as a public record and may be available for inspection by the public, except with regard to the release of information which is classified as controlled, private, or protected under the California Public Records Act or otherwise restricted by law.

I acknowledge that I may be required to provide additional information, as needed, for a complete investigation.

I further understand that any misrepresentations, omissions or falsifications may result in the applicant being disqualified from the Registration process and/or the Registration, once issued, subsequently being deemed null and void by the City.

Print Name Here:	
Title:	
Signature:	
Date:	
Address (a P.O. Box will not satisfy this requirement):	
City, State, Zip	
Contact Phone No.	

APPLICATION FOR REGISTRATION AS A MEDICAL MARIJUANA COLLECTIVE

INDIVIDUAL AUTHORIZATION FOR RELEASE OF INFORMATION

(To Be Completed By *Each* Owner, Manager and Member Participating In the Cultivation, Processing, Manufacturing, Transporting or Dispensing of Medical Marijuana)

I, the undersigned, declare that I am an owner or manager for the applicant, or that I am a member of the applicant and I participate in the cultivation, processing, manufacturing, transporting or dispensing of medical marijuana on behalf of the applicant.

I authorize all persons, institutions, organizations, schools, governmental agencies, employers, references, or any others not specifically included in the preceding characterization, to release to the San Jose Police Department any files, records, or information of any type pertaining to me.

The information is being requested by the San Jose Police Department to properly evaluate the applicant's qualifications for Registration by the City of San Jose. A copy of this Authorization shall be as valid, and provide the same authorization as, the original.

PRINT NAME

DATE OF BIRTH

SIGNATURE

DATE



CITY OF SAN JOSE

Planning, Building and Code Enforcement
 200 East Santa Clara Street
 San José, CA 95113-1905
 tel (408) 535-3555 fax (408) 292-6055
 Website: www.sanjoseca.gov/planning

ZONING CODE VERIFICATION CERTIFICATE APPLICATION for Medical Marijuana Collective or Cultivation Site

TO BE COMPLETED BY PLANNING COUNTER STAFF			
FILE NUMBER	Staff: _____		
ZONING	Date: _____		
GENERAL PLAN	Amount paid: _____		
TO BE COMPLETED BY APPLICANT (PLEASE PRINT OR TYPE)			
SELECT ONE OF THE FOLLOWING:			
<input type="checkbox"/> A. <u>Zoning Code Verification Certificate for Medical Marijuana Collective:</u> (includes Verification of Zoning Districts, General Plan Designations, and Distance requirements)	<input type="checkbox"/> B. <u>Zoning Code Verification Certificate for Medical Marijuana Collective, Cultivation Site Only:</u> (includes Verification of Zoning Districts, General Plan Designations, and Distance requirements)		
Fees are per the Planning Application Fee Schedule			
SUBJECT PROPERTY LOCATION / ADDRESS			
ASSESSOR'S PARCEL NUMBER(S) ¹ (Attach parcel map)			
INFORMATION REQUESTED/REASON FOR VERIFICATION APPLICATION:			

APPLICANT/CONTACT PERSON			
NAME (PRINTED)			
ADDRESS	CITY	STATE	ZIP CODE
DAYTIME TELEPHONE # ()	FAX TELEPHONE # ()	E-MAIL ADDRESS	

¹ Assessor Parcel Number and Parcel Map available online at:
<https://www.sccassessor.org/index.php/online-services/property-search/real-property>

PLEASE SUBMIT THIS APPLICATION IN PERSON TO: Medical Marijuana Program Coordinator, City Manager's Office, 17th Floor, City Hall

Zoning Code Verification Certificate for Medical Marijuana Collective or Cultivation Only site

Zoning Code Verification for Certificate for Medical Marijuana Collective may be issued only for those establishments that meet the specific criteria, per the Zoning Ordinance.

Provide evidence including but not limited to scaled maps that the proposed Medical Marijuana Collective conforms to the restrictions and conditions listed below:

- 1.** The Medical Marijuana Collective is in a zoning district that allows the Collective as a Restricted Use.
- 2.A.** The Medical Marijuana Collective is not located closer than a minimum of 1,000 feet from any parcel on which a public or private preschool, elementary school, or secondary school exists exists.
- 2.B.** The Medical Marijuana Collective is not located closer than a minimum of 1,000 feet from any parcel on which a child day care center, a community or recreation center, a park, or a library exists.
- 2.C.** The Medical Marijuana Collective is not located closer than a minimum of 500 feet from any parcel on which any of the following uses exists: a substance abuse rehabilitation center, or an Emergency Residential Shelter.
- 2.D.** The Medical Marijuana Collective is not located closer than a minimum of 150 feet from any parcel on which any of following uses exist: religious assembly, or adult day care center.
- 2.E.** The distances established in Subsections A through D above shall be measured as follows:
 - i. For a Medical Marijuana Collective or Cultivation Site Only located in a multi-tenant building with tenant spaces occupied by uses other than the Collective, the distance shall be measured in a straight line from the parcel boundary of the sensitive use to the nearest exterior wall of the Collective's occupied tenant space in the shared building.
 - ii. For a Medical Marijuana Collective or Cultivation Site Only that is the sole occupant of a building, the distance shall be measured in a straight line from the parcel boundary of the sensitive use to the nearest exterior wall of the Collective's building envelope.
- 2.F.** The Medical Marijuana Collective is not located on a parcel of real property that is closer than a minimum of 50 feet from any parcel on which another Medical Marijuana Collective or Medical Marijuana Collective, Cultivation Site Only is located, measured from the closest parcel lines of the respective parcels.
- 2.G.** The Medical Marijuana Collective is not located on a parcel of real property that is closer than a minimum of 150 feet from any residential use, including a residential Legal Non-conforming Use, that is not incidental to a primary nonresidential use, measured from the closest parcel lines of the respective parcels.
- 2.H.** The Medical Marijuana Collective is not located on a parcel of real property that is in:
 - i. The area within the North San José Area Development Policy boundaries as defined in Section 14.29.020.D of Title 14 of the Municipal Code.
 - ii. The area within the Edenvale Area Development Policy boundaries, which is that area within the corporate limits of the City of San José, consisting of approximately two thousand three hundred twelve (2,312) acres as specified and depicted in the Edenvale Area Development Policy adopted and as amended by the City Council.
 - iii. The area within the International Business Park boundaries, which consists of that area within the corporate limits of the City of San Jose bounded by Interstate Highway 880, Montague Expressway, Trade Zone Boulevard, the Union Pacific Railroad line, Murphy Avenue, and Brokaw Road.

B. – Zoning Code Verification Certificate for Medical Marijuana Collective (continued)

- 2.I.** If the Medical Marijuana Collective is in the LI-Light Industrial Zoning District it shall not be located on a parcel of real property that is within either of the following areas:
 - i. Those certain Enterprise Zones that have been or may be created and whose boundaries have been or may be established through a resolution adopted by the City Council or by the City Manager pursuant to a resolution adopted by the City Council; or
 - ii. Those other business incentive zones (such as a foreign trade zone) that may be created and whose boundaries are established through a formal, public action taken by the City Council.

- 2.J.** The Medical Marijuana Collective is not located on the ground floor of structures or buildings located on real property that, in whole or in part is within the the DC-Downtown Primary Commercial Zoning District.

- 2.K.** The Medical Marijuana Collective is not located in a retail commercial shopping center located on a parcel or parcels totaling over forty (40) acres in size.

Please submit maps (drawn to scale) and any other additional evidence that the proposed Medical Marijuana Collective meets all of the above criteria.

C. - Additional Documentation:

Please submit the following along with your application:

- Photographs of existing building or subject area.
- All necessary evidence and documentation supporting your application. See below for resources:
 - Building Permits - These records can be obtained by doing a permit search in Development Services Center of City Hall at 200 East Santa Clara Street in San Jose.

 - Santa Clara County, Building Permits -This information can be obtained from the Santa Clara County Department of Planning and Development, located on the 7th floor at 70 West Hedding Street in San Jose.
 - Santa Clara County, Assessor's Records -This information can be obtained from the Santa Clara County Assessor's Office, located on the 5th floor at 70 West Hedding Street in San Jose.

 - Copies of prior/current leases or letters of authorization to use property.
 - Business Licenses - These records can be obtained from the City of San Jose Finance Department in Development Services Center of City Hall on the 1st floor at 200 East Santa Clara Street in San Jose.
 - Business Receipts.

INDEMNIFICATION AGREEMENT
FOR ZONING CODE VERIFICATION
CERTIFICATE APPLICATIONS

Applicant submitted an application to the City of San José Planning Division on _____, 20____ for the following verification(s): _____

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Applicant hereby expressly agrees in connection with the processing of Applicant's Verification application(s) to each and every one of the following terms and conditions:

1. Applicant agrees, as part of and in connection with each and any of the application(s), to defend, indemnify, and hold harmless the City of San José ("City") and its officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "proceeding") brought against City or its officers, contractors, consultants, attorneys, employees, or agents to challenge, attack, set aside, void, or annul:
 - a. Any approvals issued in connection with any of the above described application(s) by City; and/or
 - b. Any action taken to provide related environmental clearance under the California Environmental Quality Act of 1970, as amended ("CEQA") by City's advisory agencies, boards or commissions; appeals boards or commissions; Planning Commission, or City Council.

Applicant's indemnification is intended to include, but not be limited to, damages, fees and/or costs awarded against or incurred by City, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by Applicant, City, and/or parties initiating or involved in such proceeding.

2. Applicant agrees to indemnify City for all of City's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.

3. Applicant agrees to defend, indemnify and hold harmless City, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document if made necessary by said proceeding and if Applicant desires to pursue such City approvals and/or clearances, after initiation of the proceeding and that are conditioned on the approval of these documents.

4. In the event that Applicant is required to defend City in connection with such proceeding, City shall have and retain the right to approve:
 - a. The counsel to so defend City; and
 - b. All significant decisions concerning the manner in which the defense is conducted; and
 - c. Any and all settlements, which approval shall not be unreasonably withheld.

City shall also have and retain the right to not participate in the defense, except that City agrees to reasonably cooperate with Applicant in the defense of the proceeding. If City chooses to have counsel of its own defend any proceeding where Applicant has already retained counsel to defend City in such matters, the fees and expenses of the additional counsel selected by City shall be paid by City. Notwithstanding the immediately preceding sentence, if City's Attorney's Office participates in the defense, all City Attorney fees and costs shall be paid by Applicant.

5. Applicant's defense and indemnification of City set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the proceeding.

After review and consideration of all of the foregoing terms and conditions, Applicant, by its signature below, hereby agrees to be bound by and to fully and timely comply with all of the foregoing terms and conditions.

APPLICANT:

By: _____
(Signature)

(Print)

Date: _____

Its: _____
(Title, if any)

Please send the completed form and payment to:

Marijuana Business Tax Return

Finance Department
Revenue Management
200 East Santa Clara St., 13th Fl
San José, Ca 95113-1905
www.csjfinance.org

The Marijuana Business Tax is imposed on every person engaged in marijuana business in the City of San José. Payment of the tax in accordance with Municipal Code Chapter 4.66 does not authorize unlawful business. Marijuana Business Tax filings are due on or before the last day of each calendar month for the total gross receipts and the amount of the tax owed for the preceding calendar month.

Business Name: _____	Business Phone: _____
San José Business Address: _____	Tax Period (Indicate month and year) _____
	Business Tax Certificate # _____

Calculate Tax Due

1. Gross Receipts for Period	_____	Line 1
2. Adjustments (Must be itemized, documented and attached)	_____	Line 2
3. Taxable Gross Receipts (Subtract line 2 from line 1)	_____	Line 3
4. Tax Due (Multiply line 3 by 0.10)	\$0.00	Line 4
5. Penalty 1: Assessed on the first day after the due date if the tax has not been paid (multiply line 4 by 0.25)	_____	Line 5
6. Penalty 2: Additional penalty assessed if tax remains unpaid more than one calendar month beyond the due date (multiply line 4 by 0.25)	_____	Line 6
7. Interest on Tax Due: (# of days past due, multiplied by line 4, and multiplied by 0.0004931507)	_____	Line 7
8. Interest on Penalty 1: Interest on Penalty 1 is accrued from the first day Penalty 1 was assessed. (# of days past due, multiplied by line 5, and multiplied by 0.0004931507)	_____	Line 8
9. Interest on Penalty 2: Assessed when payment is made more than one calendar month beyond the due date. Interest on Penalty 2 is accrued from the first day Penalty 2 was assessed. (# of days past due, multiplied by line 6, and multiplied by 0.0004931507)	_____	Line 9
10. Total Marijuana Business Tax Due (add lines 4 thru 9)	\$0.00	Line 10

I declare under penalty of perjury that the statements herein and any attachments are true, correct, and complete.

Print Name _____

Authorized Signature

Date _____

Contact Phone



CITY OF CAMPBELL

City Clerk's Office

May 24, 2016

Kale Schulte
1725 S. Bascom Avenue, Apt. 462
Campbell, California 95008
Email: Kale.Schulte@gmail.com

Re: Initiative Petition

Dear Mr. Schulte:

As you are aware, on May 20, 2016 you submitted your initiative petition to my office for review. Once the petition is submitted, my office has a ministerial obligation to check the petition for compliance with all applicable codes, and to reject the petition if it is found to violate one or more of the codes. (*Alliance for a Better Downtown Millbrae v. Wade* (2003) 108 Cal. App.4th 123, 132 – 133.) Under the law, I have no discretion to overlook any deviation from the code requirements. (Id. at p. 133.)

The petition is required to contain the title and summary prepared by the City Attorney. (Cal. Elect. Code §§ 9201, 9207.) In reviewing your petition, I noticed that it omits language that is contained in the summary and title prepared by the City Attorney. Specifically, the words “land, unless the commercial cannabis activity is separated from the residentially zoned property” are missing from the eighth sentence of the title and summary. Given this omission, I am legally obligated to reject the petition.

In addition, upon discovering the omitted language in the petition, I checked the version that you had published in the Campbell Express; and I discovered that it also contained the same omission.

If you have any questions about this matter, please feel free to contact my office.

Sincerely,

Wendy Wood
City Clerk

cc: City Manager
City Attorney

FEB 25 2016

CITY CLERK'S OFFICE

CAMPBELL MEDICAL MARIJUANA REGULATION AND SAFETY ACT OF 2016

The People of the City of Campbell do ordain as follows:

SECTION 1. TITLE

This initiative shall be known and may be cited as the Campbell Medical Marijuana Regulation and Safety Act of 2016.

SECTION 2. FINDINGS AND DECLARATIONS

The People of the City of Campbell find all of the following to be true:

- A. We strongly support the right of seriously ill patients to use medical marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraines, or any other serious illness or condition for which marijuana provides relief.
- B. We oppose the arrest, prosecution, and incarceration of persons legally-qualified under the Compassionate Use Act of 1996, codified as California Health & Safety Code Section 11362.5 and enacted through Proposition 215, the Medical Marijuana Program Act of 2004, as amended, codified as California Health & Safety Code Sections 11362.7 through 11362.83, inclusive, and enacted through Senate Bill 420, and the Medical Marijuana Regulation and Safety Act of 2016, codified as Business & Professions Code Sections 27, 101, and 205.1, California Government Code Section 9147.7, California Health & Safety Code Sections 11362.775 and 19300 through 19355, inclusive, California Labor Code Section 147.5, and California Revenue & Taxation Code Section 31020, by local, state, or federal law enforcement.
- C. The cultivation and provision of medical marijuana should occur in a safe and orderly manner in order to protect patients and the community. In the absence of clear guidelines, there has been a lack of consistency in the permitting and regulation of medical marijuana cultivation and dispensing.
- D. The people of the City of Campbell find and declare that we enact this initiative pursuant to the powers reserved to the State of California, the City of Campbell, and its people under the Tenth Amendment to the United States Constitution.

SECTION 3. ADDITION OF CHAPTER 5.56, "MEDICAL MARIJUANA REGULATION AND SAFETY," TO TITLE 5 OF THE CAMPBELL MUNICIPAL CODE, REVISED

Chapter 5.56, entitled "Medical Marijuana Regulation and Safety" is added to Title 5, entitled "Business Licenses and Regulations," of the Campbell Municipal Code, Revised and shall read as follows:

Chapter 5.56 – Medical Marijuana Regulation and Safety**Part A. Definitions.**

Section 5.56.010. This act shall be known and may be cited as the Campbell Medical Marijuana Regulation and Safety Act of 2016.

Section 5.56.011. For purposes of this chapter, the following definitions shall apply:

(a) "Accrediting body" means a nonprofit organization that requires conformance to ISO/IEC 17025 requirements and is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement for Testing.

(b) "Applicant," for purposes of Part D (commencing with Section 5.56.040), means the following:

(1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.

(2) If the owner is an entity, "owner" includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.

(3) If the applicant is a publicly traded company, "owner" means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.

(c) "Batch" means a specific quantity of medical cannabis or medical cannabis products that is intended to have uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

(d) "Bureau" means the Bureau of Medical Marijuana Regulation within the California Department of Consumer Affairs.

(e) "Cannabinoid" or "phytocannabinoid" means a chemical compound that is unique to and derived from cannabis.

(f) "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 marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "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 chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

(g) “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.

(h) “Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.

(i) “Certificate of accreditation” means a certificate issued by an accrediting body to a licensed testing laboratory, entity, or site to be registered in the state.

(j) “Chief” means Chief of the Bureau of Medical Marijuana Regulation within the California Department of Consumer Affairs.

(k) “Commercial cannabis activity” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 5.56.040, related to qualifying patients and primary caregivers.

(l) “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(m) “Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory. “Delivery” also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) “Dispensary” means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.

(o) “Dispensing” means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) “Distribution” means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

(q) “Distributor” means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

(r) “Dried flower” means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(s) “Edible cannabis product” means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

(t) “Identification program” means the universal identification certificate program for commercial medical cannabis activity authorized by the California Medical Marijuana Regulation and Safety Act.

(u) “Licensing authority” means the agency responsible for the issuance, renewal, or reinstatement of the license, or the agency authorized to take disciplinary action against the license.

(v) “Cultivation site” means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, and that holds a valid license pursuant to this chapter.

(w) “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(x) “Testing laboratory” means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.

(2) Registered with the State Department of Public Health.

(y) “Transporter” means a person issued a license to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the Bureau between facilities that have been issued a state license pursuant to this chapter.

(z) “Licensee” means a person issued a license under this chapter to engage in commercial cannabis activity.

(aa) “Live plants” means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ab) “Lot” means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, “lot” means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.

(ac) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(ad) “Manufacturing site” means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(ae) “Medical cannabis,” “medical cannabis product,” or “cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of California the Health and Safety Code. For the purposes of this chapter, “medical cannabis” does not include “industrial hemp” as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

(af) “Nursery” means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(ag) “Permit,” “local license,” or “local permit” means an official document granted by the City that specifically authorizes a person to conduct commercial cannabis activity in the City.

(ah) “Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.

(ai) “State license,” “license,” or “registration” means a state license issued by the Bureau.

(aj) “Topical cannabis” means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

(ak) “Transport” means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

Section 5.56.012. License classifications pursuant to this chapter are as follows:

- (a) Type 1 = Cultivation; Specialty outdoor; Small – consisting of up to 5,000 square feet of canopy, or up to 50 noncontiguous plants.
- (b) Type 1A = Cultivation; Specialty indoor; Small – consisting of up to 5,000 square feet of canopy, or up to 50 noncontiguous plants, using exclusively artificial lighting.
- (c) Type 1B = Cultivation; Specialty mixed-light; Small – consisting of up to 5,000 square feet of canopy, or up to 50 noncontiguous plants, using a combination of artificial and natural lighting.
- (d) Type 2 = Cultivation; Outdoor; Small – consisting of 5,001 to 10,000 square feet of canopy.
- (e) Type 2A = Cultivation; Indoor; Small – consisting of 5,001 to 10,000 square feet of canopy, using exclusively artificial lighting.
- (f) Type 2B = Cultivation; Mixed-light; Small – consisting of 5,001 to 10,000 square feet of canopy, using a combination of artificial and natural lighting.
- (g) Type 3 = Cultivation; Outdoor; Medium – consisting of 10,001 square feet to one (1) acre of canopy.
- (h) Type 3A = Cultivation; Indoor; Medium – consisting of 10,001 square feet to 22,000 square feet of canopy, using exclusively artificial lighting.
- (i) Type 3B = Cultivation; Mixed-light; Medium – consisting of 10,001 square feet to 22,000 square feet of canopy, using a combination of artificial and natural lighting.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing.
- (n) Type 10 = Dispensary.
- (o) Type 11 = Distribution.
- (p) Type 12 = Transporter.

Part B. Administration

Section 5.56.020. Protection of the public shall be the highest priority for the City in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Section 5.56.021. The City shall make and prescribe reasonable rules as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and duties conferred upon it by this chapter, not inconsistent with any statute of this state, including particularly this chapter and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the performance of its duties, the bureau has the power conferred by Sections 11180 to 11191, inclusive, of the California Government Code.

Section 5.56.022. Notice of any action of the licensing authority required by this chapter to be given may be signed and given by the director or an authorized employee of the department and may be made personally or in the manner prescribed by Section 1013 of the California Code of Civil Procedure.

Section 5.56.023.

(a) The City may convene an advisory committee to advise the City on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the city manager.

(b) The advisory committee members may include, but not be limited to, representatives of the medical marijuana industry, representatives of medical marijuana cultivators, appropriate local agencies, appropriate local law enforcement, physicians, environmental and public health experts, and medical marijuana patient advocates.

Section 5.56.024. The City may make or cause to be made such investigation as it deems necessary to carry out its duties under this chapter.

Section 5.56.025. For any hearing held pursuant to this chapter, the City may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code.

Section 5.56.026. In any hearing before the City pursuant to this chapter, the City may pay any person appearing as a witness at the hearing at the request of the City pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

Section 5.56.027. The City may on its own motion at any time before a penalty assessment is placed into effect and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

Part C. Enforcement

Section 5.56.030. Grounds for disciplinary action include:

- (a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.
- (b) Conduct that constitutes grounds for denial of licensure pursuant to Title 5 of the Campbell Municipal Code, Revised.
- (c) Any other grounds contained in regulations adopted by the City pursuant to this chapter.
- (d) Failure to comply with any state law, except as provided for in this chapter or other California law.

Section 5.56.031. The City may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code, and the City shall have all the powers granted therein.

Section 5.56.032. The City may take disciplinary action against a licensee for any violation of this chapter when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial cannabis activity.

Section 5.56.033. Upon suspension or revocation of a license, the City shall inform the Bureau, who is previously tasked under the California Medical Marijuana Regulation and Safety Act (AB 266) with informing all other licensing authorities and the Department of Food and Agriculture.

Section 5.56.034. All accusations against licensees shall be filed by the City within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the City, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within five years after such discovery.

Section 5.56.035. Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the California Fish and Game Code, the California Water Code, the California Food and Agricultural Code, or the California Health and Safety Code.

Section 5.56.036.

(a) The actions of a licensee, its employees, and its agents that are (1) permitted pursuant to a license or permit issued by the City, and (2) conducted in accordance with the requirements of this chapter and regulations adopted pursuant to this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a City license or permit following the requirements of the applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

Section 5.56.037.

(a) A person engaging in commercial cannabis activity without a license required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the court may order the destruction of medical cannabis associated with that violation in accordance with Section 11479 of the California Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section shall be deposited into the City's general treasury.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the City Attorney or City Prosecutor or the California Attorney General on behalf of the people, the penalty collected shall be deposited into the City's general treasury.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the California Health and Safety Code.

Part D. Licensing

Section 5.56.040.

(a) The City may issue licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the City, no person shall engage in commercial cannabis activity without possessing a permit or license from the City.

(b) Revocation of the City's license or permit shall terminate the ability of a medical cannabis business to operate within the City until the City reinstates or reissues the license or permit. The City shall notify the Bureau upon revocation of the City license or permit.

(c) Upon the Bureau's issuance of licenses under the California Medical Marijuana Regulation and Safety Act, a licensee shall be required to maintain a license issued by the Bureau subject to all of the requirements thereof. Revocation of a state license shall terminate the ability of a

medical cannabis licensee to operate within the City until the Bureau reinstates or reissues the state license.

(d) Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport, or any equipment that is not currently transporting medical cannabis or medical cannabis products, permanently resides.

(e) Nothing in this chapter shall be construed to supersede or limit state agencies, including the State Water Resources Control Board and Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

Section 5.56.041. A license issued pursuant to this Chapter section shall be valid for 12 months from the date of issuance. The license shall be renewed annually.

Section 5.56.042. No license shall be issued by the City for commercial cannabis activity in any zone in the City other than the commercial (P-O, C-1, C-2, and C-3), manufacturing (C-M and M-1), and Planned Development (P-D) zones, except that a dispensary may engage in delivery of medical cannabis to a qualified patient or primary caregiver at the residence of such qualified patient or primary caregiver. Any activity conducted by a licensee pursuant to this Chapter is expressly deemed not to be inconsistent with federal law as those terms are used in Section 21.12.030(F)(2) of the Campbell Municipal Code, Revised.

Part E. Medical Marijuana Regulation

Section 5.56.050.

(a) A person other than a licensed transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

(b) All licensees holding cultivation or manufacturing licenses shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 5.56.011, for quality assurance and inspection by the Type 11 licensee and for a batch testing by a Type 8 licensee prior to distribution to a dispensary. Those licensees holding a Type 10A license in addition to a cultivation license or a manufacturing license shall send all medical cannabis and medical cannabis products to a Type 11 licensee for presale inspection and for a batch testing by a Type 8 licensee prior to dispensing any product. The licensing authority shall fine a licensee who violates this subdivision in an amount determined by the licensing authority to be reasonable.

(c) (1) Upon receipt of medical cannabis or medical cannabis products by a holder of a cultivation or manufacturing license, the Type 11 licensee shall first inspect the product to ensure the identity and quantity of the product and then ensure a random sample of the medical cannabis or medical cannabis product is tested by a Type 8 licensee prior to distributing the batch of medical cannabis or medical cannabis products.

(2) Upon issuance of a certificate of analysis by the Type 8 licensee that the product is fit for manufacturing or retail, all medical cannabis and medical cannabis products shall undergo a quality assurance review by the Type 11 licensee prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state. Licensed cultivators and manufacturers shall package or seal all medical cannabis and medical cannabis products in tamper-evident packaging and use a unique identifier, as prescribed by the California Department of Food and Agriculture, when such unique identifiers are prescribed by the California Department of Food and Agriculture for the purpose of identifying and tracking medical cannabis or medical cannabis products. Medical cannabis and medical cannabis products shall be labeled as required by Section 5.56.056. All packaging and sealing shall be completed prior to medical cannabis or medical cannabis products being transported or delivered to a licensee, qualified patient, or caregiver.

(3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a Type 11 licensee responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a Type 8 licensee, as well as applicable state or local taxes and fees.

(d) Medical cannabis and medical cannabis products shall be tested by a registered testing laboratory, prior to retail sale or dispensing, as follows:

(1) Medical cannabis from dried flower shall, at a minimum, be tested for concentration, pesticides, mold, and other contaminants.

(2) Medical cannabis extracts shall, at a minimum, be tested for concentration and purity of the product.

(3) This chapter shall not prohibit a licensee from performing on-site testing for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the State Department of Public Health.

(e) All commercial cannabis activity shall be conducted between licensees, when these are available.

Section 5.56.051.

(a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis activity as defined by this Chapter shall be maintained for a minimum of seven years.

(c) The City may examine the books and records of a licensee and inspect the premises of a licensee as the City deems necessary to perform its duties under this chapter. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The City may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the City upon request.

(e) A licensee or its agent, or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.

(f) If a licensee or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of thirty thousand dollars (\$30,000) per individual violation.

Section 5.56.052.

(a) A licensee may only hold a license in up to two separate license categories, as follows:

(1) Type 1, 1A, 1B, 2, 2A, or 2B licensees may also hold either a Type 6 or 7 state license.

(2) Type 6 or 7 licensees, or a combination thereof, may also hold either a Type 1, 1A, 1B, 2, 2A, or 2B state license.

(3) Type 6 or 7 licensees, or a combination thereof, may also hold a Type 10A state license.

(4) Type 10A licensees may also hold either a Type 6 or 7 state license, or a combination thereof.

(5) Type 1, 1A, 1B, 2, 2A, or 2B licensees, or a combination thereof, may also hold a Type 10A state license.

(6) Type 10A licensees may apply for Type 1, 1A, 1B, 2, 2A, or 2B state license, or a combination thereof.

(7) Type 11 licensees shall apply for a Type 12 state license, but shall not apply for any other type of state license.

(8) Type 12 licensees may apply for a Type 11 state license.

(9) A Type 10A licensee may apply for a Type 6 or 7 state license and hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid.

(b) Except as provided in subdivision (a), a person or entity that holds a license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from

holding an ownership interest in real property, personal property, or other assets associated with or used in any other license category.

Section 5.56.053. A licensee shall not also be licensed as a retailer of alcoholic beverages pursuant to Division 9 (commencing with Section 23000) of the California Business & Professions Code.

Section 5.56.054. This chapter shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

Section 5.56.055.

No license shall be issued for commercial cannabis activity to be conducted on premises that provides ingress or egress to its premises on any side of the location that (i) abuts, (ii) is across a street, alley or walk from, as measured at 90 degrees from the lot lines of the location, or (iii) has a common corner with any land zoned residential, except that an exit door required by the Campbell Municipal Code, Revised may be maintained for emergency egress only and must be locked from the exterior at all times. The above notwithstanding, this subsection shall not prohibit a licensee from locating across a street from, or having a common corner with, any land zoned residential if the licensee's premises are separated from that residential zone by a public thoroughfare with a minimum roadway width of 80 feet.

Section 5.56.056.

(a) Prior to delivery or sale at a dispensary, medical cannabis products shall be labeled and in a tamper-evident package. Labels and packages of medical cannabis products shall meet the following requirements:

(1) Medical cannabis packages and labels shall not be made to be attractive to children.

(2) All medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

(A) Manufacture date and source.

(B) The statement "SCHEDULE I CONTROLLED SUBSTANCE."

(C) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.

(D) The statement "FOR MEDICAL USE ONLY."

(E) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."

(F) The statement “THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION.”

(G) For packages containing only dried flower, the net weight of medical cannabis in the package.

(H) A warning if nuts or other known allergens are used.

(I) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total.

(J) Clear indication, in bold type, that the product contains medical cannabis.

(K) Identification of the source and date of cultivation and manufacture.

(L) Any other requirement set by the Bureau.

(M) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to Section 11362.777 of the California Health and Safety Code.

(b) Only generic food names may be used to describe edible medical cannabis products.

Part F. Licensed Distributors, Dispensaries, and Transporters

Section 5.56.060. A Type 11 licensee shall hold a Type 12, or transporter, license and register each location where product is stored for the purposes of distribution. A Type 11 licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, a facility licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A Type 11 licensee shall be bonded and insured at a minimum level established by the City, but in no event less than the minimum level required for persons delivering prescription drugs.

Section 5.56.061.

(a) The City shall not issue more than three (3) Type 10 licenses that are active and current at any time.

(b) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

(1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized dispensary personnel.

(3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.

(c) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:

(1) Significant discrepancies of more than five percent (5%) identified during inventory

(2) Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary.

(3) The loss or unauthorized alteration of records related to cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents.

(4) Any other breach of security.

(d) Every dispensary must abide by the following operational controls, and failure to do so is grounds for revocation of its license:

(1) No dispensary may remain open and/or operating between the hours of 8 PM and 10 AM;

(2) No dispensary shall permit marijuana and/or alcohol consumption at the premises or in any area of the location used for parking any vehicle;

(3) No dispensary may permit entry of a minor unaccompanied by a parent or legal guardian on its premises;

(4) No dispensary shall permit any cannabis or cannabis products to be visible from the exterior of the premises; and

(5) No dispensary may illuminate any portion of its premises during closure hours by lighting that is visible from the exterior of the premises, except such lighting as is reasonably utilized for the security of the premises.

Section 5.56.062. A Type 12 licensee shall be bonded and insured at a minimum level established by the licensing authority.

Part G. Delivery

Section 5.56.070.

(a) Deliveries, as defined in this chapter, can only be made by a dispensary.

(b) Upon approval of the licensing authority, a licensed dispensary that delivers medical cannabis or medical cannabis products shall require all employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current license authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.

(c) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the City and/or City law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

(d) The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the City and/or City law enforcement officers.

Part H. Licensed Manufacturers and Licensed Laboratories

Section 5.56.080. Licenses to be issued are as follows:

(a) "Manufacturing level 1," for manufacturing sites that produce medical cannabis products using nonvolatile solvents.

(b) "Manufacturing level 2," for manufacturing sites that produce medical cannabis products using volatile solvents. The City shall limit the number of licenses of this type to not more than two (2).

(c) "Testing," for testing of medical cannabis and medical cannabis products. Testing licensees shall have their facilities licensed according to regulations set forth by the California Medical Marijuana Regulation and Safety Act. A testing licensee shall not hold a license in another license category of this chapter and shall not own or have ownership interest in a facility licensed pursuant to this chapter.

Section 5.56.081.

(a) For the purposes of testing medical cannabis or medical cannabis products, licensees shall use a licensed testing laboratory that has adopted a standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test medical cannabis and medical cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

(b) An agent of a licensed testing laboratory shall obtain samples according to a statistically valid sampling method for each lot.

(c) A licensed testing laboratory shall analyze samples according to either of the following:

(1) The most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(2) Scientifically valid methodology that is demonstrably equal or superior to paragraph (1), in the opinion of the accrediting body.

(d) If a test result falls outside the specifications authorized by law or regulation, the licensed testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

(e) A licensed testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis.

Section 5.56.081. A licensed testing laboratory shall not handle, test, or analyze medical cannabis or medical cannabis products unless the licensed testing laboratory meets all of the following:

(a) Is registered by the State Department of Public Health.

(b) Is independent from all other persons and entities involved in the medical cannabis industry.

(c) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing lab shall also comply with any other requirements specified by the State Department of Public Health.

(d) Notifies the State Department of Public Health within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(e) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the licensed testing laboratory for testing.

Section 5.56.082.

(a) A licensed testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:

(1) Whether the chemical profile of the lot conforms to the specifications of the lot for compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(H) Any other compounds required by the State Department of Public Health.

(2) That the presence of contaminants does not exceed the levels that are the lesser of either the most current version of the American Herbal Pharmacopoeia monograph or the State Department of Public Health. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(D) Whether the batch is within specification for odor and appearance.

(b) Residual levels of volatile organic compounds shall be below the lesser of either the specifications set by the United States Pharmacopeia (U.S.P. Chapter 467) or those set by the State Department of Public Health.

Section 5.56.083.

(a) Except as provided in this chapter, a licensed testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensed facility in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from which the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) A licensed testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A licensed testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a licensed testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.

Part I. Cultivation.

Section 5.56.090.

(a) The cultivation of marijuana, whether grown commercially or individually, in any amount or quantity, shall not be allowed in the following areas:

(1) Outdoors within one hundred (100) feet of any occupied legal residential structure located on a separate parcel;

(2) Outdoors in a mobile home park as defined in Health and Safety Code Section 18214.1 within one hundred (100) feet of an occupied mobile home that is under separate ownership;

(3) In any location where the marijuana plants are visible from the public right of way or publicly traveled private roads.

(4) Outdoors within fifty (50) feet of a parcel under separate ownership.

(b) The distance between the above-listed uses in subsection (a) and marijuana that is being cultivated shall be measured in a straight line from the nearest point of the fence required in Section 5.56.091, or if the marijuana is cultivated indoors, from the nearest exterior wall of the building in which the marijuana is cultivated to the nearest boundary line of the property on which the facility, building, or structure, or portion of the facility, building, or structure in which the above-listed use occurs is located. The distance in subsections (a)(2) and (a)(3) to any residential structure shall be measured from the fence required in Section 5.56.091 to the nearest exterior wall of the residential structure.

Section 5.56.091.

(a) It is declared to be unlawful for any person owning, leasing, occupying, or having charge or possession of any parcel of land within the City to cause or allow such parcel of land to be used for the outdoor or indoor cultivation of marijuana plants for medicinal purposes in excess of the limitations imposed by the California Health & Safety Code.

(b) The indoor or outdoor cultivation of marijuana shall not subject residents of neighboring parcels who are of normal sensitivity to objectionable odors.

(c) The use of light assistance for the outdoor cultivation of marijuana shall not exceed a maximum of six hundred (600) watts of lighting capacity per one hundred (100) square feet of growing area.

(d) All lights used for the cultivation of marijuana shall be shielded and downcast or otherwise positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel upon which they are placed.

(e) The indoor or outdoor cultivation of marijuana shall not exceed the noise level standards as set forth in the Campbell Municipal Code, Revised.

(f) The indoor or outdoor cultivation of marijuana shall not utilize water that has been or is illegally diverted from any stream, creek, or river.

(g) The indoor or outdoor cultivation of marijuana shall not create erosion or result in contaminated runoff into any stream, creek, river or body of water.

(h) All marijuana grown outdoors must be within a secure fence at least six (6) feet in height that fully encloses the immediate garden area. The fence must include a lockable gate that is locked at all times when a qualified patient or caregiver is not in the immediate area. Said fence shall not violate any other ordinance, code section or provision of law regarding height and location restrictions and shall not be constructed or covered with plastic or cloth except shade cloth may be used on the inside of the fence.

(i) All buildings where marijuana is cultivated or stored shall be properly secured to prevent unauthorized entry.

(j) Nothing in this Section shall be construed as a limitation on the City's authority to abate any violation which may exist from the cultivation of marijuana plants or any part thereof from any location, indoor or outdoor, including from within a fully enclosed and secure building.

Part J. Privacy

Section 5.56.100.

(a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the City for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter.

(b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the California Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the California Civil Code, and other state and federal laws relating to confidential patient information.

(c) Nothing in this section precludes the following:

(1) Employees of the City notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

(2) Notifications from the City to state or local agencies about apparent violations of this chapter or applicable local ordinance.

(3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.

(4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.

(d) Information shall not be disclosed by the City beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SECTION 4. FINDINGS REGARDING RIGHTS TO PRIVACY

The People of the City of Campbell find and declare that Section 3 of this act, which adds Section 5.56.100 to the Campbell Municipal Code, Revised, thereby imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the People of the City of Campbell make the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest: the limitation imposed under this act is necessary for purposes of compliance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the California Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the California Insurance Code).

SECTION 5. SEVERABILITY

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

JUN 21 2016

CITY CLERK'S OFFICE

CAMPBELL MEDICAL MARIJUANA REGULATION AND SAFETY ACT OF 2016

The People of the City of Campbell do ordain as follows:

SECTION 1. TITLE

This initiative shall be known and may be cited as the Campbell Medical Marijuana Regulation and Safety Act of 2016.

SECTION 2. FINDINGS AND DECLARATIONS

The People of the City of Campbell find all of the following to be true:

A. We strongly support the right of seriously ill patients to use medical marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraines, or any other serious illness or condition for which marijuana provides relief.

B. We oppose the arrest, prosecution, and incarceration of persons legally-qualified under the Compassionate Use Act of 1996, codified as California Health & Safety Code Section 11362.5 and enacted through Proposition 215, the Medical Marijuana Program Act of 2004, as amended, codified as California Health & Safety Code Sections 11362.7 through 11362.83, inclusive, and enacted through Senate Bill 420, and the Medical Marijuana Regulation and Safety Act of 2016, codified as Business & Professions Code Sections 27, 101, and 205.1, California Government Code Section 9147.7, California Health & Safety Code Sections 11362.775 and 19300 through 19355, inclusive, California Labor Code Section 147.5, and California Revenue & Taxation Code Section 31020, by local, state, or federal law enforcement.

C. The cultivation and provision of medical marijuana should occur in a safe and orderly manner in order to protect patients and the community. In the absence of clear guidelines, there has been a lack of consistency in the permitting and regulation of medical marijuana cultivation and dispensing.

D. The people of the City of Campbell find and declare that we enact this initiative pursuant to the powers reserved to the State of California, the City of Campbell, and its people under the Tenth Amendment to the United States Constitution.

SECTION 3. ADDITION OF CHAPTER 5.56, "MEDICAL MARIJUANA REGULATION AND SAFETY," TO TITLE 5 OF THE CAMPBELL MUNICIPAL CODE, REVISED

Chapter 5.56, entitled "Medical Marijuana Regulation and Safety" is added to Title 5, entitled "Business Licenses and Regulations," of the Campbell Municipal Code, Revised and shall read as follows:

Chapter 5.56 – Medical Marijuana Regulation and Safety

Part A. Definitions.

Section 5.56.010. This act shall be known and may be cited as the Campbell Medical Marijuana Regulation and Safety Act of 2016.

Section 5.56.011. For purposes of this chapter, the following definitions shall apply:

- (a) “Applicant,” for purposes of Part D (commencing with Section 5.56.040), means the following:
 - (1) Owner or owners of a proposed facility, including all persons or entities having ownership interest other than a security interest, lien, or encumbrance on property that will be used by the facility.
 - (2) If the owner is an entity, “owner” includes within the entity each person participating in the direction, control, or management of, or having a financial interest in, the proposed facility.
 - (3) If the applicant is a publicly traded company, “owner” means the chief executive officer or any person or entity with an aggregate ownership interest of 5 percent or more.
- (b) “Bureau” means the Bureau of Medical Marijuana Regulation within the California Department of Consumer Affairs.
- (c) “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 marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. “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 chapter, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (d) “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency.

- (e) "Caregiver" or "primary caregiver" has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- (f) "City" means the City of Campbell.
- (g) "Commercial cannabis activity" includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product, except as set forth in Section 5.56.040, related to qualifying patients and primary caregivers.
- (h) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the California Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- (i) "Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers medical cannabis and medical cannabis products as part of a retail sale.
- (j) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- (k) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.
- (l) "License" means a license issued by the City pursuant to this chapter.
- (m) "Licensee" means a person issued a license under this chapter.
- (n) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.
- (o) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, edible cannabis products, cannabis concentrates, or topical cannabis intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of California the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section

81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.

- (p) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- (q) "State license," or "State registration" means a state license issued by the Bureau.
- (r) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.

Part B. Administration

Section 5.56.020. The City shall issue licenses only for dispensaries, as defined in this chapter.

Section 5.56.021. Protection of the public shall be the highest priority for the City in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

Section 5.56.022. The City shall make and prescribe reasonable rules as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and duties conferred upon it by this chapter, not inconsistent with any statute of this state, including particularly this chapter and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the performance of its duties, the Bureau has the power conferred by Sections 11180 to 11191, inclusive, of the California Government Code.

Section 5.56.023. Notice of any action of the City required by this chapter to be given may be signed and given by the planning director or an authorized employee of the department and may be made personally or in the manner prescribed by Section 1013 of the California Code of Civil Procedure.

Section 5.56.024.

- (a) The City may convene an advisory committee to advise the City on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the city manager.
- (b) The advisory committee members may include, but not be limited to, representatives of the medical marijuana industry, representatives of medical marijuana cultivators,

appropriate local agencies, appropriate local law enforcement, physicians, environmental and public health experts, and medical marijuana patient advocates.

Section 5.56.025. The City may make or cause to be made such investigation as it deems necessary to carry out its duties under this chapter.

Section 5.56.026. For any hearing held pursuant to this chapter, the City may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code.

Section 5.56.027. In any hearing before the City pursuant to this chapter, the City may pay any person appearing as a witness at the hearing at the request of the City pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

Section 5.56.028. The City may on its own motion at any time before a penalty assessment is placed into effect and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

Part C. Enforcement

Section 5.56.030. Grounds for disciplinary action include:

- (a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.
- (b) Conduct that constitutes grounds for denial of licensure pursuant to Title 5 of the Campbell Municipal Code, Revised.
- (c) Any other grounds contained in regulations adopted by the City pursuant to this chapter.
- (d) Failure to comply with any state law, except as provided for in this chapter or other California law.

Section 5.56.031. The City may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code, and the City shall have all the powers granted therein.

Section 5.56.032. The City may take disciplinary action against a licensee for any violation of this chapter when the violation was committed by the licensee's agent or employee while acting

on behalf of the licensee or engaged in activity for which the licensee has obtained a license under this chapter.

Section 5.56.033. Upon suspension or revocation of a license, the City shall inform the Bureau, who is previously tasked under the California Medical Marijuana Regulation and Safety Act (AB 266) with informing all other licensing authorities and the Department of Food and Agriculture.

Section 5.56.034. All accusations against licensees shall be filed by the City within five (5) years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the City, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within five years after such discovery.

Section 5.56.035. Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the California Fish and Game Code, the California Water Code, the California Food and Agricultural Code, or the California Health and Safety Code.

Section 5.56.036.

- (a) The actions of a licensee, its employees, and its agents that are (1) permitted pursuant to a license or permit issued by the City, and (2) conducted in accordance with the requirements of this chapter and regulations adopted pursuant to this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.
- (b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a City license or permit following the requirements of this chapter, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

Section 5.56.037.

- (a) A person engaging in commercial cannabis activity without a license required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the court may order the destruction of medical cannabis associated with that violation in accordance with Section 11479 of the California Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section shall be deposited into the City's general treasury.
- (b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the City Attorney or City Prosecutor or the California Attorney General on behalf of the people, the penalty collected shall be deposited into the City's general treasury.

- (c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial cannabis activity in violation of this chapter, including, but not limited to, those individuals covered under Section 11362.7 of the California Health and Safety Code.

Part D. Licensing

Section 5.56.040.

- (a) The City may issue licenses only to qualified applicants who intend to and do engage in dispensing medical cannabis pursuant to this chapter. Upon the date of implementation of regulations by the City, no person shall engage in any commercial cannabis activity without possessing a permit or license from the City.
- (b) Revocation of the City's license or permit shall terminate the ability of the licensee to operate within the City until the City reinstates or reissues the license or permit. The City shall notify the Bureau upon revocation of the City license or permit.
- (c) Upon the Bureau's issuance of licenses under the California Medical Marijuana Regulation and Safety Act, a licensee shall be required to maintain a license issued by the Bureau subject to all of the requirements thereof. Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within the City until the Bureau reinstates or reissues the state license.
- (d) Each licensee shall obtain a separate license for each location where it operates its dispensary.
- (e) Nothing in this chapter shall be construed to supersede or limit state agencies, including the State Water Resources Control Board and Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.
- (f) The City may not issue licenses pursuant to this chapter to more than three (3) licensees operating at the same time. In the event that a licensee's license issued pursuant to this chapter is revoked, then the City may issue a license to another applicant, provided that there are not more than three (3) active licensees at any given time.
- (g) An applicant must own the property on which it intends to operate its commercial cannabis activity as evidenced by a deed in the name of the applicant or in the name of a trust of which the applicant is a trustee.

Section 5.56.041. A license issued pursuant to this Chapter section shall be valid for 12 months from the date of issuance. The license shall be renewed annually.

Section 5.56.042.

- (a) No license shall be issued by the City for commercial cannabis activity in any zone in the City other than the manufacturing (C-M and M-1) and Planned Development (P-D)

zones, except that a dispensary may engage in delivery of medical cannabis to a qualified patient or primary caregiver at the residence of such qualified patient or primary caregiver. Any activity conducted by a licensee pursuant to this Chapter is expressly deemed not to be inconsistent with federal law as those terms are used in Section 21.12.030(F)(2) of the Campbell Municipal Code, Revised.

- (b) No licensee shall operate its business within a 600-foot radius of a school. The distance specified in this section shall be the horizontal distance measured in a straight line from the furthest property line of the school to the closest property line of the lot on which the medical marijuana cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures. For the purposes of this section, "school" means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

Section 5.56.043. The City shall act on all license applications within ninety (90) days that the application is received by the City and shall review applications in the chronological order received by the City.

Section 5.56.044. The City shall create and promulgate a form of an application for a license to be issued under this chapter within sixty (60) days of the enactment of this chapter. Such application form will be made available at City Hall and shall also be available on the City's website. The application will contain sufficient questions and requests for documentation to be provided by the applicant to the City to ensure the applicant complies with all aspects of this chapter.

Section 5.56.045. A licensee shall not also be licensed as a retailer of alcoholic beverages pursuant to Division 9 (commencing with Section 23000) of the California Business & Professions Code.

Section 5.56.046. No license shall be issued for commercial cannabis activity to be conducted on premises that provides ingress or egress to its premises on any side of the location that (i) abuts, (ii) is across a street, alley or walk from, as measured at 90 degrees from the lot lines of the location, or (iii) has a common corner with any land zoned residential, except that an exit door required by the Campbell Municipal Code, Revised may be maintained for emergency egress only and must be locked from the exterior at all times. The above notwithstanding, this subsection shall not prohibit a licensee from locating across a street from, or having a common corner with, any land zoned residential if the licensee's premises are separated from that residential zone by a public thoroughfare with a minimum roadway width of 80 feet.

Section 5.56.047.

- (a) No City license shall be required for individual qualified patients cultivating medical cannabis marijuana pursuant to California Health & Safety Code Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 100 square feet and he or she cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity.

- (b) No City license shall be required for primary caregivers cultivating medical cannabis pursuant to California Health & Safety Code Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 500 square feet and he or she cultivates marijuana exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of California Health & Safety Code Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of California Health & Safety Code Section 11362.765.
- (c) For purposes of this section, the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live plants on the premises.

Part E. Medical Marijuana Regulation

Section 5.56.050.

- (a) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:
 - (1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.
 - (2) Establishing limited access areas accessible only to authorized dispensary personnel.
 - (3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.
- (b) A dispensary shall notify the City and the appropriate law enforcement authorities within 24 hours after discovering any of the following:
 - (1) Significant discrepancies of more than five percent (5%) identified during inventory.
 - (2) Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary.
 - (3) The loss or unauthorized alteration of records related to cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents.
 - (4) Any other breach of security.

- (c) Every dispensary must abide by the following operational controls, and failure to do so is grounds for revocation of its license:
- (1) No dispensary may remain open and/or operating between the hours of 8 PM and 10 AM.
 - (2) No dispensary shall permit cannabis and/or alcohol consumption at the premises or in any area of the location used for parking any vehicle.
 - (3) No dispensary may permit entry of a minor unaccompanied by a parent or legal guardian on its premises.
 - (4) No dispensary shall permit any cannabis or cannabis products to be visible from the exterior of the premises.
 - (5) No dispensary may illuminate any portion of its premises during closure hours by lighting that is visible from the exterior of the premises, except such lighting as is reasonably utilized for the security of the premises.

Section 5.56.051.

- (a) Deliveries, as defined in this chapter, can only be made by a dispensary.
- (b) Upon issuance of a license under this chapter, a dispensary that delivers medical cannabis or medical cannabis products shall require all employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current license authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.
- (c) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the City and/or City law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.
- (d) The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the City and/or City law enforcement officers.

Section 5.56.052.

- (a) A licensee shall keep accurate records of commercial cannabis activity.
- (b) All records related to commercial cannabis activity as defined by this Chapter shall be maintained for a minimum of seven years.
- (c) The City may examine the books and records of a licensee and inspect the premises of a licensee as the City deems necessary to perform its duties under this chapter. All

inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.

- (d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The City may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the City upon request.
- (e) A licensee or its agent, or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section has engaged in a violation of this chapter.
- (f) If a licensee or an employee of a licensee fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of thirty thousand dollars (\$30,000) per individual violation.

Section 5.56.053. This chapter shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

Part F. Privacy

Section 5.56.060.

- (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the City for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter.
- (b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the California Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the California Civil Code, and other state and federal laws relating to confidential patient information.
- (c) Nothing in this section precludes the following:
 - (1) Employees of the City notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.

- (2) Notifications from the City to state or local agencies about apparent violations of this chapter or applicable local ordinance.
 - (3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.
 - (4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.
- (d) Information shall not be disclosed by the City beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SECTION 4. FINDINGS REGARDING RIGHTS TO PRIVACY

The People of the City of Campbell find and declare that Section 3 of this act, which adds Section 5.56.060 to the Campbell Municipal Code, Revised, thereby imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the People of the City of Campbell make the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest: the limitation imposed under this act is necessary for purposes of compliance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the California Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the California Insurance Code).

SECTION 5. SEVERABILITY

The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

TEXT OF PROPOSED LAWS

PROPOSITION 63 CONTINUED

exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

SEC. 12. Interim Standards.

63

Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety for All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier superseded by regulations adopted pursuant to the APA. "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

SEC. 13. Amending the Measure.

64

This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

SEC. 14. Conflicting Measures.

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale or possession of firearms or ammunition, shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 15. Severability.

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

SEC. 16. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court

of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

PROPOSITION 64

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the Business and Professions Code, the Food and Agricultural Code, the Health and Safety Code, the Labor Code, the Revenue and Taxation Code, and the Water Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This measure shall be known and may be cited as the Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act").

SEC. 2. Findings and Declarations.

A. Currently in California, nonmedical marijuana use is unregulated, untaxed, and occurs without any consumer or environmental protections. The Control, Regulate and Tax Adult Use of Marijuana Act will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

B. Marijuana is currently legal in our state for medical use and illegal for nonmedical use. Abuse of the medical marijuana system in California has long been widespread, but recent bipartisan legislation signed by Governor Jerry Brown is establishing a comprehensive regulatory scheme for medical marijuana. The Control, Regulate and Tax Adult Use of Marijuana Act (hereafter called the Adult Use of Marijuana Act) will consolidate and streamline regulation and taxation for both nonmedical and medical marijuana.

C. Currently, marijuana growth and sale is not being taxed by the State of California, which means our state is missing out on hundreds of millions of dollars in potential tax revenue every year. The Adult Use of Marijuana Act will tax both the growth and sale of marijuana to generate hundreds of millions of dollars annually. The revenues will cover the cost of administering the new law and will provide funds to: invest in public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law with a focus on DUI enforcement; invest in communities to reduce the illicit market and create job opportunities; and provide for environmental cleanup and restoration of public lands damaged by illegal marijuana cultivation.

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those

under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. And it mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

E. There are currently no laws governing adult use marijuana businesses to ensure that they operate in accordance with existing California laws. Adult use of marijuana may only be accessed from the unregulated illicit market. The Adult Use of Marijuana Act sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality.

F. Currently, illegal marijuana growers steal or divert millions of gallons of water without any accountability. The Adult Use of Marijuana Act will create strict environmental regulations to ensure that the marijuana is grown efficiently and legally, to regulate the use of pesticides, to prevent wasting water, and to minimize water usage. The Adult Use of Marijuana Act will crack down on the illegal use of water and punish bad actors, while providing funds to restore lands that have been damaged by illegal marijuana grows. If a business does not demonstrate they are in full compliance with the applicable water usage and environmental laws, they will have their license revoked.

G. Currently, the courts are clogged with cases of non-violent drug offenses. By legalizing marijuana, the Adult Use of Marijuana Act will alleviate pressure on the courts, but continue to allow prosecutors to charge the most serious marijuana-related offenses as felonies, while reducing the penalties for minor marijuana-related offenses as set forth in the act.

H. By bringing marijuana into a regulated and legitimate market, the Adult Use of Marijuana Act creates a transparent and accountable system. This will help police crackdown on the underground black market that currently benefits violent drug cartels and transnational gangs, which are making billions from marijuana trafficking and jeopardizing public safety.

I. The Adult Use of Marijuana Act creates a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise. The Bureau of Marijuana Control, housed in the Department of Consumer Affairs, will oversee the whole system and ensure a smooth transition to the legal market, with licenses issued beginning in 2018. The Department of Consumer Affairs will also license and oversee marijuana retailers, distributors, and microbusinesses. The Department of Food and Agriculture will license and oversee marijuana cultivation, ensuring it is environmentally safe. The State Department of Public Health will license and oversee manufacturing and testing, ensuring consumers receive a safe product. The State Board of Equalization will collect the special marijuana taxes, and the Controller will allocate the revenue to administer the new law and provide the funds to critical investments.

J. The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale

cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

SEC. 3. Purpose and Intent.

The purpose of the Adult Use of Marijuana Act is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana. It is the intent of the people in enacting this act to accomplish the following:

(a) Take nonmedical marijuana production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.

(b) Strictly control the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana through a system of state licensing, regulation, and enforcement.

(c) Allow local governments to enforce state laws and regulations for nonmedical marijuana businesses and enact additional local requirements for nonmedical marijuana businesses, but not require that they do so for a nonmedical marijuana business to be issued a state license and be legal under state law.

(d) Allow local governments to ban nonmedical marijuana businesses as set forth in this act.

(e) Require track and trace management procedures to track nonmedical marijuana from cultivation to sale.

(f) Require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.

(g) Require nonmedical marijuana sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical marijuana.

(h) Require licensed nonmedical marijuana businesses to follow strict environmental and product safety standards as a condition of maintaining their license.

(i) Prohibit the sale of nonmedical marijuana by businesses that also sell alcohol or tobacco.

(j) Prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.

(k) Strengthen the state's existing medical marijuana system by requiring patients to obtain by January 1, 2018, a new recommendation from their physician that meets the strict standards signed into law by the Governor in 2015, and by providing new privacy protections for patients who obtain medical marijuana identification cards as set forth in this act.

(l) Permit adults 21 years and older to use, possess, purchase and grow nonmedical marijuana within defined limits for use by adults 21 years and older as set forth in this act.

(m) Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local

laws, and only to ban outdoor cultivation as set forth in this act.

(n) Deny access to marijuana by persons younger than 21 years old who are not medical marijuana patients.

(o) Prohibit the consumption of marijuana in a public place unlicensed for such use, including near K-12 schools and other areas where children are present.

(p) Maintain existing laws making it unlawful to operate a car or other vehicle used for transportation while impaired by marijuana.

(q) Prohibit the cultivation of marijuana on public lands or while trespassing on private lands.

(r) Allow public and private employers to enact and enforce workplace policies pertaining to marijuana.

(s) Tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults.

(t) Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.

(u) Prevent illegal production or distribution of marijuana.

(v) Prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market.

(w) Preserve scarce law enforcement resources to prevent and prosecute violent crime.

(x) Reduce barriers to entry into the legal, regulated market.

(y) Require minors who commit marijuana-related offenses to complete drug prevention education or counseling and community service.

(z) Authorize courts to resentence persons who are currently serving a sentence for offenses for which the penalty is reduced by the act, so long as the person does not pose a risk to public safety, and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this act.

(aa) Allow industrial hemp to be grown as an agricultural product, and for agricultural or academic research, and regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

SEC. 4. Personal Use.

SEC. 4.1. Section 11018 of the Health and Safety Code is amended to read:

11018. *Marijuana.*

"Marijuana" means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It 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:

(a) *Industrial hemp, as defined in Section 11018.5; or*

(b) *The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.*

SEC. 4.2. Section 11018.1 is added to the Health and Safety Code, to read:

11018.1. *Marijuana Products.*

"*Marijuana products*" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

SEC. 4.3. Section 11018.2 is added to the Health and Safety Code, to read:

11018.2. *Marijuana Accessories.*

"*Marijuana accessories*" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

SEC. 4.4. Section 11362.1 is added to the Health and Safety Code, to read:

11362.1. (a) *Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:*

(1) *Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;*

(2) *Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;*

(3) *Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;*

(4) *Smoke or ingest marijuana or marijuana products; and*

(5) *Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.*

(b) *Paragraph (5) of subdivision (a) is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. Sec. 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute marijuana accessories.*

(c) *Marijuana and marijuana products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.*

SEC. 4.5. Section 11362.2 is added to the Health and Safety Code, to read:

11362.2. (a) Personal cultivation of marijuana under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

(1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b).

(2) The living plants and any marijuana produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.

(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

(b) (1) A city, county, or city and county may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.

(2) Notwithstanding paragraph (1), no city, county, or city and county may completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

(3) Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

(4) Paragraph (3) shall become inoperative upon a determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) shall be deemed repealed upon the date of such determination by the Attorney General.

(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

SEC. 4.6. Section 11362.3 is added to the Health and Safety Code, to read:

11362.3. (a) Nothing in Section 11362.1 shall be construed to permit any person to:

(1) Smoke or ingest marijuana or marijuana products in any public place, except in accordance with Section 26200 of the Business and Professions Code.

(2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.

(3) Smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of, or Chapter 3.5 (commencing with Section 19300) of Division 8 of, the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present.

(4) Possess an open container or open package of marijuana or marijuana products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(5) Possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 (commencing with Section 19300) of Division 8 of, or Division 10 of, the Business and Professions Code.

(7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under the age of 21 years are present.

(b) For purposes of this section, "day care center" has the same meaning as in Section 1596.76.

(c) For purposes of this section, "smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(d) For purposes of this section, "volatile solvent" means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Trichloro-ethylene.

(e) For purposes of this section, "youth center" has the same meaning as in Section 11353.1.

(f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

SEC. 4.7. Section 11362.4 is added to the Health and Safety Code, to read:

11362.4. (a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one hundred dollar (\$100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

(b) A person who engages in the conduct described in paragraphs (2) through (4) of subdivision (a) of Section 11362.3 shall be guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine,

unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.

(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar (\$250) fine.

(f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

(g) (1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

(2) The drug education program required by this section for persons under the age of 18 must be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

SEC. 4.8. Section 11362.45 is added to the Health and Safety Code, to read:

11362.45. Nothing in Section 11362.1 shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:

(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, marijuana or marijuana products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

(b) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, marijuana products, or marijuana accessories, or the offering to sell, administer, furnish, or give away marijuana, marijuana products, or marijuana accessories to a person younger than 21 years of age.

(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.

(d) Laws pertaining to smoking or ingesting marijuana or marijuana products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

(e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting marijuana or marijuana products.

(f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with state or federal law.

(g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.

(h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.

(i) Laws pertaining to the Compassionate Use Act of 1996.

SEC. 5. Use of Marijuana for Medical Purposes.

SEC. 5.1. Section 11362.712 is added to the Health and Safety Code, to read:

11362.712. (a) Commencing on January 1, 2018, a qualified patient must possess a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.

(b) A county health department or the county's designee shall develop protocols to ensure that, commencing upon January 1, 2018, all identification cards issued pursuant to Section 11362.71 are supported by a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code.

SEC. 5.2. Section 11362.713 is added to the Health and Safety Code, to read:

11362.713. (a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, received and contained in the records of the State Department of Public Health and by any county public health department are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by the department or by any county public health department except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.

(b) Within 24 hours of receiving any request to disclose the name, address, or social security number of a patient, their medical condition, or the name of their primary caregiver, the State Department of Public Health or any county public health agency shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.

(c) Notwithstanding Section 56.10 of the Civil Code, neither the State Department of Public Health, nor any county public health agency, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.

(d) No identification card application system or database used or maintained by the State Department of Public Health or by any county department of public health or the county's designee as provided in Section 11362.71 shall contain any personal information of any qualified patient, including, but not limited to, the patient's name, address, social security number, medical conditions, or the names of their primary caregivers. Such an application system or database may only contain a unique user identification number, and when that number is entered, the only information that may be provided is whether the card is valid or invalid.

SEC. 5.3. Section 11362.755 of the Health and Safety Code is amended to read:

11362.755. (a) ~~The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number.~~ Each county health department or the county's designee may charge an additional fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) *In no event shall the amount of the fee charged by a county health department exceed one hundred dollars (\$100) per application or renewal.*

(b) (c) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

(d) *Upon satisfactory proof that a qualified patient, or the legal guardian of a qualified patient under the age of 18, is a medically indigent adult who is eligible for and participates in the County Medical Services Program, the fee established pursuant to this section shall be waived.*

(e) *In the event the fees charged and collected by a county health department are not sufficient to pay for the administrative costs incurred in discharging the county health department's duties with respect to the mandatory identification card system, the Legislature, upon request by the county health department, shall reimburse the county health department for those reasonable administrative costs in excess of the fees charged and collected by the county health department.*

SEC. 5.4. Section 11362.84 is added to the Health and Safety Code, to read:

11362.84. *The status and conduct of a qualified patient who acts in accordance with the Compassionate Use Act shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of family or juvenile court.*

SEC. 5.5. Section 11362.85 is added to the Health and Safety Code, to read:

11362.85. *Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify marijuana, the Legislature may amend or repeal the provisions of the Health and Safety Code, as necessary, to conform state law to such changes in federal law.*

SEC. 6. Marijuana Regulation and Safety.

SEC. 6.1. Division 10 (commencing with Section 26000) is added to the Business and Professions Code, to read:

DIVISION 10. MARIJUANA

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

26000. (a) *The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.*

(b) *In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 (commencing with Section 19300) of Division 8 to include the power and duty to control and regulate the commercial nonmedical marijuana industry.*

(c) *The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.*

26001. *For purposes of this division, the following definitions shall apply:*

(a) "Applicant" means the following:

(1) *The owner or owners of a proposed licensee. "Owner" means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee and (B) the power to direct or cause to be directed, the management or control of the licensee.*

(2) *If the applicant is a publicly traded company, "owner" includes the chief executive officer and any member of the board of directors and any person or entity with an aggregate ownership interest in the company of 20 percent or more. If the applicant is a nonprofit entity, "owner" means both the chief executive officer and any member of the board of directors.*

(b) "Bureau" means the Bureau of Marijuana Control within the Department of Consumer Affairs.

(c) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

(d) "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products as provided for in this division.

(e) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

- (f) "Customer" means a natural person 21 years of age or over.
- (g) "Day care center" shall have the same meaning as in Section 1596.76 of the Health and Safety Code.
- (h) "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.
- (i) "Director" means the Director of the Department of Consumer Affairs.
- (j) "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.
- (k) "Fund" means the Marijuana Control Fund established pursuant to Section 26210.
- (l) "Kind" means applicable type or designation regarding a particular marijuana variant or marijuana product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
- (m) "License" means a state license issued under this division.
- (n) "Licensee" means any person or entity holding a license under this division.
- (o) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.
- (p) "Local jurisdiction" means a city, county, or city and county.
- (q) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
- (r) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.
- (s) "Marijuana" has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.
- (t) "Marijuana accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.
- (u) "Marijuana products" has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.
- (v) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.
- (w) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.
- (x) "Package" means any container or receptacle used for holding marijuana or marijuana products.
- (y) "Person" includes any individual, firm, copartnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
- (z) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.
- (aa) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.
- (bb) "Testing service" means a laboratory, facility, or entity in the state, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:
- (1) Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the state.
 - (2) Registered with the State Department of Public Health.
- (cc) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises.
- (dd) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.
- (ee) "Youth center" shall have the same meaning as in Section 11353.1 of the Health and Safety Code.

CHAPTER 2. ADMINISTRATION

26010. (a) The Bureau of Medical Marijuana Regulation established in Section 19302 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 (commencing with Section 19300) of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.

(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under Chapter 3.5 (commencing with Section 19300) of Division 8.

(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in subdivision (b), the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.

(d) Upon the effective date of this section, whenever "Bureau of Medical Marijuana Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

26011. Neither the chief of the bureau nor any member of the Marijuana Control Appeals Panel established under Section 26040 shall do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division or Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.

(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial marijuana activity.

(d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

(e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

26012. (a) It being a matter of statewide concern, except as otherwise authorized in this division:

(1) The Department of Consumer Affairs shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana within the state.

(2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of marijuana. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this division.

(3) The State Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana. The State Department of Public Health shall have the authority to create, issue, and suspend or revoke manufacturing and testing licenses for violations of this division.

(b) The licensing authorities and the bureau shall have the authority to collect fees in connection with activities they regulate concerning marijuana. The bureau may create licenses in addition to those identified in this division that the bureau deems necessary to effectuate its duties under this division.

(c) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

26013. (a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Such rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing

with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance unreasonably impracticable.

26014. (a) The bureau shall convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial marijuana activity that does not impose such unreasonably impracticable barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.

(b) The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

(c) Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the bureau and licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the bureau or licensing authorities.

26015. A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.

26016. For any hearing held pursuant to this division, except a hearing held under Chapter 4 (commencing with Section 26040), a licensing authority may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

26017. In any hearing before a licensing authority pursuant to this division, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

26018. A licensing authority may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

CHAPTER 3. ENFORCEMENT

26030. Grounds for disciplinary action include:

(a) Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.

(b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.

(c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.

(d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.

(e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.

(f) Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.

(g) The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.

26031. Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

26032. Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial marijuana activity.

26033. Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.

26034. Accusations against licensees under this division shall be filed within the same time limits as specified in Section 19314 or as otherwise provided by law.

26035. The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.

26036. Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.

26037. (a) The actions of a licensee, its employees, and its agents that are (1) permitted under a license issued under this division and any applicable local ordinances and (2) conducted in accordance with the requirements of this division and regulations adopted pursuant to this division, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction

under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and any applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

26038. (a) A person engaging in commercial marijuana activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of marijuana associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b).

(b) If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial marijuana activity in violation of this division.

CHAPTER 4. APPEALS

26040. (a) There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption or incompetency.

(c) A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if 5 Members of the Senate, or 10 Members of the Assembly, join as authors.

26041. All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform

such other mechanics of administration as the panel and the director may agree upon.

26042. The panel shall adopt procedures for appeals similar to the procedures used in Article 3 (commencing with Section 23075) and Article 4 (commencing with Section 23080) of Chapter 1.5 of Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

26043. (a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the bureau or the licensing authority.

(b) Review by the panel of a decision of the bureau or a licensing authority shall be limited to the following questions:

- (1) Whether the bureau or any licensing authority has proceeded without or in excess of its jurisdiction.
- (2) Whether the bureau or any licensing authority has proceeded in the manner required by law.
- (3) Whether the decision is supported by the findings.
- (4) Whether the findings are supported by substantial evidence in the light of the whole record.

26044. (a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the bureau or licensing authority, it may enter an order remanding the matter to the bureau or licensing authority for reconsideration in the light of such evidence.

(b) Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the bureau or licensing authority. When the order reverses the decision of the bureau or licensing authority, the board may direct the reconsideration of the matter in the light of its order and may direct the bureau or licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the bureau or licensing authority.

26045. Orders of the panel shall be subject to judicial review under Section 1094.5 of the Code of Civil Procedure upon petition by the bureau or licensing authority or any party aggrieved by such order.

CHAPTER 5. LICENSING

26050. (a) The license classification pursuant to this division shall, at a minimum, be as follows:

- (1) Type 1—Cultivation; Specialty outdoor; Small.
- (2) Type 1A—Cultivation; Specialty indoor; Small.
- (3) Type 1B—Cultivation; Specialty mixed-light; Small.
- (4) Type 2—Cultivation; Outdoor; Small.
- (5) Type 2A—Cultivation; Indoor; Small.
- (6) Type 2B—Cultivation; Mixed-light; Small.
- (7) Type 3—Cultivation; Outdoor; Medium.

(8) Type 3A—Cultivation; Indoor; Medium.

(9) Type 3B—Cultivation; Mixed-light; Medium.

(10) Type 4—Cultivation; Nursery.

(11) Type 5—Cultivation; Outdoor; Large.

(12) Type 5A—Cultivation; Indoor; Large.

(13) Type 5B—Cultivation; Mixed-light; Large.

(14) Type 6—Manufacturer 1.

(15) Type 7—Manufacturer 2.

(16) Type 8—Testing.

(17) Type 10—Retailer.

(18) Type 11—Distributor.

(19) Type 12—Microbusiness.

(b) All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 (commencing with Section 19300) of Division 8. Examples of such a designation include, but are not limited to, "Type 1—Nonmedical," or "Type 1NM."

(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.

(e) Notwithstanding subdivision (c), a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operative on January 1, 2019.

26051. (a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:

- (1) Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;
- (2) Perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;
- (3) Encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;
- (4) Result in an excessive concentration of licensees in a given city, county, or both;
- (5) Present an unreasonable risk of minors being exposed to marijuana or marijuana products; or
- (6) Result in violations of any environmental protection laws.

(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a).

(c) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:

- (1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in

the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.

(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

26052. (a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:

(1) Make any contract in restraint of trade in violation of Section 16600;

(2) Form a trust or other prohibited organization in restraint of trade in violation of Section 16720;

(3) Make a sale or contract for the sale of marijuana or marijuana products, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of such seller, where the effect of such sale, contract, condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce;

(4) Sell any marijuana or marijuana products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers;

(5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing marijuana or marijuana products at a lower price in one section, community, or city or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition; or

(6) Sell any marijuana or marijuana products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

(b) Any person who, either as director, officer or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which such person acts.

(c) A licensing authority may enforce this section by appropriate regulation.

(d) Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

26053. (a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) Notwithstanding subdivision (a), a person or entity that holds a state testing license under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 is prohibited from licensure for any other activity, except testing, as authorized under this division.

(c) Except as provided in subdivision (b), a person or entity may apply for and be issued more than one license under this division.

26054. (a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 (commencing with Section 23000) or of tobacco products.

(b) No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

(c) It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana products are obtained from a person or entity licensed under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 permitted to provide or deliver such marijuana or marijuana products.

26054.1. (a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.

(b) Subdivision (a) shall cease to be operative on December 31, 2019, unless reenacted prior thereto by the Legislature.

26054.2. (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any applicable local laws. The bureau shall make the requested information available to licensing authorities.

(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or Chapter 3.5 (commencing with Section 19300) of Division 8. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

(d) This section shall cease to be operative on December 31, 2019, unless otherwise provided by law.

26055. (a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within

California until the licensing authority reinstates or reissues the state license.

(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.

(d) After issuance or transfer of a license, no licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

26056. An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:

(a) Notwithstanding paragraph (2) of subdivision (a) of Section 19322, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;

(b) An application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and

(c) For applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) The inventory process.

(5) Quality control procedures.

(6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.

(d) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and

individual square footage of separate cultivation areas, if any.

26056.5. The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), lake or streambed alteration agreements (Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code), the Clean Water Act (33 U.S.C. Sec. 1251 et seq.), the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.

26057. (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow and water quality.

(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

(3) Failure to provide information required by the licensing authority.

(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(C) A felony conviction involving fraud, deceit, or embezzlement.

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to

furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

(6) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities or commercial medical cannabis activities, has had a license revoked under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Section 12025 or 12025.1 of the Fish and Game Code.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) Any other condition specified in law.

26058. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing.

26059. An applicant shall not be denied a state license if the denial is based solely on any of the following:

(a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

CHAPTER 6. LICENSED CULTIVATION SITES

26060. (a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.

(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis shall apply to licensed cultivators under this division.

(c) The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control

Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(d) The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana activity, the same matters described in subdivision (e) of Section 19332.

(e) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor, outdoor, or mixed light cultivation of marijuana meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

26061. (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.

(b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in subdivision (g) of Section 19332.

(c) Except as otherwise provided by law:

(1) Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

(2) Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(3) Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

(e) Commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

26062. The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5.

26063. (a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.

(b) Marijuana shall not be marketed, labeled, or sold as grown in a California county when the marijuana was not grown in that county.

(c) The name of a California county shall not be used in the labeling, marketing, or packaging of marijuana products unless the marijuana contained in the product was grown in that county.

26064. Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.

26065. An employee engaged in the cultivation of marijuana under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

26066. Indoor and outdoor marijuana cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of marijuana cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

26067. (a) The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the Secretary of Food and Agriculture. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.

(b) A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.

(c) (1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.

(B) Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.

(2) The department shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each marijuana plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.

(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26170.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each marijuana plant.

(D) The department may promulgate regulations to implement this section.

(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(e) (1) This section does not apply to the cultivation of marijuana in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.

(2) Subdivision (b) does not apply to persons or entities licensed under either paragraph (3) of subdivision (a) of Section 26070 or subdivision (b) of Section 26070.5.

(f) "Department" for purposes of this section means the Department of Food and Agriculture.

CHAPTER 7. RETAILERS AND DISTRIBUTORS

26070. Retailers and Distributors.

(a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1) "Retailer," for the retail sale and delivery of marijuana or marijuana products to customers.

(2) "Distributor," for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3) "Microbusiness," for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent

unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:

- (1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary.
- (2) Establishing limited access areas accessible only to authorized personnel.
- (3) Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

26070.5. (a) The bureau shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low-income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low-income persons so long as the local jurisdiction:

(1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;

(2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;

(3) Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;

(4) Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars (\$2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this

division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

CHAPTER 8. DISTRIBUTION AND TRANSPORT

26080. (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, marijuana or marijuana products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with this division.

CHAPTER 9. DELIVERY

26090. (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

(b) A customer requesting delivery 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.

(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

CHAPTER 10. MANUFACTURERS AND TESTING LABORATORIES

26100. The State Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:

(a) "Manufacturing Level 1," for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.

(b) "Manufacturing Level 2," for sites that manufacture marijuana products using volatile solvents.

(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the department. A testing licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.

(d) For purposes of this section, "volatile solvents" shall have the same meaning as in subdivision (d) of Section 11362.3 of the Health and Safety Code unless otherwise provided by law or regulation.

26101. (a) Except as otherwise provided by law, no marijuana or marijuana products may be sold pursuant to a license provided for under this division unless a representative sample of such marijuana or marijuana

product has been tested by a certified testing service to determine:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals, including explosive gases, such as Butane, propane, O₂ or H₂, and poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, *P. aeruginosa*, *aspergillus* spp., *s. aureus*, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopoeia (U.S.P. Chapter 467).

(c) The testing required by paragraph (a) shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(d) Any pre-sale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

26102. A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 or unless otherwise provided by law.

26103. A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 or unless otherwise provided by law.

26104. (a) A licensed testing service shall, in performing activities concerning marijuana and marijuana products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The State Department of Public Health shall develop procedures to:

(1) Ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5;

(2) Specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators and the cost of testing marijuana products shall be borne by the licensed manufacturer, and that the costs of testing marijuana and marijuana products shall be borne by a nonprofit licensed under Section 26070.5; and

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the State Department of Public Health, unless remedial measures can bring the marijuana or marijuana products into compliance with quality assurance standards as promulgated by the State Department of Public Health.

26105. Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The State Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

26106. Standards for the production and labeling of all marijuana products developed by the State Department of Public Health shall apply to licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5 unless otherwise specified by the State Department of Public Health.

CHAPTER 11. QUALITY ASSURANCE, INSPECTION, AND TESTING

26110. (a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.

(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326, except as otherwise provided in this division or by law.

CHAPTER 12. PACKAGING AND LABELING

26120. (a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.

(b) Packages and labels shall not be made to be attractive to children.

(c) All marijuana and marijuana product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

(1) Manufacture date and source.

(2) The following statements, in bold print:

(A) For marijuana: **"GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE 1 CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY**

TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(B) For marijuana products: "GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED UP TO TWO HOURS. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(3) For packages containing only dried flower, the net weight of marijuana in the package.

(4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the date of manufacturing and packaging.

(5) The appellation of origin, if any.

(6) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.

(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in Section 101.9 of Title 21 of the Code of Federal Regulations.

(8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.

(9) A warning if nuts or other known allergens are used.

(10) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(11) Any other requirement set by the bureau or the State Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible marijuana products.

(e) In the event the bureau determines that marijuana is no longer a schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that marijuana is a schedule I controlled substance.

CHAPTER 13. MARIJUANA PRODUCTS

26130. (a) Marijuana products shall be:

(1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.

(2) Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

(3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.

(4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(5) Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.

(6) Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

(b) Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

CHAPTER 14. PROTECTION OF MINORS

26140. (a) No licensee shall:

(1) Sell marijuana or marijuana products to persons under 21 years of age.

(2) Allow any person under 21 years of age on its premises.

(3) Employ or retain persons under 21 years of age.

(4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), a licensee that is also a dispensary licensed under Chapter 3.5 (commencing with Section 19300) of Division 8 may:

(1) Allow on the premises any person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card;

(2) Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

CHAPTER 15. ADVERTISING AND MARKETING RESTRICTIONS

26150. For purposes of this chapter:

(a) "Advertise" means the publication or dissemination of an advertisement.

(b) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television



broadcast, or in any other media; except that such term shall not include:

(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.

(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

(c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.

(e) "Market" or "Marketing" means any act or process of promoting or selling marijuana or marijuana products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

26151. (a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.

(b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d) All advertising shall be truthful and appropriately substantiated.

26152. No licensee shall:

(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression;

(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;

(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label

of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;

(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;

(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;

(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption; or

(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

26153. No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

26154. No licensee shall publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

26155. (a) The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.

(b) This chapter does not apply to any noncommercial speech.

CHAPTER 16. RECORDS

26160. (a) A licensee shall keep accurate records of commercial marijuana activity.

(b) All records related to commercial marijuana activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

(c) The bureau may examine the books and records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.

(e) A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.

(f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation

and fine of up to thirty thousand dollars (\$30,000) per individual violation.

26161. (a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau or Board of Equalization and shall not be commingled with invoices covering other commodities.

(b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:

- (1) Name and address of the purchaser.
- (2) Date of sale and invoice number.
- (3) Kind, quantity, size, and capacity of packages of marijuana or marijuana products sold.
- (4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.
- (5) The place from which transport of the marijuana or marijuana product was made unless transport was made from the premises of the licensee.
- (6) Any other information specified by the bureau or the licensing authority.

CHAPTER 17. TRACK AND TRACE SYSTEM

26170. (a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under Article 7.5 (commencing with Section 19335) of Chapter 3.5 of Division 8 to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.

(c) Any software, database or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of

updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

CHAPTER 18. LICENSE FEES

26180. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

26181. The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

CHAPTER 19. ANNUAL REPORTS; PERFORMANCE AUDIT

26190. Beginning on March 1, 2020, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the same type of information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

26191. (a) Commencing January 1, 2019, and by January 1 of each year thereafter, the California State Auditor's Office shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

- (1) The actual costs of the program.
 - (2) The overall effectiveness of enforcement programs.
 - (3) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.
- (b) The Legislature shall provide sufficient funds to the California State Auditor's Office to conduct the annual audit required by this section.

CHAPTER 20. LOCAL CONTROL

26200. (a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(b) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 10 days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 (commencing with Section 26030) to determine whether a license issued to the licensee should be suspended or revoked.

(d) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:

- (1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older;
- (2) Marijuana consumption is not visible from any public place or non-age restricted area; and
- (3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

26201. Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.

(b) The bureau or any licensing authority shall implement the delegation of enforcement authority in subdivision (a) through a memorandum of understanding between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

CHAPTER 21. FUNDING

26210. (a) The Medical Cannabis Regulation and Safety Act Fund established in Section 19351 is hereby renamed the Marijuana Control Fund.

(b) Upon the effective date of this section, whenever "Medical Cannabis Regulation and Safety Act Fund" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Marijuana Control Fund.

26211. (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the Board of Equalization under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

(1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the Board of Equalization, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

(2) Within 45 days of this section becoming operative:

(A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Marijuana Control Fund that does not exceed thirty million dollars (\$30,000,000); and

(B) There shall be advanced a sum of five million dollars (\$5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Marijuana Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

(c) The State Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of marijuana and marijuana products to persons under the age of 21 years, describe the penalties for providing access to marijuana and marijuana products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from marijuana use, the potential harms of using marijuana while pregnant or breastfeeding, and the potential harms of overusing marijuana or marijuana products.

SEC. 6.2. Section 147.6 is added to the Labor Code, to read:

147.6. (a) By March 1, 2018, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code, including but not limited to, whether specific requirements are needed to address exposure to second-hand marijuana smoke by employees at facilities where on-site consumption

of marijuana is permitted under subdivision (d) of Section 26200 of the Business and Professions Code, and whether specific requirements are needed to address the potential risks of combustion, inhalation, armed robberies or repetitive strain injuries.

(b) By October 1, 2018, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By October 1, 2018, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

SEC. 6.3. Section 13276 of the Water Code is amended to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.

(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation and commercial marijuana cultivation under Division 10 of the Business and Professions Code and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:

- (1) Site development and maintenance, erosion control, and drainage features.
- (2) Stream crossing installation and maintenance.
- (3) Riparian and wetland protection and management.
- (4) Soil disposal.
- (5) Water storage and use.
- (6) Irrigation runoff.
- (7) Fertilizers and soil.
- (8) Pesticides and herbicides.
- (9) Petroleum products and other chemicals.
- (10) Cultivation-related waste.
- (11) Refuse and human waste.
- (12) Cleanup, restoration, and mitigation.

SEC. 7. Marijuana Tax.

SEC. 7.1. Part 14.5 (commencing with Section 34010) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 14.5. MARIJUANA TAX

34010. For purposes of this part:

- (a) "Board" shall mean the Board of Equalization or its successor agency.
- (b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.
- (c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.

(d) "Marijuana" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.

(e) "Marijuana products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.

(f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the board.

(g) "Marijuana leaves" shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.

(h) "Gross receipts" shall have the same meaning as set forth in Section 6012.

(i) "Retail sale" shall have the same meaning as set forth in Section 6007.

(j) "Person" shall have the same meaning as set forth in Section 6005.

(k) "Microbusiness" shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

(l) "Nonprofit" shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

34011. (a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of 15 percent of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.

(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if nonitemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.

(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.

(d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.

(f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(g) The sales and use tax imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code. The tax shall be due after the marijuana is harvested.

(1) The tax for marijuana flowers shall be nine dollars and twenty-five cents (\$9.25) per dry-weight ounce.

(2) The tax for marijuana leaves shall be set at two dollars and seventy-five cents (\$2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.

(c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.

(d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.

(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.

(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

(d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

34014. (a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code without a permit or after a permit has been canceled,

suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation has been properly prepared, executed and submitted under this part.

(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

34015. (a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

34016. (a) Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

(3) Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars (\$1,000) for each offense.

(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

(f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.

34017. The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.

34018. (a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of

subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

34019. (a) Beginning with fiscal year 2017–2018 the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022–2023.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 (commencing with Section 19300) of Division 8 and Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) to a public university or universities in California annually beginning with fiscal year 2018–2019 until fiscal year 2028–2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their

findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

(10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars (\$3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018–2019 until fiscal year 2022–2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and

adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d) The Controller shall next disburse the sum of ten million dollars (\$10,000,000) beginning fiscal year 2018–2019 and increasing ten million dollars (\$10,000,000) each fiscal year thereafter until fiscal year 2022–2023, at which time the disbursement shall be fifty million dollars (\$50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in fiscal year 2018–2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster

care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The departments may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated

assessments or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual

General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022-2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars (\$10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars (\$40,000,000) annually. In determining the amount to be allocated before fiscal year 2022-2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027-2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

34020. The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.

34021. The taxes imposed by this part shall be in addition to any other tax imposed by a city, county, or city and county.

34021.5. (a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

SEC. 8. Criminal Offenses, Records, and Resentencing.

SEC. 8.1. Section 11357 of the Health and Safety Code is amended to read:

11357. *Possession.* (a) ~~Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior~~

~~convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.~~

~~(b) (a) Except as authorized by law, every person who possesses possession of not more than 28.5 grams of marijuana, other than or not more than four grams of concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100); or both, shall be punished or adjudicated as follows:~~

~~(1) Persons under the age of 18 shall be guilty of an infraction and shall be required to:~~

~~(A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.~~

~~(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.~~

~~(2) Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars (\$100).~~

~~(b) Except as authorized by law, every person who possesses possession of more than 28.5 grams of marijuana, or more than four grams of other than concentrated cannabis, shall be punished as follows:~~

~~(1) Persons under the age of 18 who possess more than 28.5 grams of marijuana or more than four grams of concentrated cannabis, or both, shall be guilty of an infraction and shall be required to:~~

~~(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.~~

~~(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.~~

~~(2) Persons 18 years of age or over who possess more than 28.5 grams of marijuana, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.~~

~~(c) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished by a as follows:~~

~~(1) A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.~~

~~(2) A fine of not more than five hundred dollars (\$500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.~~

~~(d) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of~~

marijuana, or not more than four grams of other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor ~~an infraction~~ and shall be punished in the same manner provided in paragraph (1) of subdivision (b) subject to the following dispositions:

(1) ~~A fine of not more than two hundred fifty dollars (\$250), upon a finding that a first offense has been committed.~~

(2) ~~A fine of not more than five hundred dollars (\$500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.~~

SEC. 8.2. Section 11358 of the Health and Safety Code is amended to read:

11358. *Planting, Harvesting, or Processing.*

Every person who plants, cultivates, harvests, dries, or processes any marijuana plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who plants, cultivates, harvests, dries, or processes any marijuana plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living marijuana plants shall be guilty of an infraction and a fine of not more than one hundred dollars (\$100).

(c) Every person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants, or any part thereof, except as otherwise provided by law, shall may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (c); or

(3) The offense resulted in any of the following:

(A) Violation of Section 1052 of the Water Code relating to illegal diversion of water;

(B) Violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of waste;

(C) Violation of Fish and Game Code Section 5650 or Section 5652 of the Fish and Game Code relating to waters of the state;

(D) Violation of Section 1602 of the Fish and Game Code relating to rivers, streams and lakes;

(E) Violation of Section 374.8 of the Penal Code relating to hazardous substances or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste;

(F) Violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act; or

(G) Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

SEC. 8.3. Section 11359 of the Health and Safety Code is amended to read:

11359. *Possession for Sale.*

Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who possesses marijuana for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person 18 years of age or over who possesses marijuana for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (b); or

(3) The offense occurred in connection with the knowing sale or attempted sale of marijuana to a person under the age of 18 years.

(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any marijuana.

SEC. 8.4. Section 11360 of the Health and Safety Code is amended to read:

11360. *Unlawful Transportation, Importation, Sale, or Gift.*

(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished as follows:

(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.

(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars (\$500), or by both such fine and imprisonment.

(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three or four years if:

(A) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(B) The person has two or more prior convictions under paragraph (2);

(C) The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer or give away marijuana to a person under the age of 18 years; or

(D) The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of marijuana or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an infraction misdemeanor and shall be punished by a fine of not more than one hundred dollars (\$100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, "transport" means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

SEC. 8.5. Section 11361.1 is added to the Health and Safety Code, to read:

11361.1. (a) The drug education and counseling requirements under Sections 11357, 11358, 11359, and 11360 shall be:

(1) Mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

(2) Free to participants, and the drug education provides at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under Sections 11357, 11358, 11359, and 11360.

SEC. 8.6. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. Destruction of Arrest and Conviction Records; Procedure; Exceptions.

(a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of subdivision (b), (c), (d), or (e) of Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (e) (d) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and such records must also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall begin to run from the date the person is released from custody. The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be

accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents (\$37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars (\$10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more

than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 8.7. Section 11361.8 is added to the Health and Safety Code, to read:

11361.8. (a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.

(2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.

(c) A person who is serving a sentence and is resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Section 3000.08 of the Penal Code or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.

(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(e) A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358,

11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.

(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).

(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.

(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under the Control, Regulate and Tax Adult Use of Marijuana Act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).

(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.

(n) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

SEC. 9. Industrial Hemp.

SEC. 9.1. Section 11018.5 of the Health and Safety Code is amended to read:

11018.5. Industrial Hemp.

(a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to nonpsychoactive types of the plant *Cannabis sativa* L. and the seed produced therefrom, having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, whether growing or not; and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, the resin extracted from any part of the plant, and or any other every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or mature

stalks, except the resin or flowering tops extracted produced therefrom, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination.

(b) The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

SEC. 9.2. Section 81000 of the Food and Agricultural Code is amended to read:

81000. Definitions.

For purposes of this division, the following terms have the following meanings:

(a) "Board" means the Industrial Hemp Advisory Board.

(b) "Commissioner" means the county agricultural commissioner.

(c) "Established agricultural research institution" means a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; any institution that is either:

(1) A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or

(2) An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.

(d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.

(e) "Secretary" means the Secretary of Food and Agriculture.

(f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.

(g) "Seed cultivar" means a variety of industrial hemp.

(h) "Seed development plan" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

SEC. 9.3. Section 81006 of the Food and Agricultural Code is amended to read:

81006. Industrial Hemp Growth Limitations; Prohibitions; Imports; Laboratory Testing.

(a) (1) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than five acres one-tenth of an acre at the same time and no portion of an

acreage of industrial hemp shall include plots of less than one contiguous acre.

(2) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than *one-tenth of an acre* at the same time and no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre.

(3) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than *one-tenth of an acre* and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.

(b) Ornamental and clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.

(c) Pruning and tending of individual industrial hemp plants is prohibited, except when grown by an established agricultural research institution or when the action is necessary to perform the tetrahydrocannabinol (THC) testing described in this section.

(d) Culling of industrial hemp is prohibited, except when grown by an established agricultural research institution, when the action is necessary to perform the THC testing described in this section, or for purposes of seed production and development by a registered seed breeder.

(e) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.

(f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.

(1) Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.

(2) The entire fruit-bearing part of the plant including the seeds shall be used as a sample. The sample cut shall be made directly underneath the inflorescence found in the top one-third of the plant.

(3) The sample collected for THC testing shall be accompanied by the following documentation:

(A) The registrant's proof of registration.

(B) Seed certification documentation for the seed cultivar used.

(C) The THC testing report for each certified seed cultivar used.

(4) The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC,

shall indicate the date and location of samples taken, and shall state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.

(5) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.

(6) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the registrant that grows industrial hemp shall submit additional samples for testing of the industrial hemp grown.

(7) A registrant that grows industrial hemp shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of THC exceeds 1 percent, the destruction shall take place within 48 hours after receipt of the laboratory test report. If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after receipt of the second test report.

(8) A registrant that intends to grow industrial hemp and who complies with this section shall not be prosecuted for the cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.

(9) Established agricultural research institutions shall be permitted to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this division.

(10) Except for an established agricultural research institution, a registrant that grows industrial hemp shall retain an original signed copy of the laboratory test report for two years from its date of sampling, make an original signed copy of the laboratory test report available to the department, the commissioner, or law enforcement officials or their designees upon request, and shall provide an original copy of the laboratory test report to each person purchasing, transporting, or otherwise obtaining from the registrant that grows industrial hemp the fiber, oil, cake, or seed, or any component of the seed, of the plant.

(g) If, in the Attorney General's opinion issued pursuant to Section 8 of the act that added this division, it is determined that the provisions of this section are not sufficient to comply with federal law, the department, in

consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

SEC. 9.4. Section 81007 of the Food and Agricultural Code is repealed.

~~81007. (a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.~~

~~(b) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.~~

SEC. 9.5. Section 81008 of the Food and Agricultural Code is amended to read:

81008. *Attorney General Reports; Requirements.*

(a) Not later than January 1, 2019, ~~or five years after the provisions of this division are authorized under federal law, whichever is later,~~ the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:

(1) A field of industrial hemp being used to disguise marijuana cultivation.

(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.

SEC. 9.6. Section 81010 of the Food and Agricultural Code is amended to read:

81010. *Operation of Division.*

(a) This division, ~~and Section 221 shall not become operative unless authorized under federal law on January 1, 2017.~~

(b) *The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 (commencing with Section 26000) of the Business and Professions Code.*

SEC. 10. Amendment.

This act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this act contained in Sections 5 to 5.5, inclusive, and Sections 6 to 6.3, inclusive, to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this act as stated in Section 3. Amendments to this act that enact protections for employees and other workers of licensees under Sections 6 to 6.3, inclusive, of this act

that are in addition to the protections provided for in this act or that otherwise expand the legal rights of such employees or workers of licensees under Sections 6 to 6.3, inclusive, of this act shall be deemed to be consistent with and further the purposes and intent of this act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this act. Except as otherwise provided, the provisions of the act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the act.

SEC. 11. Construction and Interpretation.

The provisions of this act shall be liberally construed to effectuate the purposes and intent of the Control, Regulate and Tax the Adult Use of Marijuana Act; provided, however, no provision or provisions of this act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the federal Controlled Substances Act, such that the provision or provisions of this act and federal law cannot consistently stand together.

SEC. 12. Severability.

If any provision in this act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 13. Conflicting Initiatives.

In the event that this measure and another measure or measures concerning the control, regulation, and taxation of marijuana, medical marijuana, or industrial hemp appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

PROPOSITION 65

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the Public Resources Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the Environmental Fee Protection Act.

SEC. 2. Findings and Declarations.

The people of the State of California find and declare as follows:

(a) In 2014, the California State Legislature enacted a ban on plastic carryout bags after lobbying by special interests including the California Grocers Association.

(b) The law further mandated that stores sell every paper or reusable carryout bag they provide to consumers for a minimum of 10 cents. Stores can charge even more if they so choose, and the grocers and retailers are specifically

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Legislative Analyst's Office
7/20/16 1:00 P.M.
FINAL

Proposition 64
Marijuana Legalization. Initiative Statute.

Yes/No Statement

A **YES** vote on this measure means: Adults 21 years of age or older could legally grow, possess, and use marijuana for nonmedical purposes, with certain restrictions. The state would regulate nonmedical marijuana businesses and tax the growing and selling of medical and nonmedical marijuana. Most of the revenue from such taxes would support youth programs, environmental protection, and law enforcement.

A **NO** vote on this measure means: Growing, possessing, or using marijuana for nonmedical purposes would remain illegal. It would still be legal to grow, possess, or use marijuana for medical purposes.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact

- The size of the measure's fiscal effects could vary significantly depending on:
 - (1) how state and local governments choose to regulate and tax marijuana,
 - (2) whether the federal government enforces federal laws prohibiting marijuana, and
 - (3) how marijuana prices and consumption change under the measure.
- Net additional state and local tax revenues that could eventually range from the high hundreds of millions of dollars to over \$1 billion annually. Most of these funds would be required to be spent for specific purposes such as youth programs, environmental protection, and law enforcement.

- Net reduced costs potentially in the tens of millions of dollars annually to state and local governments primarily related to a decline in the number of marijuana offenders held in state prisons and county jails.

Ballot Label

Fiscal Impact: Additional tax revenues ranging from high hundreds of millions of dollars to over \$1 billion annually, mostly dedicated to specific purposes. Reduced criminal justice costs of tens of millions of dollars annually.

BACKGROUND

State Marijuana Laws

Marijuana Generally Illegal Under State Law. Under current state law, it is generally illegal to possess or use marijuana. (Please see the nearby box for detailed information on how marijuana is used.) Penalties for marijuana-related activities vary depending on the offense. For example, possession of less than one ounce of marijuana (the equivalent of roughly 40 marijuana cigarettes, also known as “joints”) is punishable by a fine, while selling or growing marijuana may result in a jail or prison sentence.

How do Individuals Use Marijuana?

Smoking. The most common way individuals use marijuana is by smoking it.

Typically, users smoke the dried flowers of the marijuana plant. Dried marijuana leaves can also be smoked but this is rare because leaves contain only small amounts of tetrahydrocannabinol (THC), which is the ingredient in marijuana that produces a "high." Marijuana leaves, flowers, and stalks can also be processed into concentrated marijuana and smoked. Examples of concentrated marijuana include hash and hash oil. Concentrated marijuana is much stronger than dried marijuana, often containing five to ten times the THC levels found in dried marijuana flowers.

Vaporizing. Some users consume marijuana with devices called vaporizers. A vaporizer heats up dried marijuana or concentrated marijuana but does not burn it. This heating process creates a gas containing THC that is inhaled.

Eating. Marijuana can also be added to food. Edible marijuana products are typically made by adding THC from the plant into ingredients (like butter or oil) that are used to prepare foods such as brownies, cookies, or chocolate bars.

Other Methods. Other less common ways of using marijuana include drinking beverages infused with marijuana and rubbing marijuana infused lotions on the skin.

Proposition 215 Legalized Medical Marijuana. In 1996, voters approved Proposition 215, which made it legal under state law for individuals of any age to use marijuana in California for medical purposes. Individuals must have a recommendation from a doctor to use medical marijuana. In 2003, the Legislature legalized medical marijuana collectives, which are nonprofit

organizations that grow and provide marijuana to their members. Collectives are not now licensed or regulated by the state, but cities and counties can regulate where and how medical marijuana is grown and sold by individuals or collectives.

State Currently Adopting New Medical Marijuana Regulations. Recently, new state laws were adopted to begin regulating medical marijuana. As shown in Figure 1, a new Bureau of Medical Cannabis Regulation and other state agencies are responsible for this regulation. The new laws require the state to set standards for labelling, testing, and packaging medical marijuana products and to develop a system to track such products from production to sale. Currently, these regulations are being developed by the different regulatory agencies. Under the new laws, medical marijuana collectives must be closed within a few years and replaced by state-licensed businesses. Local governments will continue to have the ability to regulate where and how medical marijuana businesses operate.

Figure 1 Medical Marijuana Industry to Be Regulated by Multiple State Agencies	
Regulatory Agency	Primary Responsibilities
Bureau of Medical Cannabis Regulation	License medical marijuana distributors, transporters, testing facilities, and retailers.
Department of Food and Agriculture	License and regulate medical marijuana growers.
Department of Public Health	License and regulate producers of edible marijuana products.
State Water Resources Control Board	Regulate the environmental impacts of marijuana growing on water quality.
Department of Fish and Wildlife	Regulate environmental impacts of marijuana growing.
Department of Pesticide Regulation	Regulate pesticide use for growing marijuana.

Taxes on Medical Marijuana. State and local governments currently collect sales tax on medical marijuana. A small number of cities also impose additional taxes specifically on medical

marijuana. The total amount of state and local taxes collected on medical marijuana likely is several tens of millions of dollars annually.

Federal Marijuana Laws

Under federal law, it is illegal to possess or use marijuana, including for medical use. The U.S. Supreme Court ruled in 2005 that federal agencies could continue under federal law to prosecute individuals who possess or use marijuana for medical purposes even if legal under a state's law. Currently, however, the U.S. Department of Justice (DOJ) chooses not to prosecute most marijuana users and businesses that follow state and local marijuana laws if those laws are consistent with federal priorities. These priorities include preventing minors from using marijuana and preventing marijuana from being taken to other states.

PROPOSAL

This measure (1) legalizes adult nonmedical use of marijuana, (2) creates a system for regulating nonmedical marijuana businesses, (3) imposes taxes on marijuana, and (4) changes penalties for marijuana-related crimes. These changes are described below.

Legalization of Adult Nonmedical Use of Marijuana

Personal Use of Nonmedical Marijuana. This measure changes state law to legalize the use of marijuana for nonmedical purposes by adults age 21 and over. Figure 2 summarizes what activities would be allowable under the measure. These activities would remain illegal for individuals under the age of 21.

Figure 2 Proposition 64 Legalizes Nonmedical Marijuana Activities, With Restrictions		
Activity	Activities Allowed Under the Measure	Activities Not Allowed Under the Measure
Smoking marijuana	Smoking marijuana in a private home or at a business licensed for on-site marijuana consumption.	Smoking marijuana (1) while driving a car, (2) in any public place (other than at a business licensed for on-site consumption), or (3) anywhere that smoking tobacco is prohibited.
Possessing marijuana for personal use	Possession of up to 28.5 grams (about one ounce) of marijuana and up to 8 grams of concentrated marijuana (such as hash).	Possession of marijuana on the grounds of a school, day care center, or youth center while children are present.
Growing marijuana	Growing up to six marijuana plants and keeping the marijuana produced by the plants within a private home.	Growing in an area that is unlocked or visible from a public place.
Giving away marijuana	Giving away to other adults up to 28.5 grams of marijuana and up to 8 grams of concentrated marijuana.	Providing marijuana to minors under the age of 21 for nonmedical use.

Purchasing Marijuana. Under the measure, adults age 21 and over would be able to purchase marijuana at state-licensed businesses or through their delivery services. Businesses could generally not be located within 600 feet of a school, day care center, or youth center, unless allowed by a local government. In addition, businesses selling marijuana could not sell tobacco or alcohol. Under the measure, local governments could authorize licensed businesses to allow on-site consumption of marijuana. However, such businesses could not allow consumption in areas within the presence or sight of individuals under the age of 21 or areas visible from a public place. In addition, businesses allowing on-site marijuana consumption could not allow consumption of alcohol or tobacco.

Regulation of Nonmedical Marijuana Businesses

State Regulation of Nonmedical Marijuana Businesses. This measure changes the name of the Bureau of Medical Cannabis Regulation to the Bureau of Marijuana Control and makes it also responsible for regulating and licensing nonmedical marijuana businesses. In addition, the measure requires other state agencies to regulate and license different parts of the nonmedical

marijuana industry. These state agencies would have responsibilities similar to the ones they currently have for medical marijuana. The measure requires each licensing agency to charge fees that cover its marijuana regulatory costs. Under the measure, the system for tracking medical marijuana products that must be developed under current law would be expanded to include marijuana for nonmedical use. The measure also creates the Marijuana Control Appeals Panel to hear appeals from individuals affected by a decision of the state's regulatory agencies. Decisions of the panel could be appealed to the courts.

Local Regulation of Nonmedical Marijuana Businesses. Under the measure, cities and counties could regulate nonmedical marijuana businesses. For example, cities and counties could require nonmedical marijuana businesses to obtain local licenses and restrict where they could be located. Cities and counties could also completely ban marijuana-related businesses. However, they could not ban the transportation of marijuana through their jurisdictions.

Taxation of Marijuana

The measure imposes new state taxes on growing and selling both medical and nonmedical marijuana. As shown in Figure 3, the new tax on growing marijuana would be based on a dollar amount per ounce of marijuana, and the new excise tax would be based on the retail price of marijuana products sold.

Figure 3 Taxation of Marijuana Under Proposition 64		
Type of Tax	Type of Marijuana Taxed	Rate
New state tax on growing	Both medical and nonmedical.	\$9.25 per ounce of dried marijuana flowers and \$2.75 per ounce of dried marijuana leaves.
New state retail excise tax	Both medical and nonmedical.	15 percent of retail price.
Existing state and local sales tax	Nonmedical only.	Rates vary across the state but average around 8 percent.
Existing and future local taxes	Can apply to both medical and nonmedical.	Subject to local government decisions.

The measure would also affect sales tax revenue to the state and local governments in two ways. First, legalizing the sale of nonmedical marijuana will result in new sales tax revenue. (This would happen automatically, as generally products are subject to this tax under current law.) Second, the sale of medical marijuana, which is currently subject to sales tax, is specifically exempted from that tax. The measure does not change local governments' existing ability to place other taxes on medical marijuana and does not restrict their ability to tax nonmedical marijuana.

Beginning in 2020, the tax on growing marijuana would be adjusted annually for inflation. The measure also allows the state Board of Equalization to annually adjust the tax rate for marijuana leaves to reflect changes in the price of marijuana flowers relative to leaves. In addition, the measure allows the board to establish other categories of marijuana (such as frozen marijuana) for tax purposes and specifies that these categories would be taxed at their value relative to marijuana flowers.

Allocation of Certain State Tax Revenues. Revenues collected from the new state retail excise tax and the state tax on growing marijuana would be deposited in a new state account, the California Marijuana Tax Fund. Certain fines on businesses or individuals who violate regulations created by the measure would also be deposited into this fund. Monies in the fund would first be used to pay back certain state agencies for any marijuana regulatory costs not covered by license fees. A portion of the monies would then be allocated in specific dollar amounts for various purposes, as shown in Figure 4.

Figure 4 Proposition 64 Allocates a Portion of State Revenues for Specific Purposes		
Purpose	Annual Funding	Duration
Grants for certain services (such as job placement assistance and substance use disorder treatment) in communities most affected by past drug policies	\$10 million to \$50 million ^a	2018-19 and ongoing
Evaluate effects of the measure	\$10 million	2018-19 through 2028-29
Create and adopt methods to determine whether someone is driving while impaired, including by marijuana	\$3 million	2018-19 through 2022-23
Study the risks and benefits of medical marijuana	\$2 million	2017-18 and ongoing

^a \$10 million in 2018-19, increasing by \$10 million annually until 2022-23, and \$50 million each year thereafter.

All remaining revenues (the vast majority of monies deposited in the fund) would be allocated as follows:

- 60 percent for youth programs—including substance use disorder education, prevention, and treatment.
- 20 percent to clean up and prevent environmental damage resulting from the illegal growing of marijuana.
- 20 percent for (1) programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and (2) a grant program designed to reduce any potential negative impacts on public health or safety resulting from the measure.

Penalties for Marijuana-Related Crimes

Change in Penalties for Future Marijuana Crimes. The measure changes state marijuana penalties. For example, possession of one ounce or less of marijuana is currently punishable by a \$100 fine. Under the measure, such a crime committed by someone under the age of 18 would instead be punishable by a requirement to attend a drug education or counseling program and

complete community service. In addition, selling marijuana for nonmedical purposes is currently punishable by up to four years in state prison or county jail. Under the measure, selling marijuana without a license would be a crime generally punishable by up to six months in county jail and/or a fine of up to \$500. In addition, individuals engaging in any marijuana business activity without a license would be subject to a civil penalty of up to three times the amount of the license fee for each violation. While the measure changes penalties for many marijuana-related crimes, the penalties for driving a vehicle while under the impairment of marijuana would remain the same. The measure also requires the destruction—within two years—of criminal records for individuals arrested or convicted for certain marijuana-related offenses.

Individuals Previously Convicted of Marijuana Crimes. Under the measure, individuals serving sentences for activities that are made legal or are subject to lesser penalties under the measure would be eligible for resentencing. For example, an offender serving a jail or prison term for growing or selling marijuana could have their sentence reduced. (A court would not be required to resentence someone if it determined that the person was likely to commit certain severe crimes.) Qualifying individuals would be resentenced to whatever punishment they would have received under the measure. Resentenced individuals currently in jail or prison would be subject to community supervision (such as probation) for up to one year following their release, unless a court removes that requirement. In addition, individuals who have completed sentences for crimes that are reduced by the measure could apply to the courts to have their criminal records changed.

FISCAL EFFECTS

Fiscal Effects Subject to Significant Uncertainty

This measure would affect both costs and revenues for state and local governments. The size of these effects could vary significantly depending primarily on three key factors:

- First, it would depend on how state and local governments chose to regulate and tax marijuana. For example, if many cities and counties banned marijuana businesses, the amount of revenue from taxes on marijuana would be less than without such bans.
- Second, it would depend on whether the U.S. DOJ enforced federal laws prohibiting marijuana. For example, if the U.S. DOJ chose to prosecute state-licensed marijuana businesses, there could be significantly reduced revenue from marijuana taxes. This analysis assumes the U.S. DOJ will follow its current policy regarding enforcement of marijuana laws.
- Third, the fiscal effects would depend heavily on how marijuana prices and consumption change under the measure. This analysis assumes that the price of marijuana would decline significantly. This is primarily because (1) businesses would become more efficient at producing and distributing marijuana and (2) the price of marijuana would no longer be inflated to compensate for the risk of selling an illegal drug. This analysis also assumes that marijuana consumption would increase under the measure. This is primarily because of (1) the reduced price and (2) the reduced legal risk for marijuana users.

The actual effects on marijuana prices and consumption are unknown, as are the regulatory and enforcement actions of the state, federal, and local governments. As such, the potential cost and revenue impacts of this measure described below are subject to significant uncertainty.

Effects on State and Local Costs

Reduction in Various Criminal Justice Costs. The measure would result in reduced criminal justice costs for the state and local governments. This is primarily related to a decline in the number of offenders held in state prisons and county jails for growing and selling marijuana. The measure would also reduce the number of such offenders placed under community supervision (such as county probation). In addition, the measure would likely reduce other criminal justice costs, such as state court costs for the handling of related criminal cases.

The above cost reductions would be partially offset by increased costs in several areas. In particular, the courts would incur costs to process applications from individuals seeking to be resentenced or have their criminal records changed. In addition, there would be costs to supervise resentenced offenders in the community. These various costs would be incurred largely within the first couple of years following the passage of the measure. In addition, there would be ongoing costs in a few areas. For example, there would be court costs to destroy records of arrest and conviction for individuals who commit certain marijuana-related crimes. In addition, there would be ongoing costs to operate drug education and counseling programs as required by the measure. There would also be some increased criminal justice costs (such as county jail and state court costs) to the extent that increased marijuana use leads to increased marijuana-related crime (such as driving while impaired by marijuana).

In total, the net reduction in state and local criminal justice costs from the above changes could be in the tens of millions of dollars annually. In many cases, these resources would likely be redirected to other criminal justice activities.

Effects on State and Local Health Programs. The measure could also have various fiscal effects on state and local health programs as a result of increased marijuana use. For example, the measure could result in an increase in the number of individuals seeking publicly funded substance use treatment. Any additional costs for such services could be partially or entirely offset by additional funding that would be available for substance use treatment under the measure. Although research on the health effects of marijuana use is limited, there is some evidence that smoking marijuana has harmful effects. For example, marijuana smoke is among a list of substances identified by the state to cause cancer. To the extent that an increase in marijuana use negatively affects users' health, it would increase somewhat state and local health program costs.

Increased State Regulatory Costs. The measure would also result in costs for the state to regulate nonmedical marijuana businesses. These costs would vary depending on how the state chooses to regulate marijuana but could amount to several tens of millions of dollars annually. Eventually, these costs would likely be entirely offset by license fees and tax revenues.

Effects on State and Local Revenues

Tax Revenues Could Reach \$1 Billion Annually, but Not Right Away. State and local governments would receive more revenues—including sales, excise, and income taxes—from marijuana sales allowed under this measure. This increase in tax revenue would result primarily from (1) new state excise taxes on growing and selling marijuana, (2) individuals switching from

illegal purchases of marijuana (made from individuals who do not pay all the taxes they owe) to legal purchases (at businesses that collect and pay the taxes they owe), and (3) an increase in consumption of marijuana. In addition, lower marijuana prices due to the measure may provide individuals using marijuana now with some savings. This could allow them to purchase other legal products that generate tax revenue. These revenue increases, however, would be partially offset by the loss of sales taxes now collected on medical marijuana sales, as the measure exempts such purchases from these taxes.

In total, our best estimate is that the state and local governments could eventually collect net additional revenues ranging from the high hundreds of millions of dollars to over \$1 billion annually. However, the revenues are likely to be significantly lower in the first several years following the passage of the measure. This is because it will take a couple of years for the state to issue licenses to marijuana businesses. In addition, it will likely take time for newly licensed businesses to set up efficient production and distribution systems. Prices in the legal market will likely fall as more legal businesses are licensed and as they become more efficient. As this occurs, more consumers will begin purchasing marijuana legally. It is unknown precisely how long this process will take but it could be several years after the measure passes before revenues reach the range described above. As discussed earlier, the measure requires that most of these funds be spent on specified purposes.

Additional Local Government Revenues. The measure could result in additional revenues if local governments impose taxes on marijuana. The amount of additional revenues could vary significantly, depending primarily on how many local governments impose marijuana taxes and at what rates. These revenues could easily amount to tens of millions of dollars annually.

Potential Impact on Local Economies in Marijuana Producing Areas. Exports of marijuana currently contribute significantly to the economy in parts of Northern California, such as Humboldt, Mendocino, and Trinity Counties. Precisely how this measure would affect these local economies is unknown. Lower marijuana prices and more opportunity for legal cultivation elsewhere could hurt the economy in these areas, reducing local government tax revenues. If, however, local growers and businesses successfully marketed their marijuana products as premium goods, consumers might be willing to pay above-average prices for them. If that occurred, it could help offset some of the negative economic effects in those areas.

MEMORANDUM



City of Campbell
Police Department

To: Honorable Mayor and City Council

Date: October 18, 2016

From: Gary Berg, Captain 

Via: Mark Linder, City Manager 
David Carmichael, Chief of Police 

Subject: Medical Marijuana Dispensary Overview

PURPOSE

The purpose of this informational memorandum is to give an overview of potential impacts if marijuana dispensaries were to open in the City of Campbell. This is by no means an in-depth analysis, but contains information from a variety of sources, including the City of San Jose and other local jurisdictions that have experience dealing with marijuana dispensaries.

The memorandum is intended to provide a concise snapshot of various issues that could reasonably be anticipated. The information is offered only for consideration.

BACKGROUND

The existing Compassionate Use Act of 1996, the Medical Marijuana Program, and the Medical Marijuana Regulation and Safety Act are currently in effect and govern medical marijuana in California. None of these laws or programs requires or imposes an affirmative duty or mandate upon a local government to allow, authorize, or sanction the establishment of facilities that cultivate or process medical marijuana within its jurisdiction.

In Santa Clara County, no jurisdiction other than the City of San Jose allows medical marijuana dispensaries or deliveries. In February 2016, the Campbell City Council joined other local cities and took action by prohibiting dispensaries, processing, and delivery of medical marijuana in Campbell and affirming that cultivation is prohibited under the existing zoning code provisions.

POTENTIAL IMPACTS OF MEDICAL MARIJUANA DISPENSARIES

Traffic and Parking

According to the City of San Jose, it is not uncommon for medical marijuana dispensaries to have between 500 and 700 customers on a daily basis. This is approximately 50 people per hour who arrive on foot and in vehicles. This can have a substantial impact on traffic congestion, parking issues, and an influx of issues in both residential areas and business districts. This traffic increase would likely have a

significant impact on the Police Department's current ability to address traffic concerns throughout the entire City and would require additional police resources.

Safety and Neighborhood Concerns

While medical marijuana dispensaries may have adequate onsite security to discourage violent crime within the business, this cannot completely eliminate criminal activity at the business and in surrounding areas. Because they are repositories of valuable marijuana crops and large amounts of cash, dispensaries can be targeted by criminals. Based on experiences in other jurisdictions, some safety concerns include armed robberies, felonious assaults, organized crime (particularly in the supply chain), and money laundering.

Other issues associated with dispensaries include, loitering, diversion of marijuana to non-patients (i.e. "shoulder tapping"), increased prevalence of marijuana smoking in public and increased use of marijuana by minors, to name just a few. In addition, marijuana grown or stored onsite can create strong odors which are offensive to many people and detectable far beyond property boundaries.

Even though some issues may be less serious, they would still require additional police resources in order to maintain order and quality of life.

OVERSIGHT

Police

There would need to be an extensive application process, requiring a number of management plans, security plans, cultivation plans, etc. which take large amounts of staff time to review and revise. The registration process would also need to include physical inspections of the business.

There would be a need to regularly conduct unannounced visits and inspections on an ongoing basis. Each employee would need to be backgrounded by the Police Department.

The Police Department would be responsible for inspecting business practices from how a patient signs up, patient verification, computer systems used for tracking patients, cultivation and inventory, point of sale systems, marijuana and cash handling procedures, cultivation and harvesting procedures, security guard card verification, security procedures review, and video surveillance camera verification. Police Dispatch would have access to the surveillance cameras which would need to be remotely monitored.

The investigation of illegal sales, nuisance complaints, parking issues, traffic congestion, money laundering, and other associated issues would require dedicated police resources. After consulting with the San Jose Police Department and understanding the different aspects of medical marijuana dispensaries, we foresee the need to add additional staffing including one supervisor (Sergeant) as well as at least one officer to handle the various issues involved with oversight.

Finance

Financial oversight of medical marijuana dispensaries has proven difficult in other local jurisdictions. The City of San Jose has experienced significant underreporting of sales at dispensaries. Based on the amount of expected transactions and the significant amount of cash revenue, there would be a need to conduct audits of dispensary's financial records and point of sale systems to ensure they are paying the appropriate tax. San Jose has several dedicated staff members in their Finance Department just to try and handle this aspect of dispensary operations. Based on the current information available, it would be prudent to add an additional accountant to the Finance Department to oversee this aspect of dispensary operation.

Planning

Code Enforcement would play an important role in the opening and operation of medical marijuana dispensaries. They would need to be involved in the registration process of opening up a dispensary as well as onsite inspections. On an ongoing basis, Code Enforcement would be responsible for illegal building modification and other municipal code enforcement.

The City of San Jose has multiple Code Enforcement Officers assigned just for medical marijuana dispensary enforcement and compliance. Based on the anticipated oversight requirements, it is believed that one additional Code Enforcement Officer would be required to oversee three medical marijuana dispensaries in the City of Campbell.

City Attorney

Other local jurisdictions have found that by legalizing medical marijuana dispensaries, other unapproved dispensaries begin opening. In order to close down the unapproved dispensaries, local jurisdictions would be required to go through lengthy and costly legal proceedings.

In order to complete the necessary legal work for both legally operating dispensaries as well as enforcing civil injunctions against dispensaries that are selling without approval, it is anticipated that additional legal assistance would be necessary.

STAFF COSTS

Based on the above overview and discussions with other jurisdictions experienced with medical marijuana dispensaries, it is reasonably believed that the following additional resources would be needed if three medical marijuana dispensaries were opened in the City of Campbell. The following estimates are not an actual request, but based on the information we currently have.

- 1.0 FTE Police Sergeant – \$264,272
- 1.0 FTE Police Officer – \$224,631
- 1.0 FTE Code Enforcement Officer – \$139,203
- 1.0 FTE Accountant – \$145,879

0.5 FTE City Attorney – \$194,552 (estimate)

These additional 4.5 FTE positions would result in a \$968,537 increase in personnel costs (total compensation) each year on a reoccurring basis. Beyond that cost, it is anticipated that there would be additional expenses associated with equipment and personnel costs that are being redirected from other areas (i.e.: traffic enforcement, patrol/investigations resources, etc.).

While this memorandum gives an overview of what the proposed ordinance would mean for the City of Campbell, it does not address the current proposition to legalize recreational marijuana in the State of California. It is important to note that regardless of whether that proposition passes or not, the City of Campbell will retain the authority to restrict both medical and recreational dispensaries from operating within its jurisdiction.