CITY OF BELLFLOWER
"GROWING TOGETHER"

# staff report

**TO:** Honorable Mayor and Members of the City Council

**ATTENTION:** Jeffrey L. Stewart, City Manager

**FROM:** Art Bashmakian, Director of Planning and Building Services
Jason Friedman, Assistant Planner

**SUBJECT:** Consideration and possible action to 1) conduct a public hearing regarding regulating marijuana-related businesses; 2) read by title only, waive further reading, and introduce Ordinance No. 13XX - An Ordinance repealing Chapter 8.48 and Section 17.04.110 of the Bellflower Municipal Code and adding Title 14 and Chapter 17.94 pertaining to the regulation of marijuana-related businesses and land uses; 3) adopt Resolution No. 16-XX - A Resolution establishing application requirements and minimum qualifications for a marijuana related business permit pursuant to bellflower municipal code § 14.08.040; 4) consider potential fees for processing marijuana-related business permit applications; and 5) Consider draft Ordinance No. 13XX (adding Chapter 3.37 to the BMC entitled "Cannabis Business Tax") which would add tax regulations and a tax rate to the BMC (if approved by the voters) and provide direction as to whether to prepare documents to place the matter as a proposition for the March 7, 2017, General Municipal Election ballot (last date to do so is December 9, 2016).

**DATE:** October 10, 2016

## EXECUTIVE SUMMARY

On November 8, 2016, California voters will consider whether to approve the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA"). If approved, the AUMA will decriminalize cannabis and cannabis related products in California. Additionally, the AUMA will establish a statewide regulatory system for operating marijuana businesses and allow local jurisdictions to either prohibit marijuana related businesses ("Cannabis Operations") or adopt local regulations permitting such businesses. AUMA will not, and cannot, change federal law which currently prohibits the possession, sale and use of cannabis.

If adopted, the proposed ordinance, resolution and tax would allow operation of Cannabis Operations within the City of Bellflower and impose a tax upon them (collectively, the "program"). In addition to creating a local permitting process – which will require both a conditional use permit ("CUP") and regulatory permit ("Permit") – allowing Cannabis Operations within the City, the proposed program would (if approved by voters in March 2017) also impose a tax upon such operations. This program would only become effective if AUMA is adopted by California voters; the regulatory portions of the program would commence January 1, 2017 and the tax (if approved by local voters) would become effective after the March 7, 2017, General Municipal Election.

The primary purpose of this program is to generate revenue for the City's General Fund. Preliminary estimates suggest the City may receive between $1.8 million and $3.4 million in annual revenue (cannabis business tax and sales tax) from the first full year of issuing 12 permits to 2023-24, respectively, when all the proposed tax rates are fully phased in prior to subsequent annual CPI adjustments.

## RECOMMENDATION TO CITY COUNCIL

1) Open the public hearing; take documentary and testimonial evidence; and after considering the evidence, read by title only, waive further reading, and introduce Ordinance No. 13XX and adopt Resolution No. 16-XX;

2) Consider the amount of the proposed application fees for processing regulatory permits and provide direction as to the amount and effective date;

3) Consider draft Ordinance No. 13XX (adding Chapter 3.37 to the BMC entitled "Cannabis Business Tax") which would add tax regulations and a tax rate to the BMC (if approved by the voters) and provide direction as to whether to prepare documents to place the matter as a proposition for the March 7, 2017, General Municipal Election ballot (last date to do so is December 9, 2016); or

4) Alternatively, discuss and take other action related to this item.

## FISCAL IMPACT

If the program is fully implemented, the City is projected to receive between $1.8 million and $3.4 million in annual revenue (cannabis business tax and sales tax) from the first full year of issuing 12 permits to 2023-24, respectively, when all the proposed tax rates are fully phased in prior to subsequent annual CPI adjustments. Such tax revenue may be used for general municipal purposes, i.e., used by the City's General Fund.

## PUBLIC NOTICE

With regard to Ordinance No. 13XX (which, in part, would amend the City's zoning regulations), a Notice of Public Hearing was published in the *Herald American* newspaper on September 29, 2016; and public hearing notices were posted at City Hall, Brakensiek Library, Bellflower Substation, Thompson Park, and Simms Park on September 26, 2016.

## CEQA STATUS

In accordance with the California Environmental Quality Act (Public Resources Code §§ 21000, *et seq.*; "CEQA") and CEQA regulations (Cal. Code Regs. tit. 14, §§ 15000, *et seq.*), an Initial Study and Negative Declaration were prepared in accordance with the provisions of CEQA. The Initial Study and Negative Declaration determined that the adoption of Ordinance No. 13XX will not result in significant environmental impacts and that no further environmental review is required. The 20-day public review period for this document began on August 4, 2016 and expired on August 23, 2016. No public comments were received. No CEQA analysis is required for Ordinance No. 13XX at this time.

## BACKGROUND

If approved by voters, AUMA would generally allow the recreational use of marijuana (and marijuana products) by adults in California. In addition, AUMA would impose a statewide tax upon retail sales and cultivation of marijuana. Such taxes are in addition to the statewide sales tax.

AUMA also allows local jurisdictions to determine whether or not to allow the sale and operation of Cannabis Operations within their jurisdictions. If a local jurisdiction allows such activity, it may adopt local regulations for such businesses and impose local taxes.

At its April 26, 2016, Meeting, the City Council directed that staff prepare documents for consideration that, if adopted, would implement a program allowing for Cannabis Operations to operate within the City and impose a tax upon such businesses (the "Program"). The City Council discussion at that time acknowledged that AUMA, if it became effective, would provide a mechanism whereby the City could tap into a new revenue stream to help improve various community needs including, without limitation, facilities, infrastructure, and parks.

The program includes several components for City Council consideration:

1. Changes to the City's zoning regulations that would allow for Cannabis Operations. Such zoning regulations would require that Cannabis Operations secure a CUP and adhere to particular distance requirements before being able to apply for a Permit (discussed below);
2. Adding a new Title 14 to the BMC establishing new regulations for obtaining a Permit;
3. Establishing minimum qualifications for securing a Permit;
4. Establishing permit application fees for processing a Permit; and
5. Subject to voter approval in March 2017, imposing a tax upon Cannabis Operations.

Together, these components would allow the City to secure an estimated $1.8 million to $3.4 million (by 2023-24 when all the tax rates are fully phased in excluding subsequent CPI adjustments) per year. Such monies could be used by the City for general municipal purposes since they would be part of the City's General Fund.

Based upon the distance requirements for Cannabis Operations, staff identified approximately 130 sites that are outside the 600-foot buffer. Many of the sites are fully established businesses like motels, self-storage facilities, mobile home parks and various commercial and industrial established businesses. Many of the sites are also small parcels that may not be appropriate for cannabis related operations unless some of these parcels are combined. Some parcels are not only small, but may be too close to residential uses; some even share residential streets. Discounting the smaller parcels and the ones that may not be compatible with adjacent residential uses, there are approximately 60 to 70 parcels that could accommodate Cannabis Operations. As a result, the proposed regulatory ordinance (Ordinance No. 13XX) allows a maximum of

12 Permits within the City at any one time. Such Permits, however, can only be issued if applicants also secure a CUP for the location of the proposed Cannabis Operation. As a result, persons seeking to conduct a Cannabis Operation are required to both obtain the permission of the land owner and secure a CUP from the Planning Commission.

If a CUP were secured, qualified persons could apply for a Cannabis Operations Permit. Resolution No. 16-XX, establishes minimum qualifications a person would need to obtain a Permit. In addition to having a state permit under AUMA (which, among other things, would require applicants to clear a criminal background check), applicants for a Permit would be required to demonstrate adequate finances; business acumen (which would be supported by a business plan); and good moral character.

The City's costs for reviewing applications for Permits would be recouped by a fee in amount determined by City Council resolution. Currently, staff estimates that fee to be approximately $4,000. Any additional costs incurred by the City as a result of third-party review (for example by the Los Angeles Sheriff's Office, Los Angeles Fire Department, or City Attorney) would be borne by the applicant. An exact amount may be established by the City Council at a later date.

Of greatest interest to the City is the proposed tax that would be imposed for the privilege of operating a Cannabis Operation within Bellflower's jurisdiction. A draft ordinance implementing that tax is included for City Council consideration. In short, the proposed tax would impose both a percentage and a flat tax (similar to that contemplated by the AUMA) upon Cannabis Operations. If approved by voters in March 2017, the cannabis tax would provide the City with an estimated annual revenue stream of $1.8 million to $3.4 million (by 2023-24 when all the tax rates are fully phased in excluding subsequent CPI adjustments). While parts of the proposed ordinance may be adopted by the City Council on its own authority, the tax and the tax rate must be approved by voters at the March 7, 2017, General Municipal Election. The last date to place this matter on the ballot is December 9, 2016.

If approved by the City Council, the non-tax components of the Program would become effective at the same time as AUMA (assuming it is approved): January 1, 2017. The tax component would only take effect if Bellflower's voters approve it in March 2017.

Note that neither the AUMA nor the Program can legalize the possession, sale, or use of marijuana or marijuana-related products under federal law. While Congress has taken steps to stymie the prosecution of marijuana related offenses under federal law, the law itself has not been changed. Congress' willingness to undertake such change to the United States Code is uncertain and will also likely depend upon the presidential election on November 8, 2016. AUMA, however, will – for all practical purposes – allow California to follow the example of several states and legalize the recreational use of marijuana by adults.

## ATTACHMENTS

Ordinance No. 13XX (Marijuana-Related Businesses) ..... 6
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**CITY OF BELLFLOWER**

**ORDINANCE NO. 13XX**

**AN ORDINANCE REPEALING CHAPTER 8.48 AND SECTION 17.04.110 OF THE BELLFLOWER MUNICIPAL CODE AND ADDING TITLE 14 AND CHAPTER 17.94 PERTAINING TO THE REGULATION OF MARIJUANA-RELATED BUSINESSES AND LAND USES**

**THE CITY COUNCIL DOES ORDAIN AS FOLLOWS:**

**SECTION 1**: The City Council finds and determines as follows:

A. On November 5, 1996, the voters of the State of California approved Proposition 215, codified as Health and Safety Code Section 11362.5, et seq., and entitled the Compassionate Use Act of 1996 ("CUA"). The CUA exempts qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for personal medical use.

B. The intent of the CUA is to enable persons in the State of California who are in need of marijuana for medicinal purposes to obtain it and use it under limited, specified circumstances.

C. The California Legislature enacted Senate Bill 420 in October 2003, codified at Health and Safety Section 11362.7, *et seq.*, ("Medical Marijuana Program Act," or "MMPA") to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420. The MMPA created a state-approved voluntary medical marijuana identification card program and provided for certain additional immunities from state marijuana laws. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances.

D. The CUA and MMPA do not "legalize" marijuana, but provide limited defenses to certain categories of individuals with respect to certain conduct and certain state criminal offenses.

E. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that "[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land. . . ." Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that "there is no right – and certainly no constitutional right – to cultivate medical marijuana. . . . ." The Court in *Maral* affirmed the ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.

F. The Federal Controlled Substances Act, 21 U.S.C. § 801, et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United State, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful

under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana.

G. On October 9, 2015 Governor Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act ("MMRSA"). MMRSA established a statewide licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. MMRSA allows the City to completely prohibit commercial medical marijuana activities.

H. The limited immunity from specified state marijuana laws provided by the CUA and MMPA does not confer a land use right or the right to create or maintain a public nuisance.

I. The Bellflower Municipal Code ("BMC") currently prohibits all commercial cannabis activity in the City, including medical marijuana dispensaries, medical marijuana cultivation, and medical marijuana delivery services.

J. A statewide initiative entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA") qualified for the November 2016 ballot. If the AUMA is approved by the voters, it will decriminalize (under California law), control and regulate the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years of age or older. The AUMA would also tax the commercial growth and retail sale of marijuana. It does not, and cannot, affect federal regulations as to marijuana or its derivatives.

K. The AUMA expressly preserves local control over the regulation of marijuana-related businesses and marijuana-related land uses (proposed Business & Professions Code § 26200, *et seq.*)

L. The City Council wishes to authorize limited cultivation, manufacture, dispensing, and delivery of marijuana and marijuana products in the City, subject to reasonable controls and regulations that will ensure marijuana-related activities do not pose a threat to the public health, safety or welfare, or pose a nuisance to properties or persons.

M. The activities proposed under this ordinance are consistent with and implement the goals and policies of the Bellflower General Plan.

N. The Planning Commission held duly-noticed public hearings on September 6, 2016 and September 19, 2016, at which time it considered all evidence presented, both written and oral. On September 19, 2016, it voted to adopt a resolution recommending the City Council adopt this Ordinance.

**SECTION 2**: *Authority.* This ordinance is adopted pursuant to the authority granted by the California Constitution and other California law including, without limitation, Article XI, Section 7 of the California Constitution; the Compassionate Use Act; the Medical Marijuana Program Act; the Medical Marijuana Regulation and Safety Act; and the Control, Regulate and Tax Adult Use of Marijuana Act.

**SECTION 3**: Chapter 8.48 ("Medical Marijuana") of the BMC is repealed.

**SECTION 4**: Section 17.04.110 ("Medical Cannabis Cultivation and Distribution") of the BMC is repealed.

**SECTION 5**: Title 14 is added to the BMC to read as follows:

## "TITLE 14 MARIJUANA-RELATED BUSINESSES

## Chapter 14.04

## GENERAL PROVISIONS

**14.04.010 Intent and Purpose.**
**14.04.020 Legal Authority.**
**14.04.030 Marijuana-Related Business Activities Prohibited Unless Specifically Authorized.**
**14.04.040 Responsibility for Compliance.**
**14.04.050 Definitions.**

### 14.04.010 Intent and Purpose.

It is the intent and purpose of this Title to establish a city-wide system to control and regulate the cultivation, processing, manufacture, dispensing, delivery, and sale of marijuana and marijuana products in a manner that protects neighborhoods, residents, children, and business from negative impacts. The requirements set forth in this Title are in addition to any other permits, licenses and approvals that may be required to conduct business in the City and are in addition to any permits, licenses and approvals required under state law. Nothing in this Title is intended to authorize any activity that is contrary to state law.

### 14.04.020 Legal Authority.

This Title is adopted pursuant to the authority granted by the California Constitution and State law, including, without limitation, Article XI, Section 7 of the California Constitution; the Compassionate Use Act; the Medical Marijuana Program Act; the Medical Marijuana Regulation and Safety Act; and the Control, Regulate and Tax Adult Use of Marijuana Act. The City Manager is authorized to administer this Title and to promulgate such administrative policies and procedures that may be required to implement this Title.

### 14.04.030 Marijuana-Related Businesses and Activities Prohibited Unless Specifically Authorized.

Except as specifically authorized in this Code, the cultivation, processing, manufacture, dispensing, distribution, delivery, storing, testing, packaging, or sale of marijuana or any marijuana product is prohibited.

### 14.04.040 Responsibility for Compliance.

The owners and operators of a marijuana-related business, together with any person listed as the permittee or applicant on the marijuana-related business permit, are responsible for ensuring that the marijuana-related business is, at all times, operating in a manner compliant with all applicable laws, regulations, and conditions of approval.

**14.04.050 Definitions.**

Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Code. Words and phrases undefined in this Code have the same meaning as set forth in the Compassionate Use Act; the Medical Marijuana Program Act; the Medical Marijuana Regulation and Safety Act; or the Control, Regulate and Tax Adult Use of Marijuana Act.

"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 Health and Safety Code Section 11018. "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 Code, "cannabis" does not mean "industrial hemp" as defined by Food and Agricultural Code Section 81000 or Health and Safety Code Section 11018.5. For purposes of this Code, "marijuana" has the same meaning as cannabis and the two terms are used interchangeably.

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

"Cultivation site" means a facility or location where marijuana is cultivated, propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all of any combination of those activities, and where the operator holds a valid marijuana business permit for cultivation from the City and a valid state license to cultivate marijuana when required by state law.

"Delivery" means the commercial transfer of nonmedical marijuana or nonmedical marijuana products from a dispensary to a customer over 21 years of age, or the commercial transfer of medical marijuana or medical marijuana products to a primary caregiver or qualified patient as defined in Health and Safety Code Section 11362.7. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under State law, which enables customers or qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of marijuana or marijuana products.

"Dispensary" and "marijuana dispensary" mean a facility where marijuana, marijuana products, or devices for the use of marijuana or marijuana products are offered, either individually or in any combination, for retail sale, including an establishment that delivers marijuana and marijuana products as part of a retail sale.

"Dispensing" means any activity involving the retail sale of marijuana or marijuana products from a dispensary.

"Identification card" means a document issued by the California Department of Health Services that identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

"Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

"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, and that holds a state license therefore and a marijuana business permit issued pursuant to this Title.

"Marijuana" means "cannabis," as that term is defined in this Title.

"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.

"Marijuana product" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, without limitation, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis or other ingredients.

"Marijuana business" and "marijuana-related business" means any business that engages in the cultivation, manufacture, processing, storing, testing, packaging, labeling, dispensing, delivery, distribution or sale of marijuana, marijuana products, or marijuana accessories, whether medical or nonmedical. "Marijuana business" and "marijuana-related business" also includes any store, outlet, warehouse, office, or other physical location, whether fixed or mobile, any portion of which is used for the business of cultivating, manufacturing, processing, storing, testing, packaging, labeling, dispensing, delivering, distributing or selling marijuana, marijuana products, or marijuana accessories, whether medical or nonmedical.

"Marijuana business permit" means a regulatory permit issued by the City pursuant to this Title.

"Medical marijuana" or "medical marijuana 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 the Health and Safety Code. For the purposes of this Code, "medical marijuana" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Medical marijuana dispensary" is a dispensary that offers or delivers medical marijuana and medical marijuana products for retail sale to qualified patients and primary caregivers.

"Medical marijuana collective" means a collective, cooperative, association, dispensary or similar entity that cultivates, distributes, dispenses, stores, exchanges, processes, delivers, makes available or gives away marijuana in the city for medical purposes to

qualified patients, or primary caregivers of qualified patients pursuant to Health and Safety Code § 11362.5 or any State regulations promulgated to implement the Compassionate Use Act of 1996. Medical Marijuana Collective does not include the following uses, so long as such uses comply with this Code and other applicable law:

1. A clinic licensed pursuant to Health and Safety Code § 1200, *et seq.*
2. A health care facility licensed pursuant to Health and Safety Code § 1250, *et seq.*
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Health and Safety Code § 1568.01, *et seq.*
4. A residential care facility for the elderly licensed pursuant to Health and Safety Code § 1569, *et seq.*
5. A hospice or a home health agency licensed pursuant to Health and Safety Code § 1725, *et seq.*

"Nursery" means an area within a cannabis cultivation operation where only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis are produced.

"Operations Plan" means an operating plan that implements the standard requirements of this Title along with such additional, reasonable, criteria needed to protect public health and safety as determined by the Police Chief based upon the size and location of the proposed marijuana-related business.

"Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Health & Safety Code § 11362.7, *et seq.*

"Police Chief" means a Police Chief appointed by the city manager or approved pursuant to written agreement for law enforcement services executed pursuant to Government Code § 54981.

"Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

1. In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Health and Safety Code Section 1200, *et seq.*, a health care facility licensed pursuant to Health and Safety Code Section 1250, *et seq.*, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Health and Safety Code Section 1568.01, *et seq.*, a residential care facility for the elderly licensed pursuant to Health and Safety Code Section 1569, *et seq.*, a hospice, or a home health agency licensed pursuant to Health and Safety Code Section 1725, *et seq.*, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

2. An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

3. An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

A primary caregiver must be at least 18 years old, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Family Code Sections 6922, 7002, 7050, or 7120.

"Qualified patient" means a person who is entitled to the protections of Health and Safety Code Section 11362.5.

## Chapter 14.08

## MARIJUANA BUSINESS PERMITS

**14.08.010 Marijuana Business Permit Required to Engage in Marijuana-Related Business Activity.**
**14.08.020 Location Restrictions.**
**14.08.030 Number and Types of Authorized Marijuana Businesses Permitted.**
**14.08.040 Applications.**
**14.08.050 Expiration.**
**14.08.060 Renewals.**
**14.08.070 Prohibition on Transfer of Marijuana Business Permits.**
**14.08.080 Marijuana Permit Fee.**

### 14.08.010 Marijuana Business Permit Required to Engage in Marijuana-Related Business Activity.

It is unlawful for any person to engage in a marijuana-related business activity in the City unless the person (1) has a valid marijuana business permit from the City; and (2) is in compliance with all applicable state and local laws and regulations pertaining to the marijuana business, including the duty to obtain and maintain any required state license(s).

### 14.08.020 Location Restrictions.

A. No marijuana business permit can be issued for a marijuana-related business located on a parcel that is within 600 feet of any other parcel containing a school, religious facility, park, state- or county-licensed child daycare facility, youth center or licensed drug or alcohol rehabilitation facility. For purposes of this section, "school" includes a pre-school, transitional kindergarten, K-12 school, whether public or private.

B. A marijuana business permit may be renewed for a marijuana-related business located on a parcel that is within 600 feet of any other parcel containing a sensitive use listed in subparagraph (A) if; (1) the sensitive use located to the

area after the subject marijuana business permit was first issued, (2) the subject marijuana business permit has not lapsed for any period of time, and (3) the marijuana-related business has been in continuous operation. For purposes of this section, a temporary interruption of business activity due to fire, natural disaster or other *force majeure* is excused provided reasonable steps are taken by the permittee to resume business operations expeditiously. The prior, temporary suspension of the marijuana business permit does not render a permit ineligible for renewal under this section provided the applicant otherwise qualifies for renewal pursuant to section 14.08.060.

**14.08.030 Number and Types of Authorized Marijuana Businesses Permitted.**

A. No more than a total of twelve marijuana businesses can be permitted to operate in the City at any given time. Each physical location of a marijuana-related business requires a separate marijuana business permit.

B. The following types of marijuana-related business activities can be authorized by a marijuana business permit:

1. Marijuana Cultivation (including a nursery component)
2. Marijuana Dispensary (including the incidental retail sale of marijuana accessories and marijuana delivery)
3. Marijuana Manufacturing

C. Except as otherwise provided in this Title, a marijuana business permit may authorize the permittee to engage in more than one type of marijuana business activity.

D. This section is only intended to establish the maximum number of marijuana business permits that can be issued and active at any given time. It does not require the City to issue any particular number of marijuana business permits or to issue any marijuana business permits at all.

**14.08.040 Applications.**

A. Marijuana business permit applications must be made on a form approved by the City Manager, or designee, and accompanied by all information requested on the application.

B. Each application must be accompanied by an application fee, the amount of which will be set by city council resolution. Such application fee is solely to reimburse the City for costs incurred as a result of processing a permit application. Any application fee is in addition to any permit fee or applicable tax separately established by City Council resolution or voter-approved ballot measure.

C. The application must identify the address of the location where the marijuana-related business is proposed to operate.

D. No person may apply for a marijuana business permit until and unless a conditional use permit issued pursuant to Title 17 authorizes a marijuana-related business use at the subject location. A conditional use permit is required in addition to, and separately from, a marijuana business permit required by this Title. Before an application for a marijuana business permit will be accepted by

the City for processing, the applicant must provide, on a form approved by the City, proof that the owner of the underlying property, or his/her/its authorized agent, has authorized the applicant to make the application for a marijuana business permit at the subject location. A copy of the conditional use permit authorizing a marijuana-related use on the subject property must accompany the application. Only one application per parcel will be accepted and processed by the City at a given time. If an application for a marijuana-related business permit is denied, a subsequent application for a marijuana-related business permit on the same parcel may be accepted by the City only after the denial is final and all available administrative and judicial remedies relating thereto have been exhausted.

E. Completed applications must be submitted to the City Manager, or designee. Only complete applications will be considered. An application is complete if it is submitted with all of the information requested therein, together with full payment of the application fee. Applications will be considered in the order they are received. The City reserves the right to request supplemental information from any applicant before deeming an application complete. If supplemental information is requested, it must be provided to the City Manager, or designee, within seven business days of the request. If supplemental information is not provided within seven business days of the City's request, the application will lose its priority in the queue and will not be considered "received" until the date that all requested supplemental information is provided to the City Manager, or designee.

F. The City may reject or deny any or all applications. The City may request and obtain supplemental information from any applicant before making a decision on the application.

G. The City Council may, by resolution, establish minimum threshold qualifications for all marijuana business permit applicants including, without limitation, qualifications relating to prior relevant business experience, prior criminal history, and minimum liquid assets and/or net worth. Every application for a marijuana business permit must be accompanied by credible evidence demonstrating that the applicant meets or exceeds each of the threshold requirements established by the City Council.

H. The City Manager's decision with respect to a marijuana business permit application may be appealed to the City Council pursuant to this Title.

**14.08.050 Expiration.**

Each marijuana business permit issued pursuant to this Title expires twelve months after the date it is issued. Marijuana business permits may be renewed as provided in this Title.

**14.08.060 Renewals.**

A. An application for renewal of a marijuana business permit must be filed at least 60 calendar days before the expiration of the current permit.

B. The renewal application must contain all of the information required for a new application.

C. The renewal application must be accompanied by a renewal fee established by city council resolution.

D. The renewal application must be denied if any of the following circumstances exists:

1. The renewal application is filed less than 60 calendar days before expiration of the permit.

2. The marijuana business permit is suspended at the time of the application.

3. The marijuana business has not been in regular and continuous operation in the four months before the renewal application.

4. The marijuana business failed to conform to the requirements of this Title or any regulations adopted pursuant to this Title.

5. The permittee does not possess a valid license from the State of California, if required by law.

E. The City Manager, or designee, is authorized to make all decisions concerning applications for renewal. The City Manager, or designee, may impose additional conditions on a renewal permit if he or she determines it is necessary to ensure compliance with state or local laws and regulations or to preserve and protect the public health, safety, or welfare.

F. If a renewal application is denied for any reason, the permittee will be barred from renewing the marijuana business permit. If the permittee wishes to obtain another marijuana business permit, he/she/it must file a new application as set forth in this Title.

G. The City Manager's decision with respect to a renewal application may be appealed to the City Council pursuant to this Title.

**14.08.070 Prohibition on Transfer of Marijuana Business Permits.**

A. It is unlawful for any person to operate a marijuana business at any location other than the location specifically authorized and identified on a City-issued marijuana business permit.

B. No person may transfer ownership or control of a marijuana business or transfer any marijuana business permit issued under this Title. A marijuana business permittee has no right to sell or transfer a marijuana business permit to another party or to have the City consider whether it should authorize the transfer of a marijuana business permit to another party. Any attempt to transfer ownership of a marijuana business or of a marijuana business permit will automatically render the marijuana business permit void.

**14.08.080 Marijuana Permit Fee.**

In consideration of the privilege for obtaining a marijuana business permit pursuant to this Title, and in addition to any other requirements of this Title, a permittee must pay to the City the following:

A. Permit Fee.

1. During the term of any permit, the permittee will pay the City an annual fee (the "permit fee") as established by city council resolution.

2. The permit fee is due and payable annually on the anniversary date of the permit without demand and upon filing of the report required by this Section. Any fees or expenses charged to permittees by City pursuant to this Section, or any other provision of the permit, unless disputed in good faith, must be paid when due or are deemed delinquent. Any undisputed delinquent amounts will accrue an interest rate of ten percent per annum. Any neglect, omission or refusal by permittee to pay any undisputed delinquent fee with any late charges, within thirty days of written demand for payment is grounds for the City to declare the permit forfeited pursuant to the procedures established by this Title.

3. Payments must be made to the Office of Treasurer, City of Bellflower, or at such place as the City may, from time to time, designate in writing. The permit fee must be paid annually during the term of the permit, including the year of granting the permit.

B. Annual Increase.

1. The amount of each annual payment of the permit fee is subject to an increase after the first year of the permit and each subsequent year.

2. The increase is based on the Consumer Price Index (CPI), All Urban Consumers, for the Los Angeles-Anaheim-Riverside area (1982-84 = 100), as published by the United States Bureau of Labor Statistics, Department of Labor, for the month of September immediately preceding the month in which payment is due and payable, divided by the Consumer Price Index, All Urban Consumers, for the Los Angeles-Anaheim-Riverside area, for June 30, 1989, which equals 100. If the Index is discontinued or revised during the term of this permit, such other governmental price index or computation with which it is replaced chosen by the City will be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

C. Reports Required. A permittee must file with the City Clerk and City's Finance Director, on or before January 31st after the expiration of the calendar year, or fractional calendar year, following the date of the granting of this permit and on or before January 31st after the expiration of each calendar year thereafter, two copies of a report duly verified by the oath of the permittee or by the oath of a duly authorized representative of the permittee, showing for the immediately preceding permit period:

1. The total gross receipts received by the permittee from the use, operation or possession of this permit during the preceding calendar year, or fractional calendar year; and

2. The total gross receipts received by the permittee from the sale of cannabis within City limits.

D. Any neglect, omission or refusal by permittee to file the verified statement required by the permit, or to pay any required payments at the time and in the manner specified is grounds for the declaration of a forfeiture of this permit and of all rights and privileges of permittee hereunder, provided that permittee has not cured said neglect, omission, or refusal to file or pay within fifteen days following written notice from the City of failure to file or pay the required amount, or, if such neglect, omission or refusal is not reasonably subject to cure within such fifteen day period, permittee has not commenced to cure such neglect, omission or refusal within such fifteen day period and has not continued to prosecute such cure to completion.

E. The fee required by this Section is addition to any voter approved ballot measure imposing a tax upon a marijuana business.

## Chapter 14.12

## MARIJUANA CULTIVATION

**14.12.010 Outdoor Cultivation Prohibited.**
**14.12.020 Operations Plan Required.**
**14.12.030 Operational Standards for the Commercial Cultivation of Marijuana.**

### 14.12.010 Outdoor Cultivation Prohibited.

Outdoor cultivation of marijuana is prohibited in all areas of the City.

### 14.12.020 Operations Plan Required.

A conditional use permit issued pursuant to Chapter 17.96 for a commercial marijuana cultivation facility must include, as conditions of approval, the operational standards required by this Title. In addition, the conditional use permit must incorporate by reference an Operations Plan approved by the Building Official and the Police Chief that implements not only the operational standards required by this Title, but such additional conditions that the Building Official and Police Chief, find reasonably necessary to implement the purpose of this Title when considering the location and size of the proposed cultivation facility.

### 14.12.030 Operational Standards for the Commercial Cultivation of Marijuana.

A. It is unlawful for any person to engage in the business of marijuana cultivation in the City of Bellflower without first obtaining a marijuana business permit pursuant to this Title and a state-issued cultivation license. If a permittee's state cultivation license lapses for any reason, the marijuana business permit will automatically become void.

B. It is unlawful for there to be any visual evidence of marijuana cultivation when viewed from five feet above ground level from any street, sidewalk, public right-of-way, or adjacent property.

C. If a dispensary is authorized to include cultivation activities, the dispensary may have only one contiguous cultivation area.

D. It is unlawful to use flammable or explosive substances in the cultivation of marijuana.

E. Any person issued a permit pursuant to this Title must follow all pesticide use requirements of local, state and federal law.

F. The cultivation of marijuana must be undertaken in a manner that ensures the health, safety, and welfare of the public, the employees of the marijuana business, visitors, and neighboring properties.

G. The Operations Plan for a cultivation facility must include a detailed electrical and plumbing plan, along with projections for water usage.

H. It is unlawful for there to be any audible or olfactory evidence of marijuana cultivation from any street, sidewalk, public right-of-way, or adjacent property.

I. The address of any building on a parcel where marijuana is cultivated must be posted and plainly visible from the public right-of-way.

J. All law enforcement personnel seeking admission to the cultivation site for the purpose of ascertaining compliance with the standards and regulations of this Code must be given unrestricted access to all areas of the premises at all times during hours of operation. Consent to such unrestricted access must be acknowledged by the permittee and included within the Operations Plan.

K. It is unlawful for any person under the age of 21 to be present within the area where the cultivation of marijuana is occurring. A sign must be posted at each entrance to a cultivation facility informing visitors of these restrictions.

L. All cultivation activity must be conducted in compliance with all applicable state and local water conservation laws, ordinances, and regulations.

M. Each marijuana cultivation facility must provide the Police Chief, with the name and telephone number of an on-site employee or owner to whom emergency notice can be provided. The telephone number provided must be capable of accepting recorded voice messages in the event the contact person does not answer.

N. It is unlawful for any person to employ another person under the age of 21 at a marijuana cultivation facility.

O. Entrances into any area of a marijuana cultivation facility where marijuana is grown or kept must be locked at all times with entry strictly controlled. The specifics of such entry system must be set forth in the Operations Plan.

P. Odor control devices and techniques must be incorporated in a marijuana cultivation facility to ensure that odors from marijuana are not detectable outside of the facility or in any tenant space or area adjacent to the facility.

Q. A marijuana cultivation facility must have a professionally installed, maintained, and monitored alarm system as approved through the Operations Plan.

R. All entrances and exits to and from the cultivation facility must be monitored by 24-hour video security surveillance of at least HD quality with night vision capability. The video security system must be compatible with software and hardware utilized by the City as determined by the Police Chief, and set forth in the Operations Plan. Surveillance video must be recorded to a device that is securely located on the premises and all footage must be maintained for a minimum of 45 days. The video surveillance system specifications must be set forth in the Operations Plan before the city issues a certificate of occupancy for the cultivation facility.

S. Marijuana cultivation facilities cannot be open to the public.

T. A marijuana cultivation facility must be equipped with an automated fire suppression system to the satisfaction of the Building Official.

U. It is unlawful for any marijuana cultivation facility to use, employ, or maintain any equipment, system, material or apparatus for the purpose of increasing the ambient carbon dioxide levels within any grow area.

V. A marijuana cultivation facility must maintain a valid business license as required by this Code.

W. As part of the Operations Plan, permittees must execute an agreement in a form approved by the City Attorney that defends and indemnifies the City of Bellflower, along with its officials, officers, and employees, from any claim or liability arising from the city approving a marijuana business permit or allowing the operation of a marijuana cultivation facility. Such agreement must be secured with sufficient insurance, as determined by the City Attorney, and a surety, as approved by the City Attorney, to adequately protect the city from any and all liability.

X. A marijuana business permit for a marijuana cultivation facility is subject to all of the regulations and operational standards set forth in this section in addition to the conditions stated in the permit itself.

## Chapter 14.16

## MARIJUANA DISPENSARIES

**14.16.010 Operations Plan Required.**
**14.16.020 Operational Standards.**

### 14.16.010 Operations Plan Required.

A conditional use permit issued pursuant to Chapter 17.96 for a marijuana dispensary or a medical marijuana dispensary must include, as conditions of approval, the operational standards set forth in Section 14.16.020. In addition, the conditional use permit must incorporate by reference an Operations Plan approved by the Police Chief, that

implements not only the operations standards set forth in Section 14.16.020, but such additional conditions that the Police Chief finds reasonably necessary to implement the purpose of this Title when considering the location and size of the proposed dispensary.

**14.16.020 Operational Standards.**

A. To operate, a marijuana dispensary must obtain and maintain both a dispensary license from the California Department of Consumer Affairs and a marijuana business permit as set forth in this Title.

B. Subject to the conditions imposed by this Title, a marijuana business permit for a marijuana dispensary may authorize the mobile delivery of marijuana as part of and in conjunction with the operation of the dispensary. Mobile delivery privileges may be suspended or terminated by the City Manager, or designee, as set forth in this Title.

C. A marijuana dispensary can be open for access by the public only between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday and cannot be open on Sundays.

D. It is unlawful for alcohol or tobacco to be sold within a marijuana dispensary. Further, it is unlawful for smoking, vaporization, ingestion or consumption of alcohol, tobacco or marijuana in any form, to occur on the premises of a dispensary.

E. It is unlawful for marijuana or marijuana products to be publicly visible from the exterior of the property. It is unlawful to store marijuana or marijuana products outside of the dispensary at any time.

F. All marijuana and marijuana products sold or otherwise made available at a dispensary must be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with State and local regulations.

G. Each marijuana dispensary must provide the Police Chief with the name and telephone number of an on-site employee or owner to whom emergency notice can be provided. The telephone number provided must be capable of accepting recorded voice messages in the event the contact person does not answer.

H. It is unlawful for any person under 21 years of age to be allowed on the premises of a marijuana dispensary unless such person possesses a valid identification card issued by the California Department of Health Services. A sign must be posted at each entrance to a sales/display area of the dispensary informing patrons of these restrictions.

I. It is unlawful for any person to employ another person under the age of 21 at a marijuana dispensary.

J. Each entrance to a marijuana dispensary must be posted with a conspicuous notice stating that smoking, vaping, ingesting, or otherwise consuming marijuana on the premises or in the areas adjacent to the marijuana dispensary is prohibited.

K. Entrances into any area of a marijuana dispensary where marijuana products are displayed and/or being offered for sale must be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system must be utilized to limit access to such areas and to separate them from the outside and/or any adjacent reception/lobby area. The specifics of such entry system must be set forth in the Operations Plan.

L. Uniformed security personnel must be employed to monitor all entrances and exits of the dispensary and to serve as a visual deterrent to unlawful activities during all hours of operation. Every security guard employed by or provided by the dispensary must be currently licensed by the California Bureau of Security & Investigative Services and in possession of a valid "guard card." The number of such security personnel must be set forth in the Operations Plan.

M. All restroom facilities serving a dispensary must remain locked and under the control of management.

N. Odor control devices and techniques must be incorporated in a marijuana dispensary to ensure that odors from marijuana are not detectable outside of the dispensary or in any tenant space or area adjacent to the dispensary.

O. A dispensary cannot store more than $200.00 in cash reserves overnight on the premises.

P. All law enforcement personnel seeking admission to the dispensary for the purpose of ascertaining compliance with the standards and regulations of this Code must be given unrestricted access to all areas of the premises at all times during hours of operation. Consent to such unrestricted access must be acknowledged by the permittee and included within the Operations Plan.

Q. All interior spaces of the dispensary which are open and accessible to the public (except restrooms), and all entrances and exits to and from the premises, must be monitored by 24-hour video security surveillance of at least HD quality with night vision capability. The video security system must be compatible with software and hardware utilized by the city as determined by the Police Chief and set forth in the Operations Plan. Surveillance video must be recorded to a device that is securely located on the premises and all footage must be maintained for a minimum of 45 days. The video surveillance system specifications must be set forth in the Operations Plan before the city issues a certificate of occupancy for the marijuana dispensary.

R. A marijuana dispensary must have a professionally installed, maintained, and monitored alarm system as approved through the Operations Plan.

S. A marijuana dispensary must maintain a valid business license as required by this Code.

T. All food products, food storage facilities, food-related utensils, equipment and materials must be approved, used, managed and handled in accordance with the provisions of the California Retail Food Code (Health & Safety Code § 113700, *et seq.*). All food products must be protected from contamination at all times, and all food handlers must be clean, in good health, and free from communicable diseases. The Los Angeles County Department of Public Health

may inspect the dispensary at any time during business hours to ensure compliance with state and local laws.

U. It is unlawful for a physician to be permitted in a marijuana dispensary at any time for the purpose of evaluating patients to issue a medical marijuana prescription or card.

V. As part of the Operations Plan, permittees must execute an agreement in a form approved by the City Attorney that defends and indemnifies the City of Bellflower, along with its officials, officers, and employees, from any claim or liability arising from the city approving a marijuana business permit or allowing the operation of a marijuana dispensary. Such agreement must be secured with sufficient insurance, as determined by the City Attorney, and a surety, as approved by the City Attorney, to adequately protect the city from any and all liability.

W. A marijuana business permit for a marijuana dispensary is subject to all of the regulations and operational standards set forth in this section in addition to the conditions stated in the permit itself.

X. Before dispensing medical marijuana or medical marijuana products to any person under the age of 21, the dispensary must verify that the person possesses a valid identification card.

Y. A marijuana dispensary may allow on the premises any person 18 years of age or older who possesses a valid identification card under Health and Safety Code § 11362.71 and a valid government-issued identification card.

Z. A marijuana dispensary may sell medical marijuana, medical marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Health and Safety Code § 11362.71 and a valid government-issued identification card.

## Chapter 14.20

## MARIJUANA DELIVERY

**14.20.010 Delivery Permitted Only in Conjunction with a Dispensary.**
**14.20.020 Minimum Age for Delivery Drivers.**
**14.20.030 Driver May Not Carry More Than $200.**
**14.20.040 Suspension or Termination of Delivery Privileges.**

### 14.20.010 Delivery Permitted Only in Conjunction with a Dispensary.

Mobile delivery of marijuana may only be permitted as part of and in conjunction with a marijuana dispensary. Delivery of marijuana from a marijuana dispensary permitted pursuant to this Title can only be made in a city or county that does not expressly prohibit such deliveries by ordinance.

### 14.20.020 Minimum Age for Delivery Drivers.

It is unlawful for any person under the age of 21 to be allowed to serve as a delivery driver and no person can employ a person under the age of 21 for the purpose of making mobile deliveries of any marijuana product.

### 14.20.030 Driver May Not Carry More Than $200.

No delivery driver may carry more than $200 in cash while engaged in the service of delivering marijuana or marijuana products.

### 14.20.040 Suspension or Termination of Delivery Privileges.

A marijuana dispensary permitted pursuant to this Title may have its delivery privileges suspended or terminated by the City Manager or designee if the dispensary is found to have violated this Chapter.

## Chapter 14.24

## MARIJUANA MANUFACTURING FACILITIES

**14.24.010 Operations Plan Required.**
**14.24.020 Operational Standards.**

### 14.24.010 Operations Plan Required.

A conditional use permit issued pursuant to Chapter 17.96 for a marijuana manufacturing facility must include, as conditions of approval, the operational standards set forth in Section 14.24.020. In addition, the conditional use permit must incorporate by reference an Operations Plan approved by the Police Chief, that implements not only the operations standards set forth in Section 14.24.020, but such additional conditions that the Police Chief finds reasonably necessary to implement the purpose of this Title when considering the location and size of the proposed dispensary.

### 14.24.020 Operational Standards.

A. It is unlawful for any person to engage in the business of marijuana manufacturing in the City of Bellflower without first obtaining a marijuana business permit pursuant to this Title and a state-issued manufacturing license. If a permittee's state manufacturing license lapses for any reason, the marijuana business permit will automatically become void.

B. It is unlawful for marijuana manufacturing to be combined with another marijuana-related business activity unless expressly authorized by a valid marijuana business permit.

C. It is unlawful for there to be any visual evidence of marijuana manufacturing when viewed from five feet above ground level from any street, sidewalk, public right-of-way, or adjacent property.

D. The manufacture of marijuana products must be undertaken in a manner that ensures the health, safety, and welfare of the public, the employees of the marijuana business, visitors, and neighboring properties.

E. The Operations Plan for a manufacturing facility must include a detailed electrical and plumbing plan, along with projections for water usage.

F. It is unlawful for there to be any audible or olfactory evidence of marijuana from any street, sidewalk, public right-of-way, or adjacent property.

G. The address of any building on a parcel where marijuana is manufactured must be posted and plainly visible from the public right-of-way.

H. All law enforcement and code enforcement personnel seeking admission to the manufacturing site for the purpose of ascertaining compliance with the standards and regulations of this Code must be given unrestricted access to all areas of the premises at all times during hours of operation. Consent to such unrestricted access must be acknowledged by the permittee and included within the Operations Plan.

I. It is unlawful for any person under the age of 21 to be present within the area where the manufacture of marijuana products is occurring. A sign must be posted at each entrance to a manufacturing facility informing visitors of these restrictions.

J. All manufacturing activity must be conducted in compliance with all applicable state and local water conservation laws, ordinances, and regulations.

K. Each marijuana manufacturing facility must provide the Police Chief, with the name and telephone number of an on-site employee or owner to whom emergency notice can be provided. The telephone number provided must be capable of accepting recorded voice messages in the event the contact person does not answer.

L. It is unlawful for any person to employ another person under the age of 21 at a marijuana manufacturing facility.

M. Entrances into any area of a marijuana manufacturing facility where marijuana products are made or kept must be locked at all times with entry strictly controlled. The specifics of such entry system must be set forth in the Operations Plan.

N. Odor control devices and techniques must be incorporated in a marijuana manufacturing facility to ensure that odors from marijuana are not detectable outside of the facility or in any tenant space or area adjacent to the facility.

O. A marijuana manufacturing facility must have a professionally installed, maintained, and monitored alarm system as approved through the Operations Plan.

P. All entrances and exits to and from the manufacturing facility must be monitored by 24-hour video security surveillance of at least HD quality with night vision capability. The video security system must be compatible with software and hardware utilized by the city as determined by the Police Chief and set forth

in the Operations Plan. Surveillance video must be recorded to a device that is securely located on the premises and all footage must be maintained for a minimum of 45 days. The video surveillance system specifications must be set forth in the Operations Plan before the city issues a certificate of occupancy for the manufacturing facility.

Q. It is unlawful for marijuana manufacturing facilities to be open to the public.

R. A marijuana manufacturing facility must maintain a valid business license as required by this Code.

S. As part of the Operations Plan, permittees must execute an agreement in a form approved by the City Attorney that defends and indemnifies the City of Bellflower, along with its officials, officers, and employees, from any claim or liability arising from the city approving a marijuana business permit or allowing the operation of a marijuana manufacturing facility. Such agreement must be secured with sufficient insurance, as determined by the City Attorney, and a surety, as approved by the City Attorney, to adequately protect the city from any and all liability.

T. A marijuana business permit for a marijuana manufacturing facility is subject to all of the regulations and operational standards set forth in this section in addition to the conditions stated in the permit itself.

## Chapter 14.28

## ENFORCEMENT

**14.28.010 Enforcement, Generally.**
**14.28.020 City Attorney Enforcement Authority.**
**14.28.030 Administrative Fines.**
**14.28.040 Revocation and Suspension.**
**14.28.050 Appeals.**

### 14.28.010 Enforcement, Generally.

A violation of this Title constitutes a misdemeanor. The City Attorney may, at his or her discretion, reduce a violation to an infraction. Any violation of this Title may also be abated as a public nuisance. The remedies provided by this Chapter are cumulative and in addition to any other criminal or civil remedies.

### 14.28.020 City Attorney Enforcement Authority.

In addition to any other general functions, powers, and duties given to the City Attorney by this code or California law, the City Attorney is authorized to:

A. Prosecute on behalf of the people all criminal and civil cases for violations of this Title including, without limitation, administrative or judicial nuisance abatement and suits for injunctive relief;

B. Prosecute all actions for the recovery of fines, penalties, forfeitures, and other money accruing to the City under this Title.

**14.28.030 Administrative Fines.**

A. In addition to any other enforcement remedy, the code enforcement officer may, pursuant to Title 1, Chapter 1.12, issue an administrative citation to any person responsible for a violation of this

B. An administrative citation issued for a violation of this Title may be appealed in accordance with the procedures set forth in Title 1, Chapter 1.12.

**14.28.040 Revocation and Suspension.**

A. In addition to any other penalty authorized by law, the City Manager may suspend or revoke a marijuana business permit for the following reasons:

1. Upon learning or discovering facts that require permit denial under this Title that were not previously disclosed or reasonably discoverable; or

2. If the permittee violates any condition imposed by this Title or by the terms of the permit.

B. Notice of Suspension or Revocation. If after having determined that adequate grounds exist the City Manager elects to suspend or revoke a marijuana business permit, the City Manager, or designee, must serve a notice of suspension or revocation on the permittee. The notice must state the reason(s) for the action and provide information regarding the right to a hearing before the City Manager. Except as otherwise provided herein, the suspension or revocation of the permit does not become effective until the time for filing a request for hearing has passed or, if a request for hearing is timely filed, until the decision of the City Manager has become final.

C. The notice of suspension or revocation shall be sent to the business address indicated on the permit. Service is deemed complete one business day after deposit in the United States Mail.

D. A permittee that has been served with a notice of suspension of revocation may, within five business days, request a hearing before the City Manager. The request must be made on a form approved by the City Manager.

E. If a timely request for a hearing is made by the permittee, the City Manager will schedule a hearing within 30 days. The hearing may be held in the office of the City Manager or at an alternative location in City Hall designated by the City Manager. The permittee will be notified of the time and place of the hearing at least ten days before the scheduled date.

F. If the City Manager determines, in his or her sole discretion, that the continued operation of the marijuana business presents an imminent threat to the public health, safety or welfare, the suspension or revocation becomes effective immediately upon notice thereof. In such a case, if the permittee requests a hearing before the City Manager, the hearing will be scheduled within seven business days. The permittee will be notified of the time and place of the hearing at least 48 hours before the scheduled date. Notice may be given by any means

reasonably calculated to provide actual notice to the permittee including, without limitation, mailed notice or telephonic notice.

G. The permittee may present written and/or oral testimony and evidence at the hearing and will be provided 30 minutes for a presentation. Formal rules of evidence and procedure applicable in a court of law do not apply. The City Manager may, in his or her sole discretion, provide the permittee additional time to present evidence, testimony and argument.

H. The City Manager will issue a written decision within ten business days of the hearing. If the suspension or revocation was made immediately effective pursuant to subparagraph (F), the City Manager's written decision will be issued within five business days of the hearing. The City Manager's decision will become final unless timely appealed in accordance with Section 14.28.050.

I. Effect of Revocation. If a marijuana business permit is revoked, the former permittee is presumptively disqualified to apply for a new permit for a period of two years from the effective date of the revocation. This presumption may be overcome upon a showing of good cause as to why a permit should be issued following a revocation. Any such showing must be made to the City Manager's satisfaction.

**14.28.050 Appeals.**

A. If authorized by this Title, a decision of the City Manager with respect to a marijuana business permit may be appealed to the City Council, provided that a request for review (appeal) is filed with the office of the City Manager within ten calendar days from the date on which notice of the City Manager's decision was served on the permittee.

B. An appeal must be on a form provided by the City Clerk and contain the following information:

1. The name, address and telephone number of the person making the appeal;

2. A description of the decision, determination or order which is the subject of the appeal and the date such decision, determination or order was made or issued;

3. A complete description of all grounds for appeal, together with any evidence in support of the appeal; and

4. Such other information as may be required by the City Clerk.

C. Failure to provide all of the information required by subparagraph (B) within the ten-day appeal period will result in an automatic waiver of the right of appeal.

D. Upon receipt of a complete appeal, the City Clerk will schedule a hearing before the City Council within 45 days. The Council may, in its discretion, continue the matter to a subsequent meeting or from time to time.

E. At the conclusion of the hearing, the City Council may affirm, reverse, or modify the decision of the City Manager. The City Council's decision is final.

F. Judicial Review. A final decision of the City Council may be judicially reviewed pursuant to Code of Civil Procedure section 1094.6."

**SECTION 6**: BMC § 17.04.100 is amended to read as follows:

"17.04.100 Consistency with State and Federal Law.

Unless otherwise specifically permitted by Title 14 and Chapter 17.94 of this Code, and notwithstanding any other provision to the contrary, no new use is permitted unless it is permitted by both State and Federal law."

**SECTION 7**: Chapter 17.94 is added to the Bellflower Municipal Code to read as follows:

**"Chapter 17.94**

**MARIJUANA-RELATED USES**

**17.94.010 Purpose.**
**17.94.020 Definitions.**
**17.94.030 Conditional Use Permit Required.**
**17.94.040 Maximum Number of Conditional Use Permits for Marijuana-Related Businesses.**
**17.94.050 Location Restrictions.**
**17.94.060 Distance Measurements.**
**17.94.070 Operations Plan Required.**

**17.94.010 Purpose.**

The purpose of this Chapter is to establish land use restrictions for marijuana-related businesses licensed pursuant to Title 14. Marijuana-related land uses can be successfully integrated into specified areas of the community, provided they adhere to the restrictions set forth in this Chapter. Nothing in this Chapter is intended to authorize any activity that is contrary to state law.

**17.94.020 Definitions.**

Unless otherwise provided herein, the terms used in this Chapter have the same meanings as set forth in Title 14.

**17.94.030 Conditional Use Permit Required.**

No marijuana-related business may operate on any property in the City unless a valid conditional use permit authorizes the marijuana-related use on the subject property.

**17.94.040 Maximum Number of Conditional Use Permits for Marijuana-Related Businesses.**

Not more than twelve conditional use permits for marijuana-related businesses may be issued and active at any given time.

**17.94.050 Location Restrictions.**

A. Marijuana-related businesses are conditionally permitted in the C-G (General Commercial), M-1 (Light industrial), and SP-WA (West Artesia Boulevard Commercial Highway Planning Area Specific Plan) zones and are prohibited in all other zones.

B. No conditional use permit can be issued for a marijuana-related business located on a parcel that is within 600 feet of any other parcel containing a school, religious facility, park, licensed child daycare facility, youth center or licensed drug or alcohol rehabilitation facility. For purposes of this section, "school" includes a pre-school, transitional kindergarten, K-12 school, whether public or private.

**17.94.060 Distance Measurements.**

The distance between parcels will be the horizontal distance measured in a straight line from any property line of the sensitive use to the closest property line of the parcel on which the marijuana-related business is to be located, without regard to any intervening structures.

**17.94.070 Operations Plan Required.**

In addition to any other conditions of approval deemed necessary and appropriate by the approving authority, an operations plan is required as a condition of approval for any marijuana-related use. The required content of the operations plan is set forth in Chapter 14.12 and 14.16."

**SECTION 8**: Subparagraph (A) of BMC § 17.44.030 is amended to read as follows:

"A. The following uses are permitted only after a valid Conditional Use Permit is approved by the Planning Commission, pursuant to the provisions of Chapter 17.96 of this Code. Any such use must also comply with all applicable development standards and other requirements set forth in this Code including, without limitation, obtaining any additional permits or licenses required by this Code.

1. Adult Business. Adult business, including, but not limited to, adult book stores, adult mini-motion picture theater, adult motion picture theater, adult theater, and adult video arcade and/or theater, subject to the provisions of this Code.
2. Adult day care facilities, subject to the following parking requirements: Provide one (1) parking space for every five (5) clients, plus one (1) parking space for every two (2) employees. At least three (3) parking spaces shall be provided.
3. Alcohol sales, (on-site or off-site sales; primary use or accessory use).
4. Ambulance service.
5. Animal and veterinarian clinic, and pet grooming, with commercial boarding or kennels.

6. Auction house or store.
7. Automobile repair center.
8. Automobile repair shop.
9. Automobile sales; retail and/or wholesale sale of new and/or used, including specialty automobiles and antique automobiles.
10. Automobile, truck (maximum one ton), and equipment rental.
11. Billiard parlors.
12. Billboard trucks.
13. Boat and personal water craft sales, maintenance, and repair including other water-related recreational vehicles.
14. Bowling alleys.
15. Carwash (automatic, mechanical, hand-operated, or self-serve), including those facilities that are accessory to gasoline service stations.
16. Check cashing and cash advancing.
17. Churches and other religious institutions.
18. Civic and community clubs.
19. Collection centers (recyclable materials).
20. Commercial recreational facilities, including skating rink, batting cages, paintball, laser tag, go carts, and similar recreational activities.
21. Community care facilities.
22. Contractor's office with outside storage area.
23. Cyber or internet cafés.
24. Dance and entertainment establishments.
25. Drive-in, or drive-through businesses.
26. Electronic cigarette and/or electronic liquid shop.
27. Escort services.
28. Fork lift repair shop.
29. Fortunetelling.
30. Funeral parlor, mortuary, crematory.
31. Game arcade.
32. Gun shop retail sales and ancillary repair.
33. Gym, fitness center or health club.
34. Hookah bars/café (water pipe smoking lounge).
35. Homework and tutoring center.
36. Hospitals.
37. Hotel, motel or rooming house.
38. Ice storage house of not more than five (5) tons capacity.
39. Large outpatient clinics and medical professional offices.
40. Laundromats and/or self-serve laundry facilities.
41. Limousine service.
42. Manufactured home sales with on-site display.
43. Marijuana-related business.
44. Masseur-masseuse, massage establishments, acupressure spas, day spas, and similar uses; provided, that the owner of a massage establishment or business shall also show proof of and maintain on the premises, evidence, for review by the City, that: (i) the business holds a current and valid certificate issued pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code (commencing with Section 4600) (the "State Regulations for Massage Therapists"); and (ii) each person who provides massage services on the premises holds a current and valid certificate issued pursuant to the State Regulations for Massage Therapists. Such use is also subject to the requirements of Section 17.44.255.

45. Micro-brewery, wine making establishments (on-site or off-site sale of alcoholic beverages manufactured on-site).
46. Modeling studio.
47. Motorcycle funeral escort service.
48. Nursery (flowers, trees or plants; with or without buildings).
49. Off-premises signs.
50. Outdoor sales, storage or activities; either as a primary use or accessory to a permitted use. Such uses may include, but not be limited to animal feed, small mammals (i.e., dogs and cats, etc.) and supplies, sales of produce and other food-stuff, newsstands and similar activities.
51. Pest control service (with hazardous chemical storage on-site).
52. Pharmaceutical trial clinic.
53. Reception/banquet halls.
54. Rest home, convalescent hospital.
55. Secondhand stores and pawnshops.
56. Service stations.
57. Sporting goods stores with accessory (i.e., incidental) gun sales.
58. Spray booths.
59. Taxi services.
60. Theaters, auditoriums.
61. Tools and equipment sales and rental (heavy).
62. Towing company vehicle (may include accessory vehicle storage).
63. Wireless communications facilities.
64. Non-emergency medical transportation.
65. Automotive paintless dent removal.
66. Swap meets.
67. Exterior pay phones."

**SECTION 9**: Subparagraph (U) is added to BMC § 17.52.030 to read as follows:

"U. Marijuana-related business."

**SECTION 10**: *Environmental Review.* In accordance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000, et seq.; "CEQA") and CEQA regulations (Cal. Code Regs. tit. 14, §§ 15000, et seq.). an Initial Study and Negative Declaration have been prepared in accordance with the provisions of CEQA. The City Council adopted the Initial Study and Negative Declaration at its meeting on _____, 2016. The Initial Study and Negative Declaration determined that adoption of this ordinance will not result in significant environmental impacts and that no further environmental review is required.

**SECTION 11**: *Zoning Ordinance Text Amendment Findings.* The City Council finds as follows:

1. In light of recently adopted legislation (*i.e.*, the Medical Marijuana Regulation and Safety Act) and in the event that the Adult Use of Marijuana Act initiative is approved by California voters in November 2016, there are changed conditions since the existing zoning regulations became effective to warrant other or additional zoning regulations.

2. The proposed Ordinance will not adversely affect adjoining property as to value or precedent, and will not be detrimental to the area. Since 1996, twenty states and the District of Columbia have legalized the use, home cultivation, and, in some cases, the retail dispensing of medical marijuana. In a study published

March 26, 2014 in the journal PLOS One, researchers analyzed FBI crime statistics from eleven of these states between 1990 and 2006. (Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014) The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLoS ONE 9(3): e92816. doi: 10.1371/journal.pone.0092816.) The states included Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont and Washington. The research revealed that laws authorizing the use and dispensing of medical marijuana are not predictive of higher crimes rates and, in fact, may be related to reductions in rates of homicide and assault. Robbery and burglary rates were found to be unaffected by medical marijuana legislation, despite widely-held belief to the contrary. The results of the study were consistent with other prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity. Indeed, a U.S. National Institutes of Health study found that the psychopharmacologic effect of marijuana has "been attributed to 'mellowing out' or causing individuals to 'nod out,' conditions that are likely to ameliorate violent tendencies." (U.S. Department of Health and Human Services, Public Health Service & National Institute on Drug Abuse, "Drugs and Violence: Causes, Correlates and Consequences," NIDA Research Monograph 103, at 187 (1990)). The same study noted that marijuana use had no correlation to violent crime. (*Id.* at 8, 25, Table 6 and 232). Although there may be secondary impacts associated with marijuana dispensaries in the City, such as the possibility of increased crime at the facility, an increase in people loitering about the facility, and odors, the Commission finds the proposed ordinance adequately attempts to ameliorate such secondary impacts. Accordingly, there is substantial evidence to support the conclusion that the proposed ordinance will not be detrimental to any area of the city or have an adverse effect on property values. To the contrary, it is anticipated that the limited authorization of marijuana-related businesses and uses contemplated by the ordinance, together with the strict regulatory controls set forth therein, will have the effect of reducing crime in the city and promoting public health, safety and the general welfare.

3. The proposed Ordinance promotes public health, safety and general welfare. Since 1996, twenty states and the District of Columbia have legalized the use, home cultivation, and, in some cases, the retail dispensing of medical marijuana. In a study published March 26, 2014 in the journal PLOS One, researchers analyzed FBI crime statistics from eleven of these states between 1990 and 2006. (Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014) The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLoS ONE 9(3): e92816. doi: 10.1371/journal.pone.0092816.) The states included Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont and Washington. The research revealed that laws authorizing the use and dispensing of medical marijuana are not predictive of higher crimes rates and, in fact, may be related to reductions in rates of homicide and assault. Robbery and burglary rates were found to be unaffected by medical marijuana legislation, despite widely-held belief to the contrary. The results of the study were consistent with other prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity. Indeed, a U.S. National Institutes of Health study found that the psychopharmacologic effect of marijuana has "been attributed to 'mellowing out' or causing individuals to 'nod out,' conditions that are likely to ameliorate violent tendencies." (U.S. Department of Health and Human Services, Public Health Service & National Institute on Drug Abuse, "Drugs and Violence: Causes, Correlates and Consequences," NIDA Research Monograph 103, at 187 (1990)).

The same study noted that marijuana use had no correlation to violent crime. (*Id.* at 8, 25, Table 6 and 232). Although there may be secondary impacts associated with marijuana dispensaries in the City, such as the possibility of increased crime at the facility, an increase in people loitering about the facility, or odors, the Commission finds the proposed ordinance adequately attempts to ameliorate such secondary impacts. Accordingly, there is substantial evidence to support the conclusion that the limited authorization of marijuana-related businesses and uses contemplated by the ordinance, together with the strict regulatory controls set forth therein, will have the effect of reducing crime in the city and would, therefore, promote public health, safety and the general welfare.

4. The proposed Ordinance will not adversely affect the City's General Plan or zoning regulations set forth in the Bellflower Municipal Code ("BMC") because the proposed Ordinance does not inhibit the attainment of the overall goals of either the General Plan or the zoning regulations.

**SECTION 12**: *Construction*. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 13**: *Enforceability*. Repeal of any provision of the Bellflower Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 14**: *Severability*. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 15**: The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the city of Bellflower's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

**SECTION 16**: *Effective Date*. This Ordinance shall not become effective unless the voters of the state of California approve the Control, Regulate and Tax Adult Use of Marijuana Act at the November 8, 2016 general election. If the voters approve the AUMA, this Ordinance shall become effective on January 1, 2017.

**ORDINANCE NO. 13XX HAD ITS FIRST READING ON _____, ITS SECOND READING ON _____, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER AT ITS REGULAR MEETING OF _____, 2016.**

_____
**Dan Koops, Mayor**

**ATTEST:**

_____
**Mayra Ochiqui, City Clerk**

**APPROVED AS TO FORM:**

_____
**Karl H. Berger, City Attorney**

## ORDINANCE NO. _____

**A PROPOSITION ADOPTING AN ORDINANCE TO ADD CHAPTER 3.37 TO TITLE 3 OF THE BELLFLOWER MUNICIPAL CODE ENTITLED "CANNABIS BUSINESS TAX" AND IMPOSING A TAX ON VARIOUS CANNABIS RELATED BUSINESSES.**

The people of the city of Bellflower do hereby ordain as follows:

SECTION 1: A new Chapter 3.37, entitled "*Cannabis Business Tax*" and consisting of §§ 3.37.100 to 3.37.260, is added to Title 3 of the Bellflower Municipal Code ("BMC") to read as follows:

### "Chapter 3.37

### CANNABIS BUSINESS TAX


§ 3.37.010 PURPOSE.
§ 3.37.020 TAX IMPOSED.
§ 3.37.030 AUTOMATIC TAX INCREASE.
§ 3.37.040 SUSPENSION OR REDUCTION.
§ 3.37.050 APPROPRIATIONS LIMIT.
§ 3.37.060 PAYMENT OF TAX DOES NOT AUTHORIZE UNLAWFUL BUSINESS.
§ 3.37.070 DEFINITIONS.
§ 3.37.080 CONSTITUTIONAL EXEMPTIONS.
§ 3.37.090 ADMINISTRATION BY ADMINISTRATOR.
§ 3.37.100 CANNABIS BUSINESS TAX.
§ 3.37.110 REPORTING AND REMITTANCE OF TAX.
§ 3.37.120 APPORTIONMENT.
§ 3.37.130 INTEREST AND PENALTY.
§ 3.37.140 ASSESSMENTS AND APPEAL.
§ 3.37.150 RECORDS.
§ 3.37.160 REFUNDS.
§ 3.37.170 APPEALS.
§ 3.37.180 MISDEMEANOR; TAX STILL OWED.
§ 3.37.190 TAX AS CIVIL DEBT.
§ 3.37.200 APPEALS.
§ 3.37.210 ACTIONS TO COLLECT.
§ 3.37.220 ENFORCEMENT COSTS.
§ 3.37.230 REMEDIES CUMULATIVE.
§ 3.37.240 RECORDING OF A CERTIFICATE OF LIEN.
§ 3.37.250 STATEMENT OF TAX NOT CONCLUSIVE ON CITY.
§ 3.37.260 CITY COUNCIL AUTHORITY TO AMEND.


**§ 3.37.010 PURPOSE.**

This chapter is adopted pursuant to Government Code §§ 53723 and 53724 for the purpose of raising revenue for the city's general governmental purposes.

## § 3.37.020 TAX IMPOSED.

There is established and imposed, beginning July 1, 2017, a cannabis business tax in the manner and rates set forth in this chapter.

## § 3.37.030 AUTOMATIC TAX INCREASE.

A. Beginning on July 1, 2024, non-gross receipts based taxes imposed by this chapter will be increased annually each July 1st on a percentage basis using the percentage increase in the consumer price index ("CPI") for all urban consumers as calculated by the United States Department of Labor, Bureau of Labor Statistics, for the Los Angeles-Riverside-Orange County area, for the 12 months ending March 31st of each year.

B. Notwithstanding any other provisions of this code, the tax imposed in this chapter will be increased by a minimum of one cent ($0.01) every year for square footage-based or other non-gross receipts based taxes.

## § 3.37.040 SUSPENSION OR REDUCTION.

Nothing in this chapter requires the City Council to collect a tax; the city council may suspend or reduce tax rates imposed by this chapter by resolution after a public hearing.

## § 3.37.050 APPROPRIATIONS LIMIT.

The City's appropriations limit established under Article XIIIB of the California Constitution will be increased by the amount collected by the levy of the tax in accordance with the applicable requirements of California law.

## § 3.37.060 PAYMENT OF TAX DOES NOT AUTHORIZE UNLAWFUL BUSINESS.

A. Paying the tax required by this chapter, and its acceptance by the City, does not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable state laws.

B. Taxes paid pursuant to this chapter do not authorize the conduct of any business. Monies collected from the tax imposed by this chapter is solely for revenue and not for regulation.

## § 3.37.070 DEFINITIONS.

Unless the contrary is stated or clearly appears from the context, the following definitions govern the construction of the words and phrases used in this chapter. Words and phrases not defined by this chapter will have the meanings stated elsewhere in this Code, or under the California Government Code.

A. "Administrator" means the city manager, or designee.

B. "Affiliated corporation" means a corporation where:

1. The voting and non-voting stock of which is owned at least eighty percent by such other corporation with which such transaction is had; or

2. Which owns at least eighty percent of the voting and non-voting stock of such other corporation; or

3. At least eighty percent of the voting and non-voting stock of which is owned by a common parent corporation which also has such ownership of the corporation with which such transaction is had.

C. "Business" includes all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but does not include the services rendered by an employee to his or her employer.

D. "Cannabis" means all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" also means marijuana as defined by Health and Safety Code Section 11018 and is not limited to medical cannabis.

E. "Cannabis product" 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. "Cannabis product" also means marijuana products as defined by Health and Safety Code Section 11018.1 and is not limited to medical cannabis products.

F. "Canopy" means all areas occupied by any portion of a cannabis plant, inclusive of all vertical planes, whether contiguous or noncontiguous on any one site. The plant canopy does not need to be continuous on any premise in determining the total square footage which will be subject to tax.

G. "Cannabis business" or "Commercial cannabis business" means any commercial business activity relating to cannabis including, without limitation, cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, and selling (wholesale and/or retail sales) of cannabis and any ancillary products and accessories in the City, whether or not carried on for gain or profit.

H. "Commercial cannabis cultivation" means cultivation conducted by, for, as part of a commercial cannabis business.

I. "City permit" means a permit issued pursuant to this Code authorizing a person to operate or engage in a commercial cannabis business.

J. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

K. "Delivery" means the commercial transfer of cannabis or cannabis products from a dispensary.

L. "Dispensary" means a facility where cannabis, cannabis products, or devices for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale.

M. "Distributor" or "distribution" or "distribution facility" means a person or facility involved in the procurement, sale, and/or transport of cannabis and cannabis products between permitted or licensed entities.

N. "Employee" means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

O. "Engaged in business" means the commencing, conducting, operating, managing or carrying on of a cannabis business and the exercise of corporate or franchise powers, whether done as owner, or by means of an

officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person is deemed engaged in business within the City if, and without limitation:

1. Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;

2. Such person or person's employee owns or leases real property within the City for business purposes;

3. Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;

4. Such person or person's employee regularly conducts solicitation of business within the City;

5. Such person or person's employee performs work or renders services in the City; and

6. Such person or person's employee utilizes the streets within the City in connection with the operation of motor vehicles for business purposes.

P. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a marijuana business in the City.

Q. "Fiscal year" means July 1 through June 30 of the following calendar year.

R. "Gross Receipts," except as otherwise specifically provided, means the total amount actually received or receivable from all sales; the total amount or compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise; discounts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks or bonds, however designated. Included in "gross receipts" is all receipts, cash, credits and property of any kind or nature, without any deduction there from on account of the cost of the property sold, the cost of materials used, labor or service costs,

interest paid or payable, or losses or other expenses whatsoever, except that the following is excluded:

1. Cash discounts where allowed and taken on sales;

2. Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price is included as gross receipts;

3. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

4. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

5. Receipts from investments where the holder of the investment receives only interest and/or dividends, royalties, annuities and gains from the sale or exchange of stock or securities solely for a person's own account, not derived in the ordinary course of a business;

6. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

7. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they is included in the amount of gross receipts for the period when they are recovered;

8. Receipts of refundable deposits, except that such deposits when

forfeited and taken into income of the business must not be excluded when in excess of one dollar;

9. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion does not apply to any fees, percentages, or other payments retained by the agent or trustees.

S. "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container, that holds a valid City permit.

T. "Nursery" means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

U. "Person" means, without limitation, any natural individual, firm, trust, common law trust, estate, partnerships of every kind, association, syndicate, club, joint stock company, joint venture, limited liability company, corporation (including foreign, domestic, and non-profit), municipal corporation (other than the City), municipal district, cooperative, or receiver, trustee, guardian or other representative appointed by court.

V. "Personal medical cannabis cultivation" means cultivation by a qualified patient who cultivates 100 square feet total canopy area or less of cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person. "Personal medical cannabis cultivation" also includes cultivation by a primary caregiver who cultivates 100 square feet total canopy area or less of cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver, but who does not receive remuneration for these activities except for compensation in full compliance with Health and Safety Code Section 11362.765, as amended.

W. "Sale" means and includes any sale, exchange, or barter.

X. "Square foot" or "square footage" means the maximum amount of canopy for commercial cannabis cultivation authorized by a City permit issued to a

person engaging in commercial cannabis business, or by a state license in the absence of a City permit or license, not deducting for unutilized square footage, and is the basis for the tax base for cultivation.

Y. "State license," "license," or "registration" means a state license issued pursuant to Business & Professions Code Sections 19300, *et seq.* or other applicable state law.

Z. "Tax," "cannabis business tax," "business tax," or "commercial marijuana tax" means the tax due pursuant to this chapter for engaging in commercial cannabis business in the City.

AA. "Testing laboratory" means a facility, entity, or site in the state that offers or performs testing of cannabis or cannabis products and that is both of the following:

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

2. Registered with the California State Department of Public Health.

BB. "Transport" means the transfer of cannabis or cannabis products from the permitted business location of one permittee or licensee to the permitted business location of another permittee or licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to state law.

CC. "Transporter" means a person issued all required state and City permits to transport cannabis or cannabis products between permitted facilities.

## § 3.37.080 CONSTITUTIONAL EXEMPTIONS.

A. The tax imposed by this chapter does not apply to:

1. Any person or service when imposition of the tax upon that person or service would violate a federal or state statute, the Constitution of the United States, or the Constitution of the state of California;

2. The city.

B. Except as otherwise provided, any person that is exempt from the tax imposed by this chapter must file an application with the administrator for an exemption. The application for a Tax exemption must be made upon a form approved by the administrator and state those facts, declared under penalty of perjury, which qualify the applicant for an exemption, and include the names of all utility service providers serving that person. If

deemed exempt by the administrator, such person must give the administrator timely written notice of any change in utility service providers so that the administrator can properly notify the new utility service provider of the person's Tax exempt status.

C. A person failing to comply with this section is not entitled to a refund of Tax remitted to the administrator from such person as a result of such non-compliance.

## § 3.37.090 ADMINISTRATION BY ADMINISTRATOR.

A. The administrator is authorized to administer this chapter. Such authority includes, without limitation, the ability to promulgate administrative rules and regulations consistent with the provisions of this code as needed to enforce and administer this chapter. Rules and regulations adopted by the administrator require City Council approval.

B. The administrator has the power and duty to enforce each and all of the provisions of this chapter including, without limitation, the rules and regulations promulgated in accordance with the chapter.

C. For good cause, the administrator may enter into agreements to vary the strict requirements of this chapter in order to avoid a hardship where the administrative costs of collection and remittance greatly outweigh the tax benefit. Such agreements must be on file in the administrator's office and may be voided by the administrator or the City at any time.

D. The administrator will determine the eligibility of any person who asserts a right to exemption from the tax imposed by this chapter.

## § 3.37.100 CANNABIS BUSINESS TAX.

A. Tax on commercial cannabis cultivation except nurseries.

1. Every person who is engaged in commercial cannabis cultivation in the City must pay an annual Cannabis business tax. The initial tax rate effective July 1, 2017 for commercial cannabis cultivation, excluding nurseries, is set at $15.00 per fiscal year, per square foot of canopy space authorized by each City permit, or by each state license in the absence of a City permit, not deducting for unutilized square footage. The square footage is the maximum square footage of canopy allowed by the City permit for commercial cannabis cultivation, or, in the absence of a City permit, the square footage is the maximum square footage of canopy for commercial cannabis cultivation allowed by the state license type. In no case

can canopy square footage which is authorized by the permit or license, but not utilized for cultivation, be deducted for the purpose of determining the tax for cultivation unless duly authorized in writing by the administrator.

2. Beginning on July 1, 2020, the tax rate will automatically increase each fiscal year by $2.50 per square foot of authorized canopy. Except as otherwise provided, the maximum tax rate is $25.00 per square foot.

B. Tax on cultivation of cannabis as a nursery.

1. Every person who is engaged in cultivation of cannabis as a nursery as defined in this chapter in the City must pay an annual Cannabis business tax. The initial tax rate effective July 1, 2017 is set at $2.00 per square foot of canopy authorized by each City permit, or by each state license in the absence of a City permit, not deducting for unutilized square footage. The square footage is the maximum square footage of canopy allowed by the City permit for cultivation of cannabis as a nursery, or, in the absence of a City permit, the square footage is the maximum square footage of canopy for cultivation of cannabis as a nursery allowed by the state license type. In no case must canopy square footage which is authorized by the permit or license but not utilized for cultivation as a nursery be deducted for the purpose of determining the tax for cultivation as a nursery unless duly authorized in writing by the administrator.

2. Beginning on July 1, 2020, such tax rate will automatically increase each fiscal year by $1.50 per square foot of canopy utilized for cannabis cultivation as a nursery. Except as otherwise provided, the maximum tax rate is $5.00 per square foot per annum.

C. Tax on all other commercial cannabis businesses.

1. Every person who is engaged in business as a dispensary, manufacturer, testing laboratory, transporter, or distribution facility, or engaging in delivery of cannabis in the City must pay an annual commercial Cannabis business tax. The initial tax rate effective July 1, 2017 is set at 5% of the gross receipts per fiscal year.

2. Beginning on July 1, 2020, the tax rate will automatically increase each fiscal year by 2.5%. Except as otherwise provided, the maximum tax rate is 10% per fiscal year on gross receipts.

## § 3.37.110 REPORTING AND REMITTANCE OF TAX.

A. Each person required by this chapter to remit a tax must file a return to the administrator on forms approved by the administrator on or before the due date. The full amount of the tax owed must be included with the return and filed with the administrator. The administrator is authorized to require such additional information as deemed necessary to determine if the tax is being levied, collected, and remitted in accordance with this chapter. Pursuant to Revenue and Tax Code § 7284.6, the administrator, and its agents, must maintain such filing returns as confidential information, and not subject to the California Public Records Act.

B. The Cannabis business tax imposed by this chapter is imposed on a fiscal year basis and is due and payable in quarterly installments as follows:

1. Each person owing a Cannabis business tax must, on or before the last day of the month following the close of each fiscal year quarter remit to the administrator the tax due. The tax due is no less than the quarterly installment due, but the taxpayer may at any time pay the tax due for the entire fiscal year. Each business must pay on or before the last day of the month following the close of each calendar quarter.

2. If the Cannabis business tax is owed on commercial cannabis cultivation, the square footage tax due is paid based on the square footage of cultivation authorized by the City permit. The tax will not be prorated or adjusted for any reduction in the square footage authorized but not utilized for cultivation unless duly authorized in writing by the administrator. If the cultivation begins in the middle of a fiscal year, the administrator must prorate, in daily increments, the amount due for the fiscal year.

C. Tax statements and payments for all outstanding taxes owed the City are immediately due to the administrator upon cessation of business for any reason.

D. The administrator may establish shorter reporting and payment periods for any taxpayer as the administrator deems necessary to ensure collection of the tax.

E. The administrator may, as part of administering the tax, modify the form of payment and take such other administrative actions as needed to facilitate collection of the tax.

## § 3.37.120 SEGREGATION OF BOOKS AND RECORDS.

If a business subject to the tax is operating both within and outside the City, the person operating the business must maintain separate books and records and if permitted by law, bank accounts, for business operations within and outside of the City at all times.

## § 3.37.130 INTEREST AND PENALTY.

A. Taxes collected from a person, or owed by a person which are not received by the administrator on or before the due dates provided in this chapter are delinquent and are subject to penalties and interest. Should the due date occur on a weekend or legal holiday, the return must be received by the administrator on the first regular working day following a Saturday/Sunday or legal holiday. A direct deposit, including electronic fund transfers and other similar methods of electronically exchanging monies between financial accounts, made by a person in satisfaction of its obligations under this subsection is considered timely if the transfer is initiated on or before the due date, and the transfer settles into the city's account on or before the following business day.

B. If the person required to remit the tax fails to remit the tax, the administrator will attach a penalty for such delinquencies or deficiencies at the rate of 5% of the total tax that is delinquent or deficient in the remittance, and if not remitted within two working days after the date of the delinquency, will pay a total penalty of 20% of the amount of tax owed.

C. The administrator has the power to impose additional penalties upon persons required to remit Taxes under the provisions of this chapter for fraud or gross negligence in reporting or remitting at the rate of 50% of the amount of the tax required to be remitted, or as recomputed by the administrator.

D. In addition to any other penalties imposed by this chapter, any person required to remit any tax imposed by the provisions of this chapter who fails to remit the tax must pay interest at the rate of three-quarters of one percent (0.75%) per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid.

E. No penalty or interest will be applied if delinquencies are the result of natural disasters or other phenomena beyond the control of the person charged with remitting the tax, provided the person being delinquent notifies the administrator as soon as normal communications permit.

## § 3.37.140 ASSESSMENTS AND APPEAL.

The administrator may make an assessment for tax not paid or remitted by a person required to pay or remit. The administrator must mail a notice of such assessment, which refers briefly to the amount of the tax, penalties and interest imposed and the time and place where the assessment may be contested, to the person and/or the person at least ten days before the date of the hearing and post such notice for at least five continuous days before the date of the hearing. A penalty of 25% of the amount of the tax set forth in the notice must be imposed, along with interest at the rate of three-quarters of one percent (0.75%) per month, or any fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent, until paid. Any interested party having any objections may appear and be heard at the hearing provided his or her objection is filed in writing with the administrator before the time of the hearing. At the time fixed for considering such assessment, the administrator will hear the same, together with any objections filed as provided in this subsection, and thereupon may confirm or modify such assessment.

## § 3.37.150 RECORDS.

A. It is the duty of every person required to remit to the City any tax imposed by this chapter to keep and preserve, for a period of at least three years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for remittance to the administrator, which records the administrator, or the administrator's designated representative, must have the right to inspect at a reasonable time.

B. The administrator may issue a legislative subpoena, in a form approved by the city attorney, to compel a person to deliver to the administrator, copies of all records deemed necessary by the administrator to establish compliance with this chapter, including the delivery of records in a common electronic format on readily available media if such records are kept electronically by the person in the usual and ordinary course of business. As an alternative to delivering the subpoenaed records to the administrator on or before the due date provided in the administrative subpoena, such person may provide access to such records outside the city on or before the due date, provided that such person must reimburse the city for all reasonable travel expenses incurred by the city to inspect those records, including travel, lodging, meals, and other similar expenses, but excluding the normal salary or hourly wages of those persons designated by the city to conduct the inspection.

C. The administrator is authorized to execute a non-disclosure agreement approved by the city attorney to protect the confidentiality of person

information pursuant to Revenue and Tax Code §§ 7284.6 and 7284.7.

D. If a person uses a billing agent or billing aggregator to bill, collect, and/or remit the tax, the person must:

1. Provide to the administrator the name, address and telephone number of each billing agent and billing aggregator currently authorized by the person to bill, collect, and/or remit the tax to the city; and

2. Upon request of the administrator, deliver, or effect the delivery of, any information or records in the possession of such billing agent or billing aggregator that, in the opinion of the administrator, is necessary to verify the proper application, calculation, collection and/or remittance of such Tax to the city.

E. If any person subject to record-keeping under this section unreasonably denies the administrator access to such records, or fails to produce the information requested in a legislative subpoena within the time specified, the administrator may impose a penalty of $500 on such person for each day following:

1. The initial date that the person refuses to provide such access; or

2. The due date for production of records as set forth in the legislative subpoena. This penalty is in addition to any other penalty imposed under this chapter.

## § 3.37.160 REFUNDS.

A. Whenever the amount of any tax is overpaid, paid more than once, or was erroneously collected or received by the administrator under this chapter it may be refunded as provided in this section.

B. The administrator may refund any tax that was overpaid, paid more than once, or erroneously collected or received by the administrator under this chapter, provided that no refund will be paid under the provisions of this section unless the claimant or his or her guardian, conservator, executor or administrator submits a written claim to the administrator within one year of the overpayment or erroneous or illegal collection of said tax. Such claim must clearly establish claimant's right to the refund by written records showing entitlement thereto. Nothing herein permits the filing of a claim on behalf of a class or group of taxpayers. Where the amount of any individual refund claim is in excess of $25,000, city council approval is required in addition to approval by the administrator.

C. The administrator, or the city council where the claim is in excess of $25,000 and the administrator has approved the claim, must act upon the refund claim within 45 days of the initial receipt of the refund claim. Said decision is the city's final decision. If the administrator/city council fails or refuses to act on a refund claim within the 45 day period, the claim is deemed rejected by the administrator/City Council on the 45th day. The administrator will give notice of the action in a form which substantially complies with that set forth in Government Code § 913.

D. The filing of a written claim is a prerequisite to any lawsuit. Any action brought against the city pursuant to this chapter is subject to the provisions of Government Code §§ 945.6 and 946.

E. Notwithstanding anything to the contrary, a person is entitled to take any overpayment as a credit against an underpayment whenever such overpayment was received by the city within the three years next preceding a notice of tax deficiency or assessment by the administrator, or during any year for which the person, at the request of the administrator, executed a waiver of the defense of the statute of limitations with regard to any claim the city may have for a tax. Under no circumstances may an overpayment taken as a credit against an underpayment pursuant to this subsection qualify a person for a refund to which it would not otherwise be entitled under the written claim requirements of this chapter.

## § 3.37.170 APPEALS.

A. The provisions of this section apply to any assessment, decision or administrative ruling of the administrator, other than a decision relating to a refund. Any person aggrieved by any assessment, decision or administrative ruling of the administrator, other than a decision relating to a refund, is required to comply with the appeals procedure of this section. Compliance with this section is a prerequisite to a lawsuit. Nothing permits the filing of a claim or action on behalf of a class or group of taxpayers.

B. If any person is aggrieved by any assessment, decision or administrative ruling of the administrator, other than a decision relating to a refund; or with the failure of the administrator to grant an exemption as provided for under this chapter; he or she may appeal to the city council by filing a notice of appeal with the city clerk within fourteen days of the date of the assessment, decision or administrative ruling of the administrator which aggrieved the person or person.

C. The matter will be set for hearing not more than 30 days from the receipt of the appeal. The appellant will be served with notice of the time and

place of the hearing, as well as any relevant materials, at least five calendar days before the hearing. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party, the administrator, and any other interested person may present such relevant evidence as he or she may have relating to the determination from which the appeal is taken.

D. Based upon the submission of such evidence and the review of the city's files, the city council will issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice must be given within fourteen days after the conclusion of the hearing and must state the reasons for the decision. The notice will specify that the decision is final and that any petition for judicial review must be filed within 90 days from the date of the decision in accordance with Code of Civil Procedure § 1094.6. If the City Council fails or refuses to act on a refund claim within the fourteen day period after the assessment, decision or administrative ruling, the claim is deemed to have been rejected by the City Council on the fourteenth day. The action of the City Council is final and conclusive.

E. No injunction or writ of mandate or other legal or equitable process may issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this chapter of any tax or any amount of tax required to be remitted.

## § 3.37.180 MISDEMEANOR; TAX STILL OWED.

A. Violations of this chapter are unlawful and constitute a misdemeanor.

B. Conviction for violating this chapter does not relieve persons from paying the tax or prevent the City from filing a civil action for the tax debt unpaid at the time of such conviction.

## § 3.37.190 TAX AS CIVIL DEBT.

Any tax required to be paid pursuant to this chapter:

A. Which is collected by a person and has not been paid to the city in the time prescribed by this chapter, is a civil debt owed by the person to the City; and

B. By a person, which tax is not collected for any reason by the person whether or not charges are collected by the person from the person, the amount of such tax is a civil debt owed by the person and person to the City.

## § 3.37.200 APPEALS.

A. The provisions of this section apply to any assessment, decision or administrative ruling of the administrator, other than a decision relating to a refund. Any person aggrieved by any assessment, decision or administrative ruling of the administrator, other than a decision relating to a refund, is required to comply with the appeals procedure of this section. Compliance with this section is a prerequisite to a lawsuit. Nothing in this chapter permits the filing of a claim or action on behalf of a class or group of taxpayers.

B. If any person is aggrieved by any assessment, decision or administrative ruling of the administrator, other than a decision relating to a refund; or with the failure of the administrator to grant an exemption as provided for under this chapter; he or she may appeal to the city council by filing a notice of appeal with the city clerk within fourteen days of the date of the assessment, decision or administrative ruling of the administrator which aggrieved the person or service supplier.

C. The matter will be set for hearing not more than 30 days from the receipt of the appeal. The appellant will be served with notice of the time and place of the hearing, as well as any relevant materials, at least five calendar days before the hearing. The hearing may be continued from time to time upon mutual consent. At the time of the hearing, the appealing party, the administrator, and any other interested person may present such relevant evidence as he or she may have relating to the determination from which the appeal is taken.

D. Based upon the submission of such evidence and the review of the city's files, the city council will issue a written notice and order upholding, modifying or reversing the determination from which the appeal is taken. The notice must be given within fourteen days after the conclusion of the hearing and must state the reasons for the decision. The notice will specify that the decision is final and that any petition for judicial review must be filed within 90 days from the date of the decision in accordance with Code of Civil Procedure § 1094.6. If the City Council fails or refuses to act on a refund claim within the fourteen day period after the assessment, decision or administrative ruling, the claim is deemed to have been rejected by the City Council on the fourteenth day. The action of the City Council is final and conclusive.

E. No injunction or writ of mandate or other legal or equitable process may issue in any suit, action, or proceeding in any court against this City or against any officer of the City to prevent or enjoin the collection under this

chapter of any tax or any amount of tax required to be remitted.

## § 3.37.210 ACTIONS TO COLLECT.

Any person owing money to the city under the provisions of this chapter is liable in an action brought in the name of the city for the recovery of such amount, along with any collection costs incurred by the City as a result of the person's noncompliance with this chapter, including, without limitation, reasonable attorney's fees.

## § 3.37.220 ENFORCEMENT COSTS.

Where a civil action is filed, the prevailing party is entitled to reasonable attorneys' fees, but is limited by the amount of attorneys' fees claimed by the city. If the court issues an order in favor of the city, the court will also award the city its actual costs of enforcement, including, without limitation, reasonable attorneys' fees incurred by the city in such judicial proceeding.

## § 3.37.230 REMEDIES CUMULATIVE.

All remedies and penalties prescribed by this chapter or which are available under any other provision of this code, in law, or in equity, including, without limitation, the California False Claims Act (Government Code § 12650, et seq.), are cumulative. The use of one or more remedies by the City will not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

## § 3.37.240 RECORDING OF A CERTIFICATE OF LIEN.

If any tax is not paid when due, the administrator may record with the County Recorder(s) of such counties as the administrator may determine, a Certificate which specifies the amount of tax due and the name and address of the person owing the tax. The Certificate must include a statement that the administrator has complied with all legal requirements in the determination of the tax owed and a legal description of the real property of the owner. Upon recording of the Certificate, the tax constitutes a lien upon all real property owned or thereafter acquired by the person. The lien has the force, effect and priority of a judgment lien.

## § 3.37.250 STATEMENT OF TAX NOT CONCLUSIVE ON CITY.

A. No reports or statements of a person is conclusive as to any matter affected by this chapter nor is the city precluded from collecting any sum actually due and payable. Each report or statement and each of the items therein are subject to audit and verification by an auditor appointed by the

city.

B. The administrator may require any person, upon reasonable written notice, to provide the administrator with access to all of the person's books and records relating to the person's operation of the utility that are subject to a Tax pursuant to this chapter. If, as a result of any such audit, it is determined that a return required to be filed by such person is inaccurate and did not include and report the correct amount of Tax due pursuant to this chapter, the person must forthwith pay to the city all Taxes which are shown to be due as a result of such audit.

C. Every person must keep and preserve for a period of not less than five years all records as may be necessary to determine the tax, which records must be made available upon demand of the city at all reasonable times. Such person must permit an examination of such books and records at a location within the city's jurisdiction.

D. If an audit conducted pursuant to the provisions of this section reflects that in any tax reporting and remittance period there was under-reporting of Taxes due by five percent or more, which under-reporting was not corrected by the person before the commencement of the audit, all costs associated with the audit will be borne by the person and the cost is subject to collection as a civil debt by the City.

**§ 3.37.260 CITY COUNCIL AUTHORITY TO AMEND.**

Unless voter is approval is required by the California Constitution or applicable law, the City Council may exercise all applicable powers set forth in the Government Code including, without limitation, amending this chapter by ordinance upon three affirmative votes by its members. It may, in additional, adopt by ordinance or resolution such additional regulations that may be necessary to implement the purposes of this chapter."

SECTION 2: INTERPRETATION. This Proposition must be interpreted so as to be consistent with all federal and state laws, rules, and regulations. If any section, sub-section, sentence, clause, phrase, part, or portion of this Proposition is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this Proposition. The voters declare that this Proposition, and each section, sub-section, sentence, clause, phrase, part, or portion thereof, would have been adopted or passed irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, phrases, part, or portion is found to be invalid. If any provision of this Proposition is held invalid as applied to any person or circumstance, such invalidity does not affect any application of this Proposition that can be given effect without the invalid application.

SECTION 3: SEVERABILITY. If any portion of this Proposition is held by a court of competent jurisdiction to be invalid, the remainder of the Proposition and the application of such provision to other persons or circumstances will not be affected thereby. We the People indicate our strong desire that: (i) the City Council use its best efforts to sustain and reenact that portion, and (ii) the City Council implement this Proposition by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Proposition, and then adopting or reenacting such portion as necessary or desirable to allow imposition of the tax.

SECTION 4: CONSTRUCTION. This Proposition must be broadly construed in order to achieve the purposes stated in this Proposition. It is the intent of the voters that the provisions of this Proposition be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Proposition.

SECTION 5: ENFORCEABILITY. Repeal of any provision of the Bellflower Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Proposition's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Proposition.

SECTION 6: VALIDITY OF PREVIOUS CODE SECTIONS. If this entire Proposition or its application is deemed invalid by a court of competent jurisdiction, any repeal or amendment of the BMC or other city ordinance by this Proposition will be rendered void and cause such previous BMC provision or other the city ordinance to remain in full force and effect for all purposes

SECTION 7: EFFECTIVE DATE. This Proposition will enact and impose a general tax. Accordingly, it will be submitted to a general election on March XX, 2017 for voter approval. If a majority of voters vote in favor of this Proposition, it will become valid and binding ten days after the date that the City Council certifies the election results in accordance with Elections Code § 9217.

SECTION 8: CITY COUNCIL AUTHORITY. Chapter 3.37 may be repealed or amended by a majority of the City Council without voter approval. However, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Proposition as required by California Constitution Article XIIIC. Should the provisions of Government Code § 53720, *et seq.* or California Constitution Article XIIIC be repealed or amended, or interpreted by the courts so that voter approval is not required for enacting this Proposition, then this Proposition will take effect as provided for all other City ordinances and may be amended in the same manner as all other City ordinances.

SECTION 9: EFFECTIVE DATE. The Mayor will sign this Proposition and the City Clerk

will attest and certify to the passage and adoption of this Ordinance if a majority of the voters voting in the City's general election on ____ approve the proposition asking whether the voters approve this Proposition.

PASSED AND ADOPTED this ____ day of _____, 2016.

_____
Dan Koops, Mayor

APPROVED AS TO FORM:

_____
Karl H. Berger, City Attorney

CITY OF BELLFLOWER

RESOLUTION NO. 16-XX

**A RESOLUTION ESTABLISHING APPLICATION REQUIREMENTS AND MINIMUM QUALIFICATIONS FOR A MARIJUANA RELATED BUSINESS PERMIT PURSUANT TO BELLFLOWER MUNICIPAL CODE § 14.08.040**

**THE CITY COUNCIL RESOLVES AS FOLLOWS:**

**SECTION 1:** The City Council finds and declares that:

A. On XX, 2016, the City Council adopted Ordinance No. XX that adds Title 14 to the Bellflower Municipal Code ("BMC"), entitled "Marijuana-Related Businesses";

B. Chapter 14.04 of Title 14, establishes the general requirements for obtaining a permit to operate a marijuana related business within the City of Bellflower (a "Permit");

C. BMC § 14.08.040(G) provides that the City Council may, by resolution, establish minimum qualifications for persons seeking to obtain a Permit; and

D. This Resolution is adopted pursuant to BMC § 14.08.040(G) for the purpose of establishing the minimum qualifications for persons seeking to obtain a Permit.

**SECTION 2:** *Form and Content of Application*. In addition to the requirements set forth in BMC § 14.08.040, applications for a Permit must:

A. Be filed by a natural person in the name of each applicant proposing to conduct a marijuana related business. The person filing the application must be a principal for the applicant.

B. Every application must be signed by the proprietor, or the proprietor's authorized representative, under penalty of perjury.

C. Permit applications will be in a form prescribed by the City Manager, or designee, and contain all of the following information:

1. The name, mailing address, and daytime and evening telephone numbers of the person filing the application;

2. The business name, address, and telephone number of the single fixed location for which a license is sought;

3. The name and mailing address authorized by each proprietor to receive all notices. If such an address is not supplied, notices will be sent to the business address;

4. Whether or not the proprietor was previously issued a Permit that was suspended or revoked and, if so, the dates of the suspension period or revocation date; and

5. Such other information as the City Manager, or designee, deems reasonably necessary for administering or enforcing BMC Title 14.

D. A business plan must be filed with the application. Business plans must, at a minimum, provide:

1. A schedule for beginning operation, including a narrative outlining any proposed construction and improvements and a timeline for completion.

2. A budget for construction, operation, maintenance, compensation of employees, equipment costs, utility costs, and other operation and maintenance costs.

3. A pro forma for at least three years of operation.

4. How the marijuana related business, including its exterior areas and surrounding public areas, will be managed so as to avoid becoming a nuisance or having impact on its neighbors and the surrounding community.

E. The application must include a detailed description of Fire prevention, suppression, HVAC and alarm systems that includes an assessment of the marijuana related business's fire safety by a qualified Fire prevention suppression consultant. An appropriate plan will have considered all possible fire, hazardous material, and inhalation issues/threats and will have both written and physical mechanisms in place to deal with each specific situation.

F. A security plan that includes a description and detailed schematic of the overall security for the marijuana related business. Applicants must detail their operational security including, without limitation, general security policies for the facility, employee specific policies, training, sample written policies, transactional security, visitor security, 3rd party contractor security, and delivery security. In particular Applicants should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for access (area specific), types of security systems (alarms and cameras), and security personnel to be employed. The security plan must also include an assessment of site security by a qualified security consultant. Such security plans may be submitted in confidence.

**SECTION 3:** *Minimum Qualifications.* In addition to all other requirements of applicable law including, without limitation, BMC Title 14, applicants for a Permit must meet the following minimum qualifications:

A. The applicant must demonstrate that the applicant is:

1. Is a person of good character, honesty, and integrity;

2. Is a person whose background, reputation and associations will not result in adverse publicity for the City of Bellflower or its economic development; and

3. Has adequate business competence and experience for operating the marijuana related business.

B. The applicant must demonstrate that obtaining a Permit will be in the best interests of the City of Bellflower. The following objective criteria may be used in making such a determination for issuing a Permit:

1. Has there been an adequate period of performance by the applicant demonstrating experience for operating a marijuana related business?

2. Does the applicant have sufficient key personnel to operate a marijuana related business to demonstrate effective managerial capacity and control of operations?

3. Does the applicant have other marijuana related businesses inside or outside the City's jurisdiction that demonstrate the applicant's competency in operating such businesses?

4. Does the applicant have a reasonable and practical business plan for operating a marijuana related business within the City's jurisdiction?

C. There must be adequate financing to pay all current obligations and to provide adequate working capital to finance opening of a marijuana related business (which may be shown in a business plan described below). "Adequate financing" means a minimum of $400,000 as demonstrated by a letter of credit or other financial records.

D. The applicant must demonstrate that the proposed funding of the marijuana related business is

1. Adequate for the nature of the proposed operation; and

2. From a suitable source. The suitability of the source of funds is determined by the criteria set forth in Section 3(A)(1-3), above.

**SECTION 4:** *Delegation of Authority.* While this Resolution establishes the minimum qualifications for persons seeking to obtain a Permit, the City Manager, or designee, is authorized to promulgate administrative policies and procedures ("AP&P") that implement BMC Title 14 and, specifically, such additional qualifications for obtaining a Permit that may be desirable for administrative purposes. Nothing in such AP&P can substantively alter this Resolution; the AP&P must be reconciled with the intent of BMC Title 14 and this Resolution.

**SECTION 5:** The Mayor, or presiding officer, is authorized to sign this Resolution signifying its adoption by the City Council of the City of Bellflower and the City Clerk, or her duly appointed deputy, may attest thereto.

**SECTION 6:** This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

**SECTION 7:** The City Clerk is directed to mail a copy of this Resolution to the Applicant and to any other person requesting a copy.

**PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER ON THIS ____ DAY OF _____ 2016.**

_____
**Dan Koops, Mayor**

**ATTEST:**

_____
**Mayra Ochiqui, City Clerk**

**APPROVED AS TO FORM:**

_____
**Karl H. Berger, City Attorney**

CITY OF BELLFLOWER

RESOLUTION NO. PC 16-14

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELLFLOWER RECOMMENDING THE CITY COUNCIL APPROVE NEGATIVE DECLARATION NO. ND 16-05, ZONING ORDINANCE TEXT AMENDMENT CASE NO. ZOTA 16-05 AND A CODE AMENDMENT REPEALING CHAPTER 8.48 AND SECTION 17.04.110 OF THE BELLFLOWER MUNICIPAL CODE AND ADDING TITLE 14 AND CHAPTER 17.94 PERTAINING TO THE REGULATION OF MARIJUANA-RELATED BUSINESSES AND LAND USES**

The Planning Commission of the City of Bellflower does hereby resolve as follows:

**SECTION 1.** *Recitals.*

1. The Planning Commission of the City of Bellflower is proposing Zoning Ordinance Text Amendment Case No. ZOTA 16-05 and a Code Amendment ("Amendments") repealing Chapter 8.48 and Section 17.04.110 of the Bellflower Municipal Code and adding Title 14 and Chapter 17.94 pertaining to the regulation of marijuana-related businesses and land uses

2. In addition, the City reviewed the project's environmental impacts under the California Environmental Quality Act (Pub. Res. Code §§ 21000, *et seq.*, "CEQA") and the regulations promulgated thereunder (14 Cal. Code of Reg).

3. Notice of a Public Hearing before the Planning Commission was duly given and published in the time, form, and manner as required by law.

4. The Planning Commission opened the public hearing at the September 6, 2016 meeting to receive public testimony and other evidence, and continued the hearing to the September 19, 2016 meeting.

5. The Planning Commission re-opened the public hearing to receive public testimony and other evidence, and closed the hearing at the September 19, 2016 meeting.

6. The Planning Commission considered the information provided by City staff and public testimony. This Resolution, and its findings, is made based upon the evidence presented to the Planning Commission at its September 6, 2016 and September 19, 2016 hearings including, without limitation, the staff report.

**SECTION 2.** *Environmental Review Findings.* The Planning Commission finds as follows:

1. In accordance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000, et seq.; "CEQA") and CEQA regulations (Cal. Code Regs. tit. 14, §§ 15000, et seq.) and the City of Bellflower's Procedures for Implementing CEQA, an Initial Study and Negative Declaration have been prepared in accordance with the provisions of CEQA. The Initial Study and Negative Declaration determined that the adoption of this ordinance will not result in significant environmental impacts and that no further environmental review is required.

2. That the Initial Study and draft Negative Declaration were made available to the public for review and comment from August 4, 2016 to and including August 23, 2016.

3. A duly noticed public hearing was held by the Planning Commission of the City of Bellflower on September 6, 2016, and was continued to September 19, 2016, at which time evidence was heard on the Initial Study, Negative Declaration, and staff report. At the hearing, the Planning Commission fully reviewed and carefully considered them, together with any comments received during the public review period and determined that the Negative Declaration was consistent with CEQA.

**SECTION 3.** *Notice of Determination.* Upon approval of the Initial Study and Negative Declaration, the City Manager, or designee, is directed to file a Notice of Determination in accordance with Pub. Res. Code §§ 21152, 21167(f); 14 CCR § 15094; and any other applicable law.

**SECTION 4.** *Zoning Ordinance Text Amendment Findings.* The Planning Commission finds as follows:

1. In light of recently adopted legislation (*i.e.*, the Medical Marijuana Regulation and Safety Act) and in the event that the Adult Use of Marijuana Act initiative is approved by California voters in November 2016, there are changed conditions since the existing zoning regulations became effective to warrant other or additional zoning regulations.

2. The proposed Ordinance will not adversely affect adjoining property as to value or precedent, and will not be detrimental to the area. Since 1996, twenty states and the District of Columbia have legalized the use, home cultivation, and, in some cases, the retail dispensing of medical marijuana. In a study published March 26, 2014 in the journal PLOS One, researchers analyzed FBI crime statistics from eleven of these states between 1990 and 2006. (Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014) The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLoS ONE 9(3): e92816. doi: 10.1371/journal.pone.0092816.) The states included Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont and Washington. The research revealed that laws authorizing the use and dispensing of medical marijuana are not predictive of higher crimes rates and, in fact, may be related to reductions in rates of homicide and assault. Robbery and burglary rates were found to be unaffected by medical marijuana legislation, despite widely-held belief to the contrary. The results of the study were consistent with other prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity. Indeed, a U.S. National Institutes of Health study found that the psychopharmacologic effect of marijuana has "been attributed to 'mellowing out' or causing individuals to 'nod out,' conditions that are likely to ameliorate violent tendencies." (U.S. Department of Health and Human Services, Public Health Service & National Institute on Drug Abuse, "Drugs and Violence: Causes, Correlates and Consequences," NIDA Research Monograph 103, at 187 (1990)). The same study noted that marijuana use had no correlation to violent crime. (*Id.* at 8, 25, Table 6 and 232). Although there may be secondary impacts associated with marijuana dispensaries in the City, such as the possibility of increased crime at the facility, an increase in people loitering about the facility, and odors, the Commission finds

the proposed ordinance adequately attempts to ameliorate such secondary impacts. Accordingly, there is substantial evidence to support the conclusion that the proposed ordinance will not be detrimental to any area of the city or have an adverse effect on property values. To the contrary, it is anticipated that the limited authorization of marijuana-related businesses and uses contemplated by the ordinance, together with the strict regulatory controls set forth therein, will have the effect of reducing crime in the city and promoting public health, safety and the general welfare.

3. The proposed Ordinance promotes public health, safety and general welfare. Since 1996, twenty states and the District of Columbia have legalized the use, home cultivation, and, in some cases, the retail dispensing of medical marijuana. In a study published March 26, 2014 in the journal PLOS One, researchers analyzed FBI crime statistics from eleven of these states between 1990 and 2006. (Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014) The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLoS ONE 9(3): e92816. doi: 10.1371/journal.pone.0092816.) The states included Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont and Washington. The research revealed that laws authorizing the use and dispensing of medical marijuana are not predictive of higher crimes rates and, in fact, may be related to reductions in rates of homicide and assault. Robbery and burglary rates were found to be unaffected by medical marijuana legislation, despite widely-held belief to the contrary. The results of the study were consistent with other prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity. Indeed, a U.S. National Institutes of Health study found that the psychopharmacologic effect of marijuana has "been attributed to 'mellowing out' or causing individuals to 'nod out,' conditions that are likely to ameliorate violent tendencies." (U.S. Department of Health and Human Services, Public Health Service & National Institute on Drug Abuse, "Drugs and Violence: Causes, Correlates and Consequences," NIDA Research Monograph 103, at 187 (1990)). The same study noted that marijuana use had no correlation to violent crime. (*Id.* at 8, 25, Table 6 and 232). Although there may be secondary impacts associated with marijuana dispensaries in the City, such as the possibility of increased crime at the facility, an increase in people loitering about the facility, or odors, the Commission finds the proposed ordinance adequately attempts to ameliorate such secondary impacts. Accordingly, there is substantial evidence to support the conclusion that the limited authorization of marijuana-related businesses and uses contemplated by the ordinance, together with the strict regulatory controls set forth therein, will have the effect of reducing crime in the city and would, therefore, promote public health, safety and the general welfare.

4. The proposed Ordinance will not adversely affect the City's General Plan or zoning regulations set forth in the Bellflower Municipal Code ("BMC") because the proposed Ordinance does not inhibit the attainment of the overall goals of either the General Plan or the zoning regulations.

**SECTION 5.** *Text Amendment.* The proposed Amendments are attached hereto as Exhibit A as though set forth in full by this reference.

**SECTION 6.** *General Plan Findings.* The proposed Amendments are consistent with the goals and policies of the General Plan Land Use Element (General – Goal 2, Policies 2.2, 2.4, 2.8, and 2.11), in that they would make it possible for the City to provide commercial facilities to meet the retail and service needs of the community, promote employment opportunities to meet the needs of the community, encourage rehabilitation of designated commercial and industrial areas, and attract a new industry which provides new jobs and high value to the city. The proposed Amendments would not frustrate the goals and policies of the General Plan.

**SECTION 7.** *Recommendation.* Based on the foregoing, the Planning Commission recommends the City Council approve Negative Declaration No. ND 16-05 and the Amendments.

**SECTION 8.** *Reliance on Record.* Each and every finding and determination in this Resolution is based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project, and reflects the independent judgment of the Planning Commission. The findings and determinations constitute the independent findings and determinations of the Planning Commission in all respects and are fully and completely supported by substantial evidence in the record as a whole.

**SECTION 9.** *Effective Date.* This Resolution will become effective immediately upon adoption and remain effective until superseded by a subsequent resolution.

**SECTION 10.** The Planning Commission Chairman, or presiding officer, is hereby authorized to affix his signature to this Resolution signifying its adoption by the Planning Commission of the City of Bellflower, and the Planning Commission Secretary, is directed to attest thereto.

**SECTION 11.** The Planning Commission Secretary is directed to mail a copy of this Resolution to any person requesting a copy.

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF BELLFLOWER THIS 19th DAY OF SEPTEMBER 2016.**

**Ray Hamada, Chairman**

**ATTEST:**

**Art Bashmakian, AICP, Secretary**

**APPROVED AS TO FORM:**

**David H. King, Assistant City Attorney**

**Exhibit A: Draft Ordinance**

## EXHIBIT A

## ORDINANCE NO. 13XX

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLFLOWER REPEALING CHAPTER 8.48 AND SECTION 17.04.110 OF THE BELLFLOWER MUNICIPAL CODE AND ADDING TITLE 14 AND CHAPTER 17.94 PERTAINING TO THE REGULATION OF MARIJUANA-RELATED BUSINESSES AND LAND USES**

The City Council of the City of Bellflower does ordain as follows:

**SECTION 1**: The City Council finds and determines as follows:

A. On November 5, 1996, the voters of the State of California approved Proposition 215, codified as Health and Safety Code Section 11362.5, et seq., and entitled the Compassionate Use Act of 1996 ("CUA"). The CUA exempts qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for personal medical use.

B. The intent of the CUA is to enable persons in the State of California who are in need of marijuana for medicinal purposes to obtain it and use it under limited, specified circumstances.

C. The California Legislature enacted Senate Bill 420 in October 2003, codified at Health and Safety Section 11362.7, *et seq.*, ("Medical Marijuana Program Act," or "MMPA") to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420. The MMPA created a state-approved voluntary medical marijuana identification card program and provided for certain additional immunities from state marijuana laws. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances.

D. The CUA and MMPA do not "legalize" marijuana, but provide limited defenses to certain categories of individuals with respect to certain conduct and certain state criminal offenses.

E. In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that "[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land. . . ." Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that "there is no right – and certainly no constitutional right – to cultivate medical marijuana. . . . ." The Court in *Maral* affirmed the ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.

F. The Federal Controlled Substances Act, 21 U.S.C. § 801, et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United State, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful

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under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense, marijuana.

G. On October 9, 2015 Governor Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act ("MMRSA"). MMRSA established a statewide licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. MMRSA allows the City to completely prohibit commercial medical marijuana activities.

H. The limited immunity from specified state marijuana laws provided by the CUA and MMPA does not confer a land use right or the right to create or maintain a public nuisance.

I. The Bellflower Municipal Code ("BMC") currently prohibits all commercial cannabis activity in the City, including medical marijuana dispensaries, medical marijuana cultivation, and medical marijuana delivery services.

J. A statewide initiative entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA") qualified for the November 2016 ballot. If the AUMA is approved by the voters, it will decriminalize (under California law), control and regulate the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years of age or older. The AUMA would also tax the commercial growth and retail sale of marijuana. It does not, and cannot, affect federal regulations as to marijuana or its derivatives.

K. The AUMA expressly preserves local control over the regulation of marijuana-related businesses and marijuana-related land uses (proposed Business & Professions Code § 26200, *et seq.*)

L. The City Council wishes to authorize limited cultivation, manufacture, dispensing and delivery of marijuana and marijuana products in the City, subject to reasonable controls and regulations that will ensure marijuana-related activities do not pose a threat to the public health, safety or welfare, or pose a nuisance to properties or persons.

M. The activities proposed under this ordinance are consistent with and implement the goals and policies of the Bellflower General Plan.

N. The Planning Commission held duly-noticed public hearings on September 6, 2016 and September 19, 2016, at which time it considered all evidence presented, both written and oral. On September 19, 2016, it voted to adopt a resolution recommending the City Council adopt this Ordinance.

**SECTION 2**: *Authority*. This ordinance is adopted pursuant to the authority granted by the California Constitution and other California law including, without limitation, Article XI, Section 7 of the California Constitution; the Compassionate Use Act; the Medical Marijuana Program Act; the Medical Marijuana Regulation and Safety Act; and the Control, Regulate and Tax Adult Use of Marijuana Act.

**SECTION 3**: Chapter 8.48 ("Medical Marijuana") of the BMC is repealed.

**SECTION 4**: Section 17.04.110 ("Medical Cannabis Cultivation and Distribution") of the BMC is repealed.

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SECTION 5: Title 14 is added to the BMC to read as follows:

# "TITLE 14 MARIJUANA-RELATED BUSINESSES

## Chapter 14.04

## GENERAL PROVISIONS


**14.04.010 Intent and Purpose.**
**14.04.020 Legal Authority.**
**14.04.030 Marijuana-Related Business Activities Prohibited Unless Specifically Authorized.**
**14.04.040 Responsibility for Compliance.**
**14.04.050 Definitions.**


### 14.04.010 Intent and Purpose.

It is the intent and purpose of this Title to establish a city-wide system to control and regulate the cultivation, processing, manufacture, dispensing, delivery, and sale of marijuana and marijuana products in a manner that protects neighborhoods, residents, children, and business from negative impacts. The requirements set forth in this Title are in addition to any other permits, licenses and approvals that may be required to conduct business in the City and are in addition to any permits, licenses and approvals required under state law. Nothing in this Title is intended to authorize any activity that is contrary to state law.

### 14.04.020 Legal Authority.

This Title is adopted pursuant to the authority granted by the California Constitution and State law, including, without limitation, Article XI, Section 7 of the California Constitution; the Compassionate Use Act; the Medical Marijuana Program Act; the Medical Marijuana Regulation and Safety Act; and the Control, Regulate and Tax Adult Use of Marijuana Act. The City Manager is authorized to administer this Title and to promulgate such administrative policies and procedures that may be required to implement this Title.

### 14.04.030 Marijuana-Related Businesses and Activities Prohibited Unless Specifically Authorized.

Except as specifically authorized in this Code, the cultivation, processing, manufacture, dispensing, distribution, delivery, storing, testing, packaging, or sale of marijuana or any marijuana product is prohibited.

### 14.04.040 Responsibility for Compliance.

The owners and operators of a marijuana-related business, together with any person listed as the permittee or applicant on the marijuana-related business permit, are responsible for ensuring that the marijuana-related business is, at all times, operating in a manner compliant with all applicable laws, regulations, and conditions of approval.

### 14.04.050 Definitions.

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Unless the contrary is stated or clearly appears from the context, the following definitions will govern the construction of the words and phrases used in this Code. Words and phrases undefined in this Code have the same meaning as set forth in the Compassionate Use Act; the Medical Marijuana Program Act; the Medical Marijuana Regulation and Safety Act; or the Control, Regulate and Tax Adult Use of Marijuana Act.

"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 Health and Safety Code Section 11018. "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 Code, "cannabis" does not mean "industrial hemp" as defined by Food and Agricultural Code Section 81000 or Health and Safety Code Section 11018.5. For purposes of this Code, "marijuana" has the same meaning as cannabis and the two terms are used interchangeably.

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

"Cultivation site" means a facility or location where marijuana is cultivated, propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all of any combination of those activities, and where the operator holds a valid marijuana business permit for cultivation from the City and a valid state license to cultivate marijuana when required by state law.

"Delivery" means the commercial transfer of nonmedical marijuana or nonmedical marijuana products from a dispensary to a customer over 21 years of age, or the commercial transfer of medical marijuana or medical marijuana products to a primary caregiver or qualified patient as defined in Health and Safety Code Section 11362.7. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under State law, which enables customers or qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of marijuana or marijuana products.

"Dispensary" and "marijuana dispensary" mean a facility where marijuana, marijuana products, or devices for the use of marijuana or marijuana products are offered, either individually or in any combination, for retail sale, including an establishment that delivers marijuana and marijuana products as part of a retail sale.

"Dispensing" means any activity involving the retail sale of marijuana or marijuana products from a dispensary.

"Identification card" means a document issued by the California Department of Health Services that identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

"Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

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"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, and that holds a state license therefore and a marijuana business permit issued pursuant to this Title.

"Marijuana" means "cannabis," as that term is defined in this Title.

"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.

"Marijuana product" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, without limitation, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis or other ingredients.

"Marijuana business" and "marijuana-related business" means any business that engages in the cultivation, manufacture, processing, storing, testing, packaging, labeling, dispensing, delivery, distribution or sale of marijuana, marijuana products, or marijuana accessories, whether medical or nonmedical. "Marijuana business" and "marijuana-related business" also includes any store, outlet, warehouse, office, or other physical location, whether fixed or mobile, any portion of which is used for the business of cultivating, manufacturing, processing, storing, testing, packaging, labeling, dispensing, delivering, distributing or selling marijuana, marijuana products, or marijuana accessories, whether medical or nonmedical.

"Marijuana business permit" means a regulatory permit issued by the City pursuant to this Title.

"Medical marijuana" or "medical marijuana 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 the Health and Safety Code. For the purposes of this Code, "medical marijuana" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Medical marijuana dispensary" is a dispensary that offers or delivers medical marijuana and medical marijuana products for retail sale to qualified patients and primary caregivers.

"Medical marijuana collective" means a collective, cooperative, association, dispensary or similar entity that cultivates, distributes, dispenses, stores, exchanges, processes, delivers, makes available or gives away marijuana in the city for medical purposes to qualified patients, or primary caregivers of qualified patients pursuant to Health and Safety Code § 11362.5 or any State regulations promulgated to implement the Compassionate Use Act of 1996. Medical Marijuana Collective does not include the following uses, so long as such uses comply with this Code and other applicable law:

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1. A clinic licensed pursuant to Health and Safety Code § 1200, *et seq.*
2. A health care facility licensed pursuant to Health and Safety Code § 1250, *et seq.*
3. A residential care facility for persons with chronic life-threatening illness licensed pursuant to Health and Safety Code § 1568.01, *et seq.*
4. A residential care facility for the elderly licensed pursuant to Health and Safety Code § 1569, *et seq.*
5. A hospice or a home health agency licensed pursuant to Health and Safety Code § 1725, *et seq.*

"Operations Plan" means an operating plan that implements the standard requirements of this Title along with such additional, reasonable, criteria needed to protect public health and safety as determined by the Police Chief based upon the size and location of the proposed marijuana-related business.

"Person with an identification card" means an individual who is a qualified patient who has applied for and received a valid identification card pursuant to Health & Safety Code § 11362.7, *et seq.*

"Police Chief" means a Police Chief appointed by the city manager or approved pursuant to written agreement for law enforcement services executed pursuant to Government Code § 54981.

"Primary caregiver" means the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

1. In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Health and Safety Code Section 1200, *et seq.*, a health care facility licensed pursuant to Health and Safety Code Section 1250, *et seq.*, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Health and Safety Code Section 1568.01, *et seq.*, a residential care facility for the elderly licensed pursuant to Health and Safety Code Section 1569, *et seq.*, a hospice, or a home health agency licensed pursuant to Health and Safety Code Section 1725, *et seq.*, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.

2. An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

3. An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

A primary caregiver must be at least 18 years old, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make

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medical decisions under state law pursuant to Family Code Sections 6922, 7002, 7050, or 7120.

"Qualified patient" means a person who is entitled to the protections of Health and Safety Code Section 11362.5.

## Chapter 14.08

## MARIJUANA BUSINESS PERMITS


**14.08.010 Marijuana Business Permit Required to Engage in Marijuana-Related Business Activity.**
**14.08.020 Location Restrictions.**
**14.08.030 Number and Types of Authorized Marijuana Businesses Permitted.**
**14.08.040 Applications.**
**14.08.050 Expiration.**
**14.08.060 Renewals.**
**14.08.070 Prohibition on Transfer of Marijuana Business Permits.**
**14.08.080 Marijuana Permit Fee.**


### 14.08.010 Marijuana Business Permit Required to Engage in Marijuana-Related Business Activity.

It is unlawful for any person to engage in a marijuana-related business activity in the City unless the person (1) has a valid marijuana business permit from the City; and (2) is in compliance with all applicable state and local laws and regulations pertaining to the marijuana business, including the duty to obtain and maintain any required state license(s).

### 14.08.020 Location Restrictions.

A. No marijuana business permit can be issued for a marijuana-related business located on a parcel that is within 600 feet of any other parcel containing a school, religious facility, park, state- or county-licensed child daycare facility, youth center or licensed drug or alcohol rehabilitation facility. For purposes of this section, "school" includes a pre-school, transitional kindergarten, K-12 school, whether public or private.

B. A marijuana business permit may be renewed for a marijuana-related business located on a parcel that is within 600 feet of any other parcel containing a sensitive use listed in subparagraph (A) if: (1) the sensitive use located to the area after the subject marijuana business permit was first issued, (2) the subject marijuana business permit has not lapsed for any period of time, and (3) the marijuana-related business has been in continuous operation. For purposes of this section, a temporary interruption of business activity due to fire, natural disaster or other *force majeure* is excused provided reasonable steps are taken by the permittee to resume business operations expeditiously. The prior, temporary suspension of the marijuana business permit does not render a permit ineligible for renewal under this section provided the applicant otherwise qualifies for renewal pursuant to section 14.08.060.

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## 14.08.030 Number and Types of Authorized Marijuana Businesses Permitted.

A. No more than a total of six marijuana businesses can be permitted to operate in the City at any given time. Each physical location of a marijuana-related business requires a separate marijuana business permit.

B. The following types of marijuana-related business activities can be authorized by a marijuana business permit:

1. Cultivation (medical or nonmedical)
2. Marijuana Dispensary
3. Medical Marijuana Dispensary
4. Manufacturing (medical or nonmedical)
5. Marijuana Accessories, Retail Sale
6. Marijuana Delivery (medical or nonmedical)

C. Except as otherwise provided in this Title, a marijuana business permit may authorize the permittee to engage in more than one type of marijuana business activity.

D. This section is only intended to establish the maximum number of marijuana business permits that can be issued and active at any given time. It does not require the City to issue any particular number of marijuana business permits or to issue any marijuana business permits at all.

## 14.08.040 Applications.

A. Marijuana business permit applications must be made on a form approved by the City Manager, or designee, and accompanied by all information requested on the application.

B. Each application must be accompanied by an application fee, the amount of which will be set by resolution of the City Council. Such application fee is solely to reimburse the City for costs incurred as a result of processing a permit application. Any application fee is in addition to any permit fee or applicable tax separately established by City Council resolution or voter-approved ballot measure.

C. If a state license is required to engage in the type of marijuana business activity for which the applicant seeks a permit, a copy of a valid state license must accompany the application.

D. The application must identify the address of the location where the marijuana-related business is proposed to operate.

E. No person may apply for a marijuana business permit until and unless a conditional use permit issued pursuant to Title 17 authorizes a marijuana-related business use at the subject location. A conditional use permit is required in addition to, and separately from, a marijuana business permit required by this Title. Before an application for a marijuana business permit will be accepted by the City for processing, the applicant must provide, on a form approved by the City, proof that the owner of the underlying property, or his/her/its authorized agent, has authorized the applicant to make the application for a marijuana business permit at the subject location. A copy of the conditional use permit authorizing a marijuana-related use on the subject property must accompany the

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application. Only one application per parcel will be accepted and processed by the City at a given time. If an application for a marijuana-related business permit is denied, a subsequent application for a marijuana-related business permit on the same parcel may be accepted by the City only after the denial is final and all available administrative and judicial remedies relating thereto have been exhausted.

F. Completed applications must be submitted to the City Manager, or designee. Only complete applications will be considered. An application is complete if it is submitted with all of the information requested therein, together with full payment of the application fee. Applications will be considered in the order they are received. The City reserves the right to request supplemental information from any applicant before deeming an application complete. If supplemental information is requested, it must be provided to the City Manager, or designee, within seven business days of the request. If supplemental information is not provided within seven business days of the City's request, the application will lose its priority in the queue and will not be considered "received" until the date that all requested supplemental information is provided to the City Manager, or designee.

G. The City may reject or deny any or all applications. The City may request and obtain supplemental information from any applicant before making a decision on the application.

H. The City Council may, by resolution, establish minimum threshold qualifications for all marijuana business permit applicants including, without limitation, qualifications relating to prior relevant business experience, prior criminal history, and minimum liquid assets and/or net worth. Every application for a marijuana business permit must be accompanied by credible evidence demonstrating that the applicant meets or exceeds each of the threshold requirements established by the City Council.

**14.08.050 Expiration.**

Each marijuana business permit issued pursuant to this Title expires twelve months after the date it is issued. Marijuana business permits may be renewed as provided in this Title.

**14.08.060 Renewals.**

A. An application for renewal of a marijuana business permit must be filed at least 60 calendar days before the expiration of the current permit.

B. The renewal application must contain all of the information required for a new application.

C. The renewal application must be accompanied by a renewal fee established by city council resolution.

D. The renewal application must be denied if any of the following circumstances exists:

1. The renewal application is filed less than 60 calendar days before expiration of the permit.

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2. The marijuana business permit is suspended at the time of the application.

3. The marijuana business has not been in regular and continuous operation in the four months before the renewal application.

4. The marijuana business failed to conform to the requirements of this Title or any regulations adopted pursuant to this Title.

5. The permittee does not possess a valid license from the State of California, if required by law.

E. The City Manager, or designee, is authorized to make all decisions concerning applications for renewal. The City Manager, or designee, may impose additional conditions on a renewal permit if he or she determines it is necessary to ensure compliance with state or local laws and regulations or to preserve and protect the public health, safety, or welfare.

F. If a renewal application is denied for any reason, the permittee will be barred from renewing the marijuana business permit. If the permittee wishes to obtain another marijuana business permit, he/she/it must file a new application as set forth in this Title.

G. The City Manager's decision with respect to a renewal application may be appealed to the City Council pursuant to this Title.

**14.08.070 Prohibition on Transfer of Marijuana Business Permits.**

A. It is unlawful for any person to operate a marijuana business at any location other than the location specifically authorized and identified on a City-issued marijuana business permit.

B. No person may transfer ownership or control of a marijuana business or transfer any marijuana business permit issued under this Title. A marijuana business permittee has no right to sell or transfer a marijuana business permit to another party or to have the City consider whether it should authorize the transfer of a marijuana business permit to another party. Any attempt to transfer ownership of a marijuana business or of a marijuana business permit will automatically render the marijuana business permit void.

**14.08.080 Marijuana Permit Fee.**

In consideration of the privilege for obtaining a marijuana business permit pursuant to this Title, and in addition to any other requirements of this Title, a permittee must pay to the City the following:

A. Permit Fee.

1. During the term of any permit, the permittee will pay the City an annual fee (the "permit fee") as established by city council resolution. If a permit is issued on or after January 2 of any year, the permit fee will be prorated for the remainder of a calendar year based on a 360-day year.

2. The permit fee is due and payable annually on January 2, during the term of the permit for the preceding annual period, without demand

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and upon filing of the report required by this Section. Any fees or expenses charged to permittees by City pursuant to this Section, or any other provision of the permit, unless disputed in good faith, must be paid when due or are deemed delinquent. Any undisputed delinquent amounts will accrue interest commencing thirty (30) days after the due date, at the rate of one and one-half percent (1.5%) per month (based upon a 30-day calendar month) or any lesser amount if required by law. Any neglect, omission or refusal by permittee to pay any undisputed delinquent fee with any late charges, within thirty (30) days of written demand for payment is grounds for the City to declare the permit forfeited pursuant to the procedures established by this Title.

3. Payments must be made to the Office of Treasurer, City of Bellflower, or at such place as the City may, from time to time, designate in writing. The permit fee must be paid annually during the term of the permit, including the year of granting the permit.

B. Annual Increase.

1. The amount of each annual payment of the permit fee is subject to an increase after the first year of the permit and each subsequent year.

2. The increase is based on the Consumer Price Index (CPI), All Urban Consumers, for the Los Angeles-Anaheim-Riverside area (1982-84 = 100), as published by the United States Bureau of Labor Statistics, Department of Labor, for the month of September immediately preceding the month in which payment is due and payable, divided by the Consumer Price Index, All Urban Consumers, for the Los Angeles-Anaheim-Riverside area, for June 30, 1989, which equals 100. If the Index is discontinued or revised during the term of this permit, such other governmental price index or computation with which it is replaced chosen by the City will be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

3. The City Council will determine the adjustment in CPI and will provide a permittee with the correct schedule before December 1 preceding the month of January in which payment is due and payable.

C. Reports Required. A permittee must file with the City Clerk and City's Finance Director, on or before January 2nd after the expiration of the calendar year, or fractional calendar year, following the date of the granting of this permit and on or before January 2nd after the expiration of each calendar year thereafter, two copies of a report duly verified by the oath of the permittee or by the oath of a duly authorized representative of the permittee, showing for the immediately preceding franchise period:

1. The total gross receipts received by the permittee from the use, operation or possession of this permit during the preceding calendar year, or fractional calendar year; and

2. The total gross receipts received by the permittee from the sale of cannabis within City limits.

D. Any neglect, omission or refusal by permittee to file the verified statement required by the permit, or to pay any required payments at the time and in the

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manner specified is grounds for the declaration of a forfeiture of this permit and of all rights and privileges of permittee hereunder, provided that permittee has not cured said neglect, omission, or refusal to file or pay within fifteen days following written notice from the City of failure to file or pay the required amount, or, if such neglect, omission or refusal is not reasonably subject to cure within such fifteen day period, permittee has not commenced to cure such neglect, omission or refusal within such fifteen day period and has not continued to prosecute such cure to completion.

E. The fee required by this Section is addition to any voter approved ballot measure imposing a tax upon a marijuana business.

## Chapter 14.12

## MARIJUANA CULTIVATION


**14.12.010 Outdoor Cultivation Prohibited.**
**14.12.020 Operations Plan Required.**
**14.12.030 Operational Standards for the Commercial Cultivation of Marijuana.**


### 14.12.010 Outdoor Cultivation Prohibited.

Outdoor cultivation of marijuana is prohibited in all areas of the City.

### 14.12.020 Operations Plan Required.

A conditional use permit issued pursuant to Chapter 17.96 for a commercial marijuana cultivation facility must include, as conditions of approval, the operational standards required by this Title. In addition, the conditional use permit must incorporate by reference an Operations Plan approved by the Building Official and the Police Chief that implements not only the operational standards required by this Title, but such additional conditions that the Building Official and Police Chief, find reasonably necessary to implement the purpose of this Title when considering the location and size of the proposed cultivation facility.

### 14.12.030 Operational Standards for the Commercial Cultivation of Marijuana.

A. It is unlawful for any person to engage in the business of marijuana cultivation in the City of Bellflower without first obtaining a marijuana business permit pursuant to this Title and a state-issued cultivation license. If a permittee's state cultivation license lapses for any reason, the marijuana business permit will automatically become void.

B. It is unlawful for there to be any visual evidence of marijuana cultivation when viewed from five feet above ground level from any street, sidewalk, public right-of-way, or adjacent property.

C. If a dispensary is authorized to include cultivation activities, the dispensary may have only one contiguous cultivation area.

D. It is unlawful to use flammable or explosive substances in the cultivation of marijuana.

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E. Any person issued a permit pursuant to this Title must follow all pesticide use requirements of local, state and federal law.

F. The cultivation of marijuana must be undertaken in a manner that ensures the health, safety, and welfare of the public, the employees of the marijuana business, visitors, and neighboring properties.

G. The Operations Plan for a cultivation facility must include a detailed electrical and plumbing plan, along with projections for water usage.

H. It is unlawful for there to be any audible or olfactory evidence of marijuana cultivation from any street, sidewalk, public right-of-way, or adjacent property.

I. The address of any building on a parcel where marijuana is cultivated must be posted and plainly visible from the public right-of-way.

J. All law enforcement personnel seeking admission to the cultivation site for the purpose of ascertaining compliance with the standards and regulations of this Code must be given unrestricted access to all areas of the premises at all times during hours of operation. Consent to such unrestricted access must be acknowledged by the permittee and included within the Operations Plan.

K. It is unlawful for any person under the age of 21 to be present within the area where the cultivation of marijuana is occurring. A sign must be posted at each entrance to a cultivation facility informing visitors of these restrictions.

L. All cultivation activity must be conducted in compliance with all applicable state and local water conservation laws, ordinances, and regulations.

M. Each marijuana cultivation facility must provide the Police Chief, with the name and telephone number of an on-site employee or owner to whom emergency notice can be provided. The telephone number provided must be capable of accepting recorded voice messages in the event the contact person does not answer.

N. It is unlawful for any person to employ another person under the age of 21 at a marijuana cultivation facility.

O. Entrances into any area of a marijuana cultivation facility where marijuana is grown or kept must be locked at all times with entry strictly controlled. The specifics of such entry system must be set forth in the Operations Plan.

P. Odor control devices and techniques must be incorporated in a marijuana cultivation facility to ensure that odors from marijuana are not detectable outside of the facility or in any tenant space or area adjacent to the facility.

Q. A marijuana cultivation facility must have a professionally installed, maintained, and monitored alarm system as approved through the Operations Plan.

R. All entrances and exits to and from the cultivation facility must be monitored by 24-hour video security surveillance of at least HD quality with night vision capability. The video security system must be compatible with software and hardware utilized by the City as determined by the Police Chief, and set forth in the Operations Plan. Surveillance video must be recorded to a device that is

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securely located on the premises and all footage must be maintained for a minimum of 45 days. The video surveillance system specifications must be set forth in the Operations Plan before the city issues a certificate of occupancy for the cultivation facility.

S. Marijuana cultivation facilities cannot be open to the public.

T. A marijuana cultivation facility must be equipped with an automated fire suppression system to the satisfaction of the Building Official.

U. A marijuana cultivation facility must maintain a valid business license as required by this Code.

V. As part of the Operations Plan, permittees must execute an agreement in a form approved by the City Attorney that defends and indemnifies the City of Bellflower, along with its officials, officers, and employees, from any claim or liability arising from the city approving a marijuana business permit or allowing the operation of a marijuana cultivation facility. Such agreement must be secured with sufficient insurance, as determined by the City Attorney, and a surety, as approved by the City Attorney, to adequately protect the city from any and all liability.

W. A marijuana business permit for a marijuana cultivation facility is subject to all of the regulations and operational standards set forth in this section in addition to the conditions stated in the permit itself.

## Chapter 14.16

## MARIJUANA DISPENSARIES


**14.16.010 Operations Plan Required.**
**14.16.020 Operational Standards.**
**14.16.030 Special Operational Standards Applicable to Medical Marijuana Dispensaries.**


### 14.16.010 Operations Plan Required.

A conditional use permit issued pursuant to Chapter 17.96 for a marijuana dispensary or a medical marijuana dispensary must include, as conditions of approval, the operational standards set forth in Section 14.16.020. In addition, the conditional use permit must incorporate by reference an Operations Plan approved by the Police Chief, that implements not only the operations standards set forth in Section 14.16.020, but such additional conditions that the Police Chief finds reasonably necessary to implement the purpose of this Title when considering the location and size of the proposed dispensary.

### 14.16.020 Operational Standards.

Unless otherwise specified in this Chapter, the following operational standards apply to both medical marijuana dispensaries and non-medical marijuana dispensaries.

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A. To operate, a marijuana dispensary must obtain and maintain both a dispensary license from the California Department of Consumer Affairs and a marijuana business permit as set forth in this Title.

B. Subject to the conditions imposed by this Title, a marijuana business permit for a marijuana dispensary may authorize the mobile delivery of marijuana as part of and in conjunction with the operation of the dispensary. Mobile delivery privileges may be suspended or terminated by the City Manager, or designee, as set forth in this Title.

C. A marijuana dispensary can be open for access by the public only between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday and cannot be open on Sundays.

D. It is unlawful for alcohol or tobacco to be sold within a marijuana dispensary. Further, it is unlawful for smoking, vaporization, ingestion or consumption of alcohol, tobacco or marijuana in any form, to occur on the premises of a dispensary.

E. It is unlawful for marijuana or marijuana products to be publicly visible from the exterior of the property. It is unlawful to store marijuana or marijuana products outside of the dispensary at any time.

F. All marijuana and marijuana products sold or otherwise made available at a dispensary must be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with State and local regulations.

G. Each marijuana dispensary must provide the Police Chief with the name and telephone number of an on-site employee or owner to whom emergency notice can be provided. The telephone number provided must be capable of accepting recorded voice messages in the event the contact person does not answer.

H. It is unlawful for any person under 21 years of age to be allowed on the premises of a marijuana dispensary unless such person possesses a valid identification card issued by the California Department of Health Services. A sign must be posted at each entrance to a sales/display area of the dispensary informing patrons of these restrictions.

I. It is unlawful for any person to employ another person under the age of 21 at a marijuana dispensary.

J. Each entrance to a marijuana dispensary must be posted with a conspicuous notice stating that smoking, vaping, ingesting, or otherwise consuming marijuana on the premises or in the areas adjacent to the marijuana dispensary is prohibited.

K. Entrances into any area of a marijuana dispensary where marijuana products are displayed and/or being offered for sale must be locked at all times with entry strictly controlled. A "buzz-in" electronic/mechanical entry system must be utilized to limit access to such areas and to separate them from the outside and/or any adjacent reception/lobby area. The specifics of such entry system must be set forth in the Operations Plan.

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L. Uniformed security personnel must be employed to monitor all entrances and exits of the dispensary and to serve as a visual deterrent to unlawful activities during all hours of operation. Every security guard employed by or provided by the dispensary must be currently licensed by the California Bureau of Security & Investigative Services and in possession of a valid "guard card." The number of such security personnel must be set forth in the Operations Plan.

M. All restroom facilities serving a dispensary must remain locked and under the control of management.

N. Odor control devices and techniques must be incorporated in a marijuana dispensary to ensure that odors from marijuana are not detectable outside of the dispensary or in any tenant space or area adjacent to the dispensary.

O. A dispensary cannot store more than $200.00 in cash reserves overnight on the premises.

P. All law enforcement personnel seeking admission to the dispensary for the purpose of ascertaining compliance with the standards and regulations of this Code must be given unrestricted access to all areas of the premises at all times during hours of operation. Consent to such unrestricted access must be acknowledged by the permittee and included within the Operations Plan.

Q. All interior spaces of the dispensary which are open and accessible to the public (except restrooms), and all entrances and exits to and from the premises, must be monitored by 24-hour video security surveillance of at least HD quality with night vision capability. The video security system must be compatible with software and hardware utilized by the city as determined by the Police Chief and set forth in the Operations Plan. Surveillance video must be recorded to a device that is securely located on the premises and all footage must be maintained for a minimum of 45 days. The video surveillance system specifications must be set forth in the Operations Plan before the city issues a certificate of occupancy for the marijuana dispensary.

R. A marijuana dispensary must have a professionally installed, maintained, and monitored alarm system as approved through the Operations Plan.

S. A marijuana dispensary must maintain a valid business license as required by this Code.

T. All food products, food storage facilities, food-related utensils, equipment and materials must be approved, used, managed and handled in accordance with the provisions of the California Retail Food Code (Health & Safety Code § 113700, *et seq.*). All food products must be protected from contamination at all times, and all food handlers must be clean, in good health, and free from communicable diseases. The Los Angeles County Department of Public Health may inspect the dispensary at any time during business hours to ensure compliance with state and local laws.

U. It is unlawful for a physician to be permitted in a marijuana dispensary at any time for the purpose of evaluating patients to issue a medical marijuana prescription or card.

V. As part of the Operations Plan, permittees must execute an agreement in a form approved by the City Attorney that defends and indemnifies the City of

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Bellflower, along with its officials, officers, and employees, from any claim or liability arising from the city approving a marijuana business permit or allowing the operation of a marijuana dispensary. Such agreement must be secured with sufficient insurance, as determined by the City Attorney, and a surety, as approved by the City Attorney, to adequately protect the city from any and all liability.

X. A marijuana business permit for a marijuana dispensary is subject to all of the regulations and operational standards set forth in this section in addition to the conditions stated in the permit itself.

**14.16.030 Special Operational Standards Applicable to Medical Marijuana Dispensaries.**

A. Before dispensing medical marijuana or medical marijuana products to any person, the dispensary must verify that the person possesses a valid identification card.

B. A permitted medical marijuana dispensary, or a non-medical marijuana dispensary that is also a state-licensed and city-licensed medical marijuana dispensary, may allow on the premises any person 18 years of age or older who possesses a valid identification card under Health and Safety Code § 11362.71 and a valid government-issued identification card.

C. A permitted medical marijuana dispensary, or a non-medical marijuana dispensary that is also a state-licensed and city-licensed medical marijuana dispensary, may sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Health and Safety Code § 11362.71 and a valid government-issued identification card.

## Chapter 14.20

## MARIJUANA DELIVERY

**14.20.010 Delivery Permitted in Conjunction with Dispensary.**
**14.20.020 Minimum Age for Delivery Drivers.**
**14.20.030 Driver May Not Carry More Than $200.**
**14.20.040 Suspension or Termination of Delivery Privileges.**

**14.20.010 Delivery Permitted in Conjunction with Dispensary.**

Mobile delivery of marijuana may be permitted as part of and in conjunction with a marijuana dispensary. Delivery of marijuana from a marijuana dispensary permitted pursuant to this Title can only be made in a city or county that does not expressly prohibit such deliveries by ordinance.

**14.20.020 Minimum Age for Delivery Drivers.**

It is unlawful for any person under the age of 21 to be allowed to serve as a delivery driver and no person can employ a person under the age of 21 for the purpose of making mobile deliveries of any marijuana product.

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**14.20.030 Driver May Not Carry More Than $200.**

No delivery driver may carry more than $200 in cash while engaged in the service of delivering marijuana or marijuana products.

**14.20.040 Suspension or Termination of Delivery Privileges.**

A marijuana dispensary permitted pursuant to this Title may have its delivery privileges suspended or terminated by the City Manager or designee if the dispensary is found to have violated this Chapter.

## Chapter 14.24

## MARIJUANA MANUFACTURING FACILITIES

**14.24.010 Operations Plan Required.**
**14.24.020 Operational Standards.**
**14.24.010 Operations Plan Required.**

A conditional use permit issued pursuant to Chapter 17.96 for a marijuana manufacturing facility must include, as conditions of approval, the operational standards set forth in Section 14.24.020. In addition, the conditional use permit must incorporate by reference an Operations Plan approved by the Police Chief, that implements not only the operations standards set forth in Section 14.24.020, but such additional conditions that the Police Chief finds reasonably necessary to implement the purpose of this Title when considering the location and size of the proposed dispensary.

**14.24.020 Operational Standards.**

A. It is unlawful for any person to engage in the business of marijuana manufacturing in the City of Bellflower without first obtaining a marijuana business permit pursuant to this Title and a state-issued manufacturing license. If a permittee's state manufacturing license lapses for any reason, the marijuana business permit will automatically become void.

B. It is unlawful for marijuana manufacturing to be combined with another marijuana-related business activity unless expressly authorized by a valid marijuana business permit.

C. It is unlawful for a marijuana manufacturing facility to include any retail sales component on the premises.

D. It is unlawful for there to be any visual evidence of marijuana manufacturing when viewed from five feet above ground level from any street, sidewalk, public right-of-way, or adjacent property.

E. The manufacture of marijuana products must be undertaken in a manner that ensures the health, safety, and welfare of the public, the employees of the marijuana business, visitors, and neighboring properties.

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F. The Operations Plan for a manufacturing facility must include a detailed electrical and plumbing plan, along with projections for water usage.

G. It is unlawful for there to be any audible or olfactory evidence of marijuana from any street, sidewalk, public right-of-way, or adjacent property.

H. The address of any building on a parcel where marijuana is manufactured must be posted and plainly visible from the public right-of-way.

I. All law enforcement and code enforcement personnel seeking admission to the manufacturing site for the purpose of ascertaining compliance with the standards and regulations of this Code must be given unrestricted access to all areas of the premises at all times during hours of operation. Consent to such unrestricted access must be acknowledged by the permittee and included within the Operations Plan.

J. It is unlawful for any person under the age of 21 to be present within the area where the manufacture of marijuana products is occurring. A sign must be posted at each entrance to a manufacturing facility informing visitors of these restrictions.

K. All manufacturing activity must be conducted in compliance with all applicable state and local water conservation laws, ordinances, and regulations.

L. Each marijuana manufacturing facility must provide the Police Chief, with the name and telephone number of an on-site employee or owner to whom emergency notice can be provided. The telephone number provided must be capable of accepting recorded voice messages in the event the contact person does not answer.

M. It is unlawful for any person to employ another person under the age of 21 at a marijuana manufacturing facility.

N. Entrances into any area of a marijuana manufacturing facility where marijuana products are made or kept must be locked at all times with entry strictly controlled. The specifics of such entry system must be set forth in the Operations Plan.

O. Odor control devices and techniques must be incorporated in a marijuana manufacturing facility to ensure that odors from marijuana are not detectable outside of the facility or in any tenant space or area adjacent to the facility.

P. A marijuana manufacturing facility must have a professionally installed, maintained, and monitored alarm system as approved through the Operations Plan.

Q. All entrances and exits to and from the manufacturing facility must be monitored by 24-hour video security surveillance of at least HD quality with night vision capability. The video security system must be compatible with software and hardware utilized by the city as determined by the Police Chief and set forth in the Operations Plan. Surveillance video must be recorded to a device that is securely located on the premises and all footage must be maintained for a minimum of 45 days. The video surveillance system specifications must be set forth in the Operations Plan before the city issues a certificate of occupancy for the manufacturing facility.

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R. It is unlawful for marijuana manufacturing facilities to be open to the public.

S. A marijuana manufacturing facility must maintain a valid business license as required by this Code.

T. As part of the Operations Plan, permittees must execute an agreement in a form approved by the City Attorney that defends and indemnifies the City of Bellflower, along with its officials, officers, and employees, from any claim or liability arising from the city approving a marijuana business permit or allowing the operation of a marijuana manufacturing facility. Such agreement must be secured with sufficient insurance, as determined by the City Attorney, and a surety, as approved by the City Attorney, to adequately protect the city from any and all liability.

U. A marijuana business permit for a marijuana manufacturing facility is subject to all of the regulations and operational standards set forth in this section in addition to the conditions stated in the permit itself.

## Chapter 14.28

## ENFORCEMENT


**14.28.010 Enforcement, Generally.**
**14.28.020 City Attorney Enforcement Authority.**
**14.28.030 Administrative Fines.**
**14.28.040 Revocation and Suspension.**
**14.28.050 Appeals.**


### 14.28.010 Enforcement, Generally.

A violation of this Title constitutes a misdemeanor. The City Attorney may, at his or her discretion, reduce a violation to an infraction. Any violation of this Title may also be abated as a public nuisance. The remedies provided by this Chapter are cumulative and in addition to any other criminal or civil remedies.

### 14.28.020 City Attorney Enforcement Authority.

In addition to any other general functions, powers, and duties given to the City Attorney by this code or California law, the City Attorney is authorized to:

A. Prosecute on behalf of the people all criminal and civil cases for violations of this Title including, without limitation, administrative or judicial nuisance abatement and suits for injunctive relief;

B. Prosecute all actions for the recovery of fines, penalties, forfeitures, and other money accruing to the City under this Title.

### 14.28.030 Administrative Fines.

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A. In addition to any other enforcement remedy, the code enforcement officer may, pursuant to Title 1, Chapter 1.12, issue an administrative citation to any person responsible for a violation of this

B. An administrative citation issued for a violation of this Title may be appealed in accordance with the procedures set forth in Title 1, Chapter 1.12.

**14.28.040 Revocation and Suspension.**

A. In addition to any other penalty authorized by law, the City Manager may suspend or revoke a marijuana business permit for the following reasons:

1. Upon learning or discovering facts that require permit denial under this Title that were not previously disclosed or reasonably discoverable; or

2. If the permittee violates any condition imposed by this Title or by the terms of the permit.

B. Notice of Suspension or Revocation. If after having determined that adequate grounds exist the City Manager elects to suspend or revoke a marijuana business permit, the City Manager, or designee, must serve a notice of suspension or revocation on the permittee. The notice must state the reason(s) for the action and provide information regarding the right to a hearing before the City Manager. Except as otherwise provided herein, the suspension or revocation of the permit does not become effective until the time for filing a request for hearing has passed or, if a request for hearing is timely filed, until the decision of the City Manager has become final.

C. The notice of suspension or revocation shall be sent to the business address indicated on the permit. Service is deemed complete one business day after deposit in the United States Mail.

D. A permittee that has been served with a notice of suspension of revocation may, within five business days, request a hearing before the City Manager. The request must be made on a form approved by the City Manager.

E. If a timely request for a hearing is made by the permittee, the City Manager will schedule a hearing within 30 days. The hearing may be held in the office of the City Manager or at an alternative location in City Hall designated by the City Manager. The permittee will be notified of the time and place of the hearing at least ten days before the scheduled date.

F. If the City Manager determines, in his or her sole discretion, that the continued operation of the marijuana business presents an imminent threat to the public health, safety or welfare, the suspension or revocation becomes effective immediately upon notice thereof. In such a case, if the permittee requests a hearing before the City Manager, the hearing will be scheduled within seven business days. The permittee will be notified of the time and place of the hearing at least 48 hours before the scheduled date. Notice may be given by any means reasonably calculated to provide actual notice to the permittee including, without limitation, mailed notice or telephonic notice.

G. The permittee may present written and/or oral testimony and evidence at the hearing and will be provided 30 minutes for a presentation. Formal rules of evidence and procedure applicable in a court of law do not apply. The City

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Manager may, in his or her sole discretion, provide the permittee additional time to present evidence, testimony and argument.

H. The City Manager will issue a written decision within ten business days of the hearing. If the suspension or revocation was made immediately effective pursuant to subparagraph (F), the City Manager's written decision will be issued within five business days of the hearing. The City Manager's decision will become final unless timely appealed in accordance with Section 14.28.050.

I. Effect of Revocation. If a marijuana business permit is revoked, the former permittee is presumptively disqualified to apply for a new permit for a period of two years from the effective date of the revocation. This presumption may be overcome upon a showing of good cause as to why a permit should be issued following a revocation. Any such showing must be made to the City Manager's satisfaction.

**14.28.050 Appeals.**

A. If authorized by this Title, a decision of the City Manager with respect to a marijuana business permit may be appealed to the City Council, provided that a request for review (appeal) is filed with the office of the City Manager within ten calendar days from the date on which notice of the City Manager's decision was served on the permittee.

B. An appeal must be on a form provided by the City Clerk and contain the following information:

1. The name, address and telephone number of the person making the appeal;

2. A description of the decision, determination or order which is the subject of the appeal and the date such decision, determination or order was made or issued;

3. A complete description of all grounds for appeal, together with any evidence in support of the appeal; and

4. Such other information as may be required by the City Clerk.

C. Failure to provide all of the information required by subparagraph (B) within the ten-day appeal period will result in an automatic waiver of the right of appeal.

D. Upon receipt of a complete appeal, the City Clerk will schedule a hearing before the City Council within 45 days. The Council may, in its discretion, continue the matter to a subsequent meeting or from time to time.

E. At the conclusion of the hearing, the City Council may affirm, reverse, or modify the decision of the City Manager. The City Council's decision is final.

F. Judicial Review. A final decision of the City Council may be judicially reviewed pursuant to Code of Civil Procedure section 1094.6."

**SECTION 6**: BMC § 17.04.100 is amended to read as follows:

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"17.04.100 Consistency with State and Federal Law.

Unless otherwise specifically permitted by Title 14 and Chapter 17.94 of this Code, and notwithstanding any other provision to the contrary, no new use is permitted unless it is permitted by both State and Federal law."

**SECTION 7**: Chapter 17.94 is added to the Bellflower Municipal Code to read as follows:

**"Chapter 17.94**

**MARIJUANA-RELATED USES**


**17.94.010 Purpose.**
**17.94.020 Definitions.**
**17.94.030 Conditional Use Permit Required.**
**17.94.040 Maximum Number of Conditional Use Permits for Marijuana-Related Businesses.**
**17.94.050 Location Restrictions.**
**17.94.060 Distance Measurements.**
**17.94.070 Operations Plan Required.**


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**17.94.010 Purpose.**

The purpose of this Chapter is to establish land use restrictions for marijuana-related businesses licensed pursuant to Title 14. Marijuana-related land uses can be successfully integrated into specified areas of the community, provided they adhere to the restrictions set forth in this Chapter. Nothing in this Chapter is intended to authorize any activity that is contrary to state law.

**17.94.020 Definitions.**

Unless otherwise provided herein, the terms used in this Chapter have the same meanings as set forth in Title 14.

**17.94.030 Conditional Use Permit Required.**

No marijuana-related business may operate on any property in the City unless a valid conditional use permit authorizes the marijuana-related use on the subject property.

**17.94.040 Maximum Number of Conditional Use Permits for Marijuana-Related Businesses.**

Not more than six conditional use permits for marijuana-related businesses may be issued and active at any given time.

**17.94.050 Location Restrictions.**

A. Marijuana-related businesses are conditionally permitted in the C-G (General Commercial) and M-1 (Light industrial) zones and are prohibited in all other zones.

B. No conditional use permit can be issued for a marijuana-related business located on a parcel that is within 600 feet of any other parcel containing a school, religious facility, park, licensed child daycare facility, youth center or licensed drug or alcohol rehabilitation facility. For purposes of this section, "school" includes a pre-school, transitional kindergarten, K-12 school, whether public or private.

**17.94.060 Distance Measurements.**

The distance between parcels will be the horizontal distance measured in a straight line from any property line of the sensitive use to the closest property line of the parcel on which the marijuana-related business is to be located, without regard to any intervening structures.

**17.94.070 Operations Plan Required.**

In addition to any other conditions of approval deemed necessary and appropriate by the approving authority, an operations plan is required as a condition of approval for any marijuana-related use. The required content of the operations plan is set forth in Chapter 14.12 and 14.16."

**SECTION 8**: Subparagraph (A) of BMC § 17.44.030 is amended to read as follows:

"A. The following uses are permitted only after a valid Conditional Use Permit is approved by the Planning Commission, pursuant to the provisions of Chapter 17.96 of this Code. Any such use must also comply with all applicable development standards and other requirements set forth in this Code including, without limitation, obtaining any additional permits or licenses required by this Code.

1. Adult Business. Adult business, including, but not limited to, adult book stores, adult mini-motion picture theater, adult motion picture theater, adult theater, and adult video arcade and/or theater, subject to the provisions of this Code.
2. Adult day care facilities, subject to the following parking requirements: Provide one (1) parking space for every five (5) clients, plus one (1) parking space for every two (2) employees. At least three (3) parking spaces shall be provided.
3. Alcohol sales, (on-site or off-site sales; primary use or accessory use).
4. Ambulance service.
5. Animal and veterinarian clinic, and pet grooming, with commercial boarding or kennels.
6. Auction house or store.
7. Automobile repair center.
8. Automobile repair shop.
9. Automobile sales; retail and/or wholesale sale of new and/or used, including specialty automobiles and antique automobiles.
10. Automobile, truck (maximum one ton), and equipment rental.
11. Billiard parlors.
12. Billboard trucks.

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13. Boat and personal water craft sales, maintenance, and repair including other water-related recreational vehicles.
14. Bowling alleys.
15. Carwash (automatic, mechanical, hand-operated, or self-serve), including those facilities that are accessory to gasoline service stations.
16. Check cashing and cash advancing.
17. Churches and other religious institutions.
18. Civic and community clubs.
19. Collection centers (recyclable materials).
20. Commercial recreational facilities, including skating rink, batting cages, paintball, laser tag, go carts, and similar recreational activities.
21. Community care facilities.
22. Contractor's office with outside storage area.
23. Cyber or internet cafés.
24. Dance and entertainment establishments.
25. Drive-in, or drive-through businesses.
26. Electronic cigarette and/or electronic liquid shop.
27. Escort services.
28. Fork lift repair shop.
29. Fortunetelling.
30. Funeral parlor, mortuary, crematory.
31. Game arcade.
32. Gun shop retail sales and ancillary repair.
33. Gym, fitness center or health club.
34. Hookah bars/café (water pipe smoking lounge).
35. Homework and tutoring center.
36. Hospitals.
37. Hotel, motel or rooming house.
38. Ice storage house of not more than five (5) tons capacity.
39. Large outpatient clinics and medical professional offices.
40. Laundromats and/or self-serve laundry facilities.
41. Limousine service.
42. Manufactured home sales with on-site display.
43. Marijuana-related business.
44. Masseur-masseuse, massage establishments, acupressure spas, day spas, and similar uses; provided, that the owner of a massage establishment or business shall also show proof of and maintain on the premises, evidence, for review by the City, that: (i) the business holds a current and valid certificate issued pursuant to Chapter 10.5 of Division 2 of the California Business and Professions Code (commencing with Section 4600) (the "State Regulations for Massage Therapists"); and (ii) each person who provides massage services on the premises holds a current and valid certificate issued pursuant to the State Regulations for Massage Therapists. Such use is also subject to the requirements of Section 17.44.255.
45. Micro-brewery, wine making establishments (on-site or off-site sale of alcoholic beverages manufactured on-site).
46. Modeling studio.
47. Motorcycle funeral escort service.
48. Nursery (flowers, trees or plants; with or without buildings).
49. Off-premises signs.
50. Outdoor sales, storage or activities; either as a primary use or accessory to a permitted use. Such uses may include, but not be limited to animal feed, small mammals (i.e., dogs and cats, etc.) and supplies, sales of produce and other food-stuff, newsstands and similar activities.

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51. Pest control service (with hazardous chemical storage on-site).
52. Pharmaceutical trial clinic.
53. Reception/banquet halls.
54. Rest home, convalescent hospital.
55. Secondhand stores and pawnshops.
56. Service stations.
57. Sporting goods stores with accessory (i.e., incidental) gun sales.
58. Spray booths.
59. Taxi services.
60. Theaters, auditoriums.
61. Tools and equipment sales and rental (heavy).
62. Towing company vehicle (may include accessory vehicle storage).
63. Wireless communications facilities.
64. Non-emergency medical transportation.
65. Automotive paintless dent removal.
66. Swap meets.
67. Exterior pay phones."

**SECTION 9**: Subparagraph (U) is added to BMC § 17.52.030 to read as follows:

"U. Marijuana-related business."

**SECTION 10**: *Environmental Review.* In accordance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000, et seq.; "CEQA") and CEQA regulations (Cal. Code Regs. tit. 14, §§ 15000, et seq.), an Initial Study and Negative Declaration have been prepared in accordance with the provisions of CEQA. The City Council adopted the Initial Study and Negative Declaration at its meeting on _____, 2016. The Initial Study and Negative Declaration determined that adoption of this ordinance will not result in significant environmental impacts and that no further environmental review is required.

**SECTION 11**: *Zoning Ordinance Text Amendment Findings.* The City Council finds as follows:

1. In light of recently adopted legislation (*i.e.*, the Medical Marijuana Regulation and Safety Act) and in the event that the Adult Use of Marijuana Act initiative is approved by California voters in November 2016, there are changed conditions since the existing zoning regulations became effective to warrant other or additional zoning regulations.

2. The proposed Ordinance will not adversely affect adjoining property as to value or precedent, and will not be detrimental to the area. Since 1996, twenty states and the District of Columbia have legalized the use, home cultivation, and, in some cases, the retail dispensing of medical marijuana. In a study published March 26, 2014 in the journal PLOS One, researchers analyzed FBI crime statistics from eleven of these states between 1990 and 2006. (Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014) The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLoS ONE 9(3): e92816. doi: 10.1371/journal.pone.0092816.) The states included Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont and Washington. The research revealed that laws authorizing the use and dispensing of medical marijuana are not predictive of higher crimes rates and, in fact, may be related to reductions in rates of homicide and assault. Robbery and burglary rates were found to be unaffected by medical marijuana legislation, despite widely-held belief to the contrary. The results of the study

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were consistent with other prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity. Indeed, a U.S. National Institutes of Health study found that the psychopharmacologic effect of marijuana has "been attributed to 'mellowing out' or causing individuals to 'nod out,' conditions that are likely to ameliorate violent tendencies." (U.S. Department of Health and Human Services, Public Health Service & National Institute on Drug Abuse, "Drugs and Violence: Causes, Correlates and Consequences," NIDA Research Monograph 103, at 187 (1990)). The same study noted that marijuana use had no correlation to violent crime. (*Id.* at 8, 25, Table 6 and 232). Although there may be secondary impacts associated with marijuana dispensaries in the City, such as the possibility of increased crime at the facility, an increase in people loitering about the facility, and odors, the Commission finds the proposed ordinance adequately attempts to ameliorate such secondary impacts. Accordingly, there is substantial evidence to support the conclusion that the proposed ordinance will not be detrimental to any area of the city or have an adverse effect on property values. To the contrary, it is anticipated that the limited authorization of marijuana-related businesses and uses contemplated by the ordinance, together with the strict regulatory controls set forth therein, will have the effect of reducing crime in the city and promoting public health, safety and the general welfare.

3. The proposed Ordinance promotes public health, safety and general welfare. Since 1996, twenty states and the District of Columbia have legalized the use, home cultivation, and, in some cases, the retail dispensing of medical marijuana. In a study published March 26, 2014 in the journal PLOS One, researchers analyzed FBI crime statistics from eleven of these states between 1990 and 2006. (Morris RG, TenEyck M, Barnes JC, Kovandzic TV (2014) The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006. PLoS ONE 9(3): e92816. doi: 10.1371/journal.pone.0092816.) The states included Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Rhode Island, Vermont and Washington. The research revealed that laws authorizing the use and dispensing of medical marijuana are not predictive of higher crimes rates and, in fact, may be related to reductions in rates of homicide and assault. Robbery and burglary rates were found to be unaffected by medical marijuana legislation, despite widely-held belief to the contrary. The results of the study were consistent with other prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity. Indeed, a U.S. National Institutes of Health study found that the psychopharmacologic effect of marijuana has "been attributed to 'mellowing out' or causing individuals to 'nod out,' conditions that are likely to ameliorate violent tendencies." (U.S. Department of Health and Human Services, Public Health Service & National Institute on Drug Abuse, "Drugs and Violence: Causes, Correlates and Consequences," NIDA Research Monograph 103, at 187 (1990)). The same study noted that marijuana use had no correlation to violent crime. (*Id.* at 8, 25, Table 6 and 232). Although there may be secondary impacts associated with marijuana dispensaries in the City, such as the possibility of increased crime at the facility, an increase in people loitering about the facility, or odors, the Commission finds the proposed ordinance adequately attempts to ameliorate such secondary impacts. Accordingly, there is substantial evidence to support the conclusion that the limited authorization of marijuana-related businesses and uses contemplated by the ordinance, together with the strict regulatory controls set forth therein, will have the effect of reducing crime in the city and would, therefore, promote public health, safety and the general welfare.

4. The proposed Ordinance will not adversely affect the City's General Plan or zoning regulations set forth in the Bellflower Municipal Code ("BMC") because the proposed Ordinance does not inhibit the attainment of the overall goals of either the General Plan or the zoning regulations.

**SECTION 12**: *Construction*. This Ordinance must be broadly construed in order to achieve the purposes stated in this Ordinance. It is the City Council's intent that the provisions of this Ordinance be interpreted or implemented by the City and others in a manner that facilitates the purposes set forth in this Ordinance.

**SECTION 13**: *Enforceability*. Repeal of any provision of the Bellflower Municipal Code does not affect any penalty, forfeiture, or liability incurred before, or preclude prosecution and imposition of penalties for any violation occurring before this Ordinance's effective date. Any such repealed part will remain in full force and effect for sustaining action or prosecuting violations occurring before the effective date of this Ordinance.

**SECTION 14**: *Severability*. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this Ordinance are severable.

**SECTION 15**: The City Clerk is directed to certify the passage and adoption of this Ordinance, cause it to be entered into the city of Bellflower's book of original ordinances, make a note of the passage and adoption in the records of this meeting, and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

**SECTION 16**: *Effective Date*. This Ordinance shall not become effective unless the voters of the state of California approve the Control, Regulate and Tax Adult Use of Marijuana Act at the November 8, 2016 general election. If the voters approve the AUMA, this Ordinance shall become effective on January 1, 2017.

**ORDINANCE NO. 13XX HAD ITS FIRST READING ON _____, ITS SECOND READING ON _____, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER AT ITS REGULAR MEETING OF _____, 2016.**

**Dan Koops, Mayor**

**ATTEST:**

**Mayra Ochiqui, City Clerk**

**APPROVED AS TO FORM:**

**Karl H. Berger, City Attorney**

DRAFT

The City of Bellflower

*Families. Businesses. Futures.*

16600 Civic Center Drive, Bellflower, CA 90706

Tel 562.804.1424 Fax 562.925.8660 www.bellflower.org

CITY OF BELLFLOWER "GROWING TOGETHER"

ORIGINAL FILED

AUG 04 2016

LOS ANGELES, COUNTY CLERK

# NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION

Notice is hereby given that the City of Bellflower has prepared an Environmental Initial Study for the following location:

**PROJECT:** Zoning Ordinance Text Amendment Case No. ZOTA 16-05
Negative Declaration No. ND 16-05

**LOCATION:** Citywide - The proposed Ordinance may allow no more than a total of six marijuana-related businesses within the City of Bellflower and subject to the following restrictions: (1) Marijuana-related businesses will only be allowed within the C-G (General Commercial Zone) and the M-1 (Light Industrial Zone); (2) No marijuana business can be located on a parcel where alcohol or tobacco products are available for sale; and (3) No marijuana-related business can be located on a parcel that is within 600 feet of any other parcel containing a school, (pre-school, transitional kindergarten, or K-12 school, whether public or private) religious facility, park, licensed child daycare facility, youth center or licensed drug or alcohol rehabilitation facility. The City of Bellflower is situated in southeastern Los Angeles County, California. The City is bounded by the Cities of Norwalk, Downey, Paramount, Lakewood, Long Beach, and Cerritos.

**PROJECT DESCRIPTION:** The proposed project consists of an Ordinance to amend the Bellflower Municipal Code to repeal the existing ban on marijuana-related activities and land uses and establish a City-wide system to permit, control and regulate marijuana-related businesses, including the cultivation, dispensing and delivery of marijuana and marijuana products. Under the proposed Ordinance, a maximum of six marijuana-related businesses may be allowed in the City at any given time and each of them would be required to obtain both a Conditional Use Permit (a discretionary land use permit) and a Marijuana Business Permit (a discretionary, regulatory business permit) before commencing operations.

**APPLICANT:** City of Bellflower

Based on the environmental information gathered and analyzed for the project during the Initial Study process, the City of Bellflower has determined that there is no substantial evidence, in light of the whole record, that the project may have a significant effect on the environment. Therefore, a Negative Declaration for the project is proposed pursuant to the requirements of the California Environmental Quality Act (CEQA).

**The 20-day public review period for this document begins on August 4, 2016 and expires on August 23, 2016.**

The Initial Study, and Negative Declaration are available online (www.bellflower.org) and may be reviewed by the public during normal business hours at: 1) The City of Bellflower, Planning Division located at 16600 Civic Center Drive, Bellflower, CA, and 2) Los Angeles County Library in the City of Bellflower located at 9945 E. Flower Street, Bellflower, CA. The Planning Commission of the City of Bellflower will conduct a public hearing to consider the proposed Negative Declaration in conjunction with Zoning Ordinance Text Amendment Case No. ZOTA 16-05 on **Tuesday, September 6, 2016**, at 7:00 pm or as soon thereafter as possible, in the Bellflower City Council Chambers, City Hall, 16600 Civic Center Drive, Bellflower, California.

Please address all public comments (before the close of the environmental review period noted above) to: City of Bellflower, Attn: Art Bashmakian, Director of Planning and Building Services, 16600 Civic Center Drive, Bellflower, CA 90706, (562) 804-1424, ext. 2276, abashmakian@bellflower.org.

**NOTICE OF PUBLIC HEARING**
**NOTICE OF INTENT TO ADOPT**
**NEGATIVE DECLARATION NO. ND 16-05**
**ZONING ORDINANCE TEXT AMENDMENT CASE NO. ZOTA 16-05**
**CODE AMENDMENT (MARIJUANA-RELATED BUSINESSES)**

**NOTICE IS HEREBY GIVEN** that the Bellflower Planning Commission will hold a Public Hearing on Tuesday, September 6, 2016, at 7 p.m. in the City Hall Council Chambers, 16600 Civic Center Drive, Bellflower, California, to consider testimony for and against Zoning Ordinance Text Amendment Case No. ZOTA 16-05. The Planning Commission will also consider a Code Amendment addressing marijuana-related businesses and a Negative Declaration No. ND 16-05 associated with the proposed Zoning Ordinance Text Amendment and Code Amendment ("Amendments").

The Bellflower Municipal Code currently prohibits all marijuana-related land uses and businesses. The proposed Amendments would repeal the existing prohibition and establish a city-wide system to permit, control and regulate marijuana-related businesses, including the cultivation of marijuana, the manufacture of marijuana products, and the dispensing and delivery of marijuana and marijuana products. Under the proposed Amendments, each marijuana-related business would be required to obtain a conditional use permit before commencing operations. In addition, the Amendments would impose numerous operational controls on marijuana-related business and require them to be located a minimum distance away from identified sensitive land uses such as schools and daycare facilities.

A statewide initiative entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA") has qualified for the November 2016 statewide election. If approved by the voters, the AUMA will decriminalize, control and regulate the cultivation, processing, manufacture, distribution, testing and sale of nonmedical (recreational) marijuana and marijuana products for use by adults 21 years of age or older. The proposed Amendments will only become effective if the AUMA is approved by the voters in November. If the AUMA is not approved by the voters, the Amendments will not become effective and the existing prohibition on marijuana-related activities will remain in place.

Pursuant to the California Environmental Quality Act (CEQA), a Negative Declaration has been prepared, which means a written statement describing why the proposed project will not have a significant adverse effect on the environment. The 20-day public review period for this document begins on August 4, 2016 and expires on August 23, 2016. The Initial Study, and Negative Declaration are available online (www.bellflower.org) and may be reviewed by the public during normal business hours at: 1) The City of Bellflower, Planning Division located at 16600 Civic Center Drive, Bellflower, CA, and 2) Los Angeles County Library in the City of Bellflower located at 9945 E. Flower Street, Bellflower, CA.

Shortly before the scheduled public hearing, copies of the Staff Report will be made available online and at the locations mentioned above. If you wish to challenge the Negative Declaration and the Amendments in court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice, or in written correspondence delivered to the City at or prior to the Public Hearing.

By order of the Planning Commission of the City of Bellflower, County of Los Angeles, State of California.

**RAY HAMADA, CHAIRMAN**

# INITIAL STUDY AND NEGATIVE DECLARATION

## FOR THE CITY OF BELLFLOWER ORDINANCE RELATING TO MARIJUANA-RELATED BUSINESSES AND LAND USES

Lead Agency and Applicant:

**CITY OF BELLFLOWER**
16600 Civic Center Drive
Bellflower, California 90706

August, 2016

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**Appendices**

A "Violent Crime Drops Where People Have Access to Marijuana, Study Suggests", written by Paul Armentano, AlterNet, dated April 11, 2014.

B "California Takes New Approach on Water Regulation for Pot Farms", written by Peter Hetch, Sacramento Bee, dated August 29, 2015.

# A. INTRODUCTION

## 1. PURPOSE

This document is an Initial Study and Negative Declaration that evaluates environmental impacts resulting with the proposed City of Bellflower Ordinance relating to marijuana-related businesses and land uses. The document can be found at the Bellflower City Hall, 16600 Civic Center Drive, Bellflower CA 90706, phone: (562) 804-1424.

## 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT REQUIREMENTS

As defined by Section 21065 of the California Environmental Quality Act (CEQA), the proposed Ordinance constitutes a "project". Furthermore, after initial review of the project, the City decided to prepare an Initial Study to determine if the project may have a significant effect on the environment. As defined by Section 15063 of the State California Environmental Quality Act Guidelines (CEQA Guidelines), an **Initial Study** is prepared primarily to provide the Lead Agency with information to be used as the basis for determining whether an Environmental Impact Report (EIR), Negative Declaration, or Mitigated Negative Declaration would be appropriate for providing the necessary environmental documentation and clearance for the proposed project.

According to Section 15065 of the CEQA Guidelines, an **Environmental Impact Report** is deemed appropriate for a particular proposal if the following conditions occur:

- The proposal has the potential to substantially degrade quality of the environment.
- The proposal has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.
- The proposal has possible environmental effects that are individually limited but cumulatively considerable.
- The proposal could cause direct or indirect adverse effects on human beings.

According to Section 15070(a) of the CEQA Guidelines, a **Negative Declaration** is deemed appropriate if the proposal would not result in any significant effect on the environment.

According to Section 15070(b) of the CEQA Guidelines, a **Mitigated Negative Declaration** is deemed appropriate if it is determined that though a proposal could result in a significant effect, mitigation measures are available to reduce these significant effects to insignificant levels.

This Initial Study has determined that the proposed Ordinance would not result in any significant effect on the environment and therefore, a **Negative Declaration** (ND) is deemed as the appropriate document to provide the necessary environmental evaluations and clearance for the proposed Ordinance. This Initial Study and Negative Declaration document is prepared according to the aforementioned CEQA Guidelines and applicable requirements of the City of Bellflower.

This ND provides decision-makers and the public with information that enables them to intelligently consider the environmental consequences of the proposed improvements; functions as a method for fact-finding; and provides the City, concerned citizens, and other applicable public agencies with an opportunity to collectively review and evaluate baseline conditions and environmental impacts through a process of full disclosure.

## 3. LEAD AND RESPONSIBLE AGENCIES

The City of Bellflower is designated the Lead Agency, in accordance with Section 15050 of the CEQA Guidelines. The Lead Agency is the public agency which has the principal responsibility for review and approval of the proposed Ordinance.

## 4. CIRCULATION OF INITIAL STUDY AND NEGATIVE DECLARATION AND BACKGROUND

This Initial Study and Negative Declaration informs the City's decision makers, other responsible or interested agencies, and the general public of potential environmental effects of the proposed Ordinance. The environmental review process has been established to allow public agencies to evaluate environmental consequences and to examine and implement methods of eliminating or reducing any potentially adverse impacts. While CEQA requires that consideration be given to avoiding environmental damage, the Lead Agency and other responsible public agencies must balance adverse environmental effects against other public objectives, including economic and social goals.

The Initial Study and Negative Declaration will be circulated for a period of 20 days for public and responsible agency review from August 4, 2016 to August 23, 2016. Public notice will be placed in the *Herald American Bellflower Edition* which is a newspaper of general circulation and the City website (www.bellflower.org). Comments received on the Initial Study and Negative Declaration will be considered and addressed in a Response to Comments document.

## 5. CONTENTS OF INITIAL STUDY

This Initial Study and Negative Declaration document is organized to facilitate a basic understanding of the existing setting and environmental implications of the proposed improvements.

**A. INTRODUCTION** presents an introduction to the entire document. This section describes the scope of environmental review, environmental procedures, and contents of this Initial Study.

**B. PROJECT DESCRIPTION** describes the proposed Ordinance.

**C. INITIAL STUDY/ENVIRONMENTAL CHECKLIST FORM** contains the City's Initial Study Checklist Form. The checklist form presents results of the environmental evaluation for the proposed project and those issue areas that would have either a significant impact, potentially significant impact, or no impact.

**D. CHECKLIST RESPONSES** evaluate each response provided in the Initial Study checklist form. Each response checked in the checklist form is discussed and supported with sufficient data and analysis. As appropriate, each response discussion describes and identifies environmental impacts anticipated with the proposed project. At this writing, it has been determined that a Negative Declaration will be prepared. Mandatory Findings of Significance in accordance with Section 15065 of the CEQA Guidelines are also presented.

**E. PERSONS AND ORGANIZATIONS CONSULTED** identifies those persons consulted and involved in preparation of this Initial Study.

**F. SOURCES** section lists bibliographical materials used in preparation of this document.

# B. DESCRIPTION OF PROPOSED ORDINANCE RELATING TO MARIJUANA-RELATED BUSINESSES AND LAND USES

## 1. PROJECT LOCATION

The proposed Ordinance may allow no more than a total of six marijuana-related businesses within the City of Bellflower and subject to the following restrictions:

- Marijuana-related businesses will only be allowed within the C-G (General Commercial Zone) and the M-1 (Light Industrial Zone).
- No marijuana business can be located on a parcel where alcohol or tobacco products are available for sale.
- No marijuana-related business can be located on a parcel that is within 600 feet of any other parcel containing a school, (pre-school, transitional kindergarten, or K-12 school, whether public or private) religious facility, park, licensed child daycare facility, youth center or licensed drug or alcohol rehabilitation facility.

The City of Bellflower is situated in southeastern Los Angeles County, California. The City is bounded by the Cities of Norwalk, Downey, Paramount, Lakewood, Long Beach, and Cerritos. Exhibit 1 presents the location of the City.

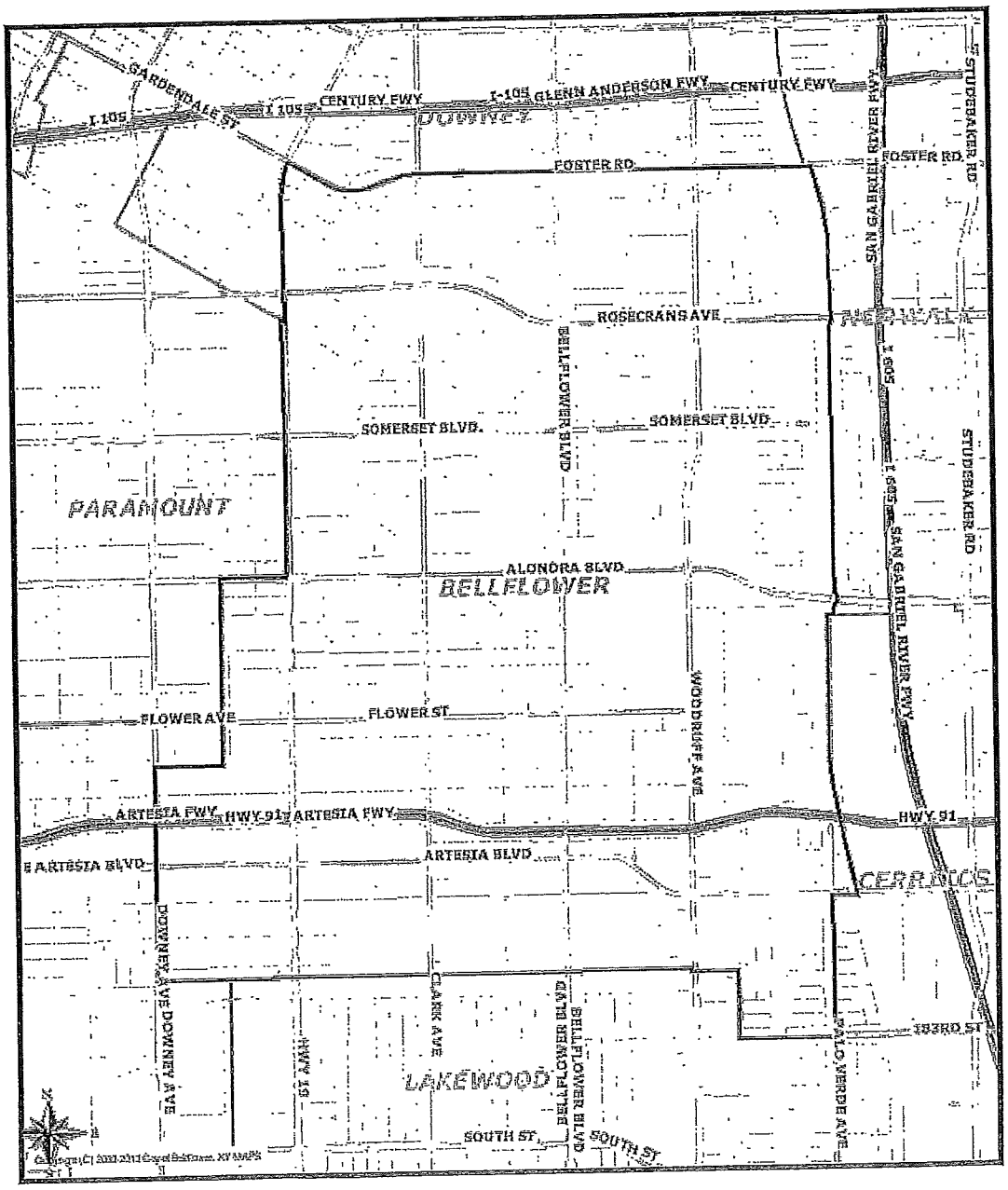
## 2. PROJECT DESCRIPTION

On October 9, 2015, Governor Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively were known as the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA established a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allowed a City to completely prohibit commercial medical marijuana activities. The MMRSA also required cities to prohibit the cultivation of medical cannabis either expressly or otherwise under the principles of permissive zoning, or the State would become the sole licensing authority. The MMRSA also required delivery services to be expressly prohibited by local ordinance, if a city wished to do so.

The Bellflower Municipal Code currently prohibits all commercial cannabis activity in the City, including medical marijuana dispensaries, medical marijuana cultivation, and medical marijuana delivery services.

Recently, a Statewide Initiative entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" (AUMA) has qualified for the November 2016 ballot. If the AUMA is approved by the voters, it will decriminalize, control and regulate the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years of age or older. The AUMA would also tax the commercial growth and retail sale of marijuana. The AUMA would preserve local control over the regulation of marijuana-related businesses and land uses.

# EXHIBIT 1
## CITY OF BELLFLOWER BOUNDARY



The proposed Ordinance repeals Chapter 8.48 and Section 17.04.110 of the Bellflower Municipal Code and adds Title 14 and Chapter 17.94 pertaining to the regulation of marijuana-related businesses and land uses.

The proposed project consists of an Ordinance to amend the Bellflower Municipal Code to repeal the existing ban on marijuana-related activities and land uses and establish a City-wide system to permit, control and regulate marijuana-related businesses, including the cultivation, dispensing and delivery of marijuana and marijuana products. Under the proposed Ordinance, a maximum of six marijuana-related businesses could be allowed in the City at any given time and each of them would be required to obtain both a Conditional Use Permit (a discretionary land use permit) and a Marijuana Business Permit (a discretionary, regulatory business permit) before commencing operations. Marijuana Business Permits would expire after 12 months but could be renewed. Marijuana Business Permits would be nontransferable. No marijuana-related business would be allowed to operate in the City without also first obtaining all applicable licenses required by the State.

Marijuana-related businesses would only be conditionally permitted in the C-G (General Commercial) and M-1 (Light Industrial) zones. The proposed Ordinance also establishes location restrictions that would require marijuana-related businesses to be at least 600 feet away from schools and at least 600 feet away from religious facilities, parks, licensed child daycare facilities, youth center and licensed drug or alcohol rehabilitation facilities.

No outdoor cultivation of marijuana would be allowed under the proposed Ordinance. Indoor cultivation of marijuana could be authorized pursuant to a Marijuana Business Permit and a Conditional Use Permit. An Operations Plan approved by the Los Angeles County Sheriff's Department (LACSD) Commander or designee and the Building Official would be required as a condition of approval. The Ordinance also includes a number of operational standards that would apply to the indoor cultivation of marijuana. These include, without limitation, requirements for restricted entry to the premises, a professionally installed and maintained alarm system, 24-hour video surveillance, on-demand access by law enforcement personnel during business hours, and a prohibition on the visual, audible or olfactory evidence of marijuana cultivation from adjacent properties and the public right-of-way.

In addition to a Conditional Use Permit and a Marijuana Business Permit, marijuana dispensaries would require an Operations Plan approved by the LACSD Commander or designee and would be subject to numerous operational standards. These standards include, without limitation, requirements for restricted entry to the premises, a professionally installed and maintained alarm system, 24-hour video surveillance, uniformed security personnel during operating hours, on-demand access by law enforcement personnel during business hours, limited operating hours between 9:00 AM and 7:00 PM, Monday through Saturday only, and a prohibition on the sale of alcohol or tobacco within a dispensary.

Delivery could be allowed as part of and in connection with a marijuana dispensary. Drivers would have to be 21 years of age or older and would be prohibited from carrying more than $200 in cash while engaging in delivery services.

By its terms, the Ordinance would only become effective if the AUMA becomes law. As discussed, the AUMA is a Statewide voter initiative that has qualified for the November 8, 2016 election. If approved by the voters, the AUMA will decriminalize, control and regulate the cultivation, processing, manufacture, distribution, testing and sale of nonmedical (recreational) marijuana and marijuana products for use by adults 21 years of age or older. If the AUMA is not approved by the voters, the proposed Ordinance would not become effective and the existing prohibition on marijuana-related activities will remain in place.

## 3. SCOPE OF ENVIRONMENTAL ANALYSIS

This Initial Study and Negative Declaration provide the environmental clearance and evaluations associated with the proposed Ordinance. As discussed, the Ordinance provides the regulations, requirements, procedures, and permitting requirements to allow operations of marijuana businesses and land uses in the City. At this writing, there are no actual businesses, operations, or activities being proposed at any particular location. Therefore, any analysis contained in this document will be at a program-level and not site specific. It should be noted, that the City will require a Conditional Use Permit and Marijuana Business Permit for all marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The proposed Ordinance will be referred to as the "project".

## 4. OTHER REQUIRED DISCRETIONARY APPROVALS

There are no other City approvals necessary to approve the proposed project.

# C. INITIAL STUDY/ENVIRONMENTAL CHECKLIST FORM

**PROJECT TITLE:** City of Bellflower Ordinance Relating to Marijuana-Related Businesses and Land Uses

**LEAD AGENCY AND ADDRESS:** City of Bellflower
16600 Civic Center Drive
Bellflower, CA 90706

**CONTACT PERSON:** Art Bashmakian, AICP
Director of Planning and Building Services
562-804-1424 ext. 2276

**PROJECT LOCATION:** At this writing, there are no actual marijuana businesses or land uses being proposed. However, marijuana-related businesses and land uses will only be allowed within the following City areas:

- Marijuana-related businesses will only be allowed within the C-G (General Commercial Zone) and the M-1 (Light Industrial Zone).
- No marijuana business can be located on a parcel where alcohol or tobacco products are available for sale.
- No marijuana-related business can be located on a parcel that is within 600 feet of any other parcel containing a school, (pre-school, transitional kindergarten, or K-12 school, whether public or private) religious facility, park, licensed child daycare facility, youth center or licensed drug or alcohol rehabilitation facility.

  Based on the foregoing design parameters, it has been determined that no more than six future marijuana businesses can operate at any given time.

**SPONSOR'S NAME AND ADDRESS:** City of Bellflower
16600 Civic Center Drive
Bellflower, CA 90706
562-804-1424

**GENERAL PLAN DESIGNATIONS:** Within General Commercial and Light Industrial designated areas.

**ZONING CLASSIFICATIONS:** Within the C-G (General Commercial Zone) and M-1 (Light Industrial Zone).

**PROJECT DESCRIPTION:** The proposed project consists of an Ordinance to amend the Bellflower Municipal Code to repeal the existing ban on marijuana-related activities and land uses and establish a City-wide system to permit, control and regulate marijuana-related businesses, including the cultivation, dispensing and delivery of marijuana and marijuana products. Under the proposed Ordinance, a maximum of six marijuana-related businesses may be allowed in the City at any given time and each of them would be required to obtain both a Conditional Use Permit (a discretionary land use permit) and a Marijuana

Business Permit (a discretionary, regulatory business permit) before commencing operations.

**ONSITE AND SURROUNDING LAND USES AND SETTING:**

Based on the foregoing criteria, any future marijuana business will be surrounded by other uses that are permitted within the C-G (General Commercial Zone) and M-1 (Light Industrial Zone).

**OTHER REQUIRED AGENCY APPROVALS:**

NA

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

| | | |
|---|---|---|
| ☐ Aesthetics | ☐ Agriculture Resources | ☐ Air Quality/GHG |
| ☐ Biological Resources | ☐ Cultural Resources | ☐ Geology/Soils |
| ☐ Hazards & Hazardous Materials | ☐ Hydrology/Water Quality | ☐ Land Use/Planning |
| ☐ Mineral Resources | ☐ Noise | ☐ Population/Housing |
| ☐ Public Services | ☐ Recreation | ☐ Transportation/Traffic |
| ☐ Utilities/Service Systems | ☐ Mandatory Findings of Significance | |

**DETERMINATION:** On the basis of this initial evaluation:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. A Program ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Art Bashmakian — 8-3-16

Signature — Date

Art Bashmakian — Date

Printed Name

**EVALUATION OF ENVIRONMENTAL IMPACTS**

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information

sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (i.e., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (i.e., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take into account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less then significant with mitigation, or less then significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact". The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level.

5) Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on earlier analysis.
   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated", describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agehcies are encouraged to incorporate into the checklist references to information sources for potential impacts (i.e., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance.

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| **I. AESTHETICS. Would the project:** | | | | |
| a) Have a substantial adverse effect on a scenic vista? | | | X | |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | | | X | |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | | | X | |
| d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area? | | | X | |
| **II. AGRICULTURE RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:** | | | | |
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | | | | X |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | | | | X |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? | | | | X |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | | | | X |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | | | | X |
| **III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:** | | | | |
| a) Conflict with or obstruct implementation of the applicable air quality plan? | | | X | |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | | | X | |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard? | | | X | |
| d) Expose sensitive receptors to substantial pollutant concentrations? | | | X | |
| e) Create objectionable odors affecting a substantial number of people? | | | X | |
| **IV. BIOLOGICAL RESOURCES. Would the project:** | | | | |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | | | | X |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | | | | X |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | | | | X |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | | | | X |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | | | | X |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional or state habitat conservation plan? | | | | X |
| **V. CULTURAL RESOURCES. Would the project:** | | | | |
| a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? | | | X | |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? | | | X | |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | | | X | |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | | | X | |
| **VI. GEOLOGY AND SOILS. Would the project:** | | | | |
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | | |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning map, issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | | | | X |
| ii) Strong seismic ground shaking? | | | X | |
| iii) Seismic-related ground failure, including liquefaction? | | | X | |
| iv) Landslides? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil? | | | X | |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | | | X | |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? | | | X | |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? | | | | X |
| **VII. GREENHOUSE GAS EMISSIONS. Would the project:** | | | | |
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | | | X | |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| **VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:** | | | | |
| a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials? | | | X | |
| b) Create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | | | X | |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | | | X | |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | | | X | |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles or a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | | | X | |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | | | | X |
| **IX. HYDROLOGY AND WATER QUALITY. Would the project:** | | | | |
| a) Violate any water quality standards or waste discharge requirements? | | | X | |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | | | X | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | | | X | |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site? | | | X | |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | | | X | |
| f) Otherwise substantially degrade water quality? | | | X | |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood hazard Boundary of Flood Insurance Rate Map or other flood hazard delineation map? | | | | X |
| h) Place within 100-year flood hazard area structures, which would impede or redirect flood flows? | | | | X |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | | | | X |
| j) Inundation by seiche, tsunami, or mudflow? | | | | X |
| **X. LAND USE AND PLANNING. Would the project:** | | | | |
| a) Physically divide an established community? | | | X | |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | | | X | |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | | | | X |
| **XI. MINERAL RESOURCES. Would the project:** | | | | |
| a) Result in the loss of availability of a known mineral resource that would be a value to the region and the residents of the state? | | | | X |
| b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | | | | X |
| **XII. NOISE. Would the project result in:** | | | | |
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | | | X | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | | | X | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | | | X | |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | | | | X |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| **XIII. POPULATION AND HOUSING. Would the project:** | | | | |
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | | | | X |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | | | | X |
| **XIV. PUBLIC SERVICES. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:** | | | | |
| a) Fire protection? | | | X | |
| b) Police protection? | | | X | |
| c) Schools? | | | X | |
| d) Parks? | | | X | |
| e) Other public facilities? | | | X | |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| **XV. RECREATION.** | | | | |
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur or be accelerated? | | | X | |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment? | | | X | |
| **XVI. TRANSPORTATION/TRAFFIC. Would the project:** | | | | |
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | | | X | |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | | | X | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | | | | X |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | | | X | |
| e) Result in inadequate emergency access? | | | X | |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? | | | X | |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| **XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:** | | | | |
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | | | X | |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | X | |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources or are new or expanded entitlements needed? | | | X | |
| e) Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | | | X | |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | | | X | |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | | | X | |

| Issues | Potentially Significant Impact | Less Than Significant With Mitigation Incorporation | Less Than Significant Impact | No Impact |
|---|---|---|---|---|
| **XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.** | | | | |
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | | | X | |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.) | | | X | |
| c) Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly? | | | X | |

# D. CHECKLIST RESPONSES

This Initial Study and Negative Declaration provide the environmental clearance and evaluations associated with the proposed Ordinance. As discussed, the Ordinance provides the regulations, requirements, procedures, and permitting requirements to allow operations of marijuana businesses and land uses in the City. At this writing, there are no actual businesses, operations, or activities being proposed at any particular location. Therefore, any analysis contained in this document will be at a program-level and not site specific. It should be noted, that the City will require a Conditional Use Permit and Marijuana Business Permit for all marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. For purposes of this document, a physical development is not being proposed or considered at this time. The proposed Ordinance will be referred to as the "project".

## I. AESTHETICS. Would the project:

a. Have a substantial adverse effect on a scenic vista? ***Less Than Significant Impact.***

The City of Bellflower is presently urbanized and developed with commercial, industrial, residential, and public uses and structures. There are no scenic vistas within the City or within any C-G (General Commercial Zone) and M-1 (Light Industrial Zone). Therefore, there is no opportunity for the proposed project to affect any scenic vista, as there are no known scenic vistas. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location.

b. Substantially damage scenic resources, including, trees, rock outcroppings, and historic buildings within a state scenic highway? ***Less Than Significant Impact.***

The City of Bellflower is presently urbanized and developed with commercial, industrial, residential, and public uses and structures. There are no scenic resources within the City or within any C-G (General Commercial Zone) and M-1 (Light Industrial Zone). Therefore, there is no opportunity for the proposed project to affect any scenic resource, as there are no scenic resources. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location.

c. Substantially degrade the existing visual character or quality of the site and its surroundings? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, degradation of the visual character of a particular site cannot be evaluated on a project-specific level. It

should be noted however, that the project requires that all owners/operators of marijuana businesses acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the visual character and quality of the particular location would not be significantly degraded and will be based on compliance with those Operational Standards contained in the proposed Ordinance, including the following standard which ensures that significant visual impacts would not occur:

- It is unlawful for there to be any visual evidence of marijuana cultivation when viewed from five feet above ground level from any street, sidewalk, public right-of-way, or adjacent property.

In addition, the City can also revoke said permits if the particular location is visually degraded during operations. The proposed project ensures that the visual character and quality of any future marijuana business location would not be significantly degraded.

**d.** Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, light and glare impacts cannot be evaluated on a project-specific level. It is anticipated, however, that any business could potentially create light and glare from parking areas, security, additional vehicles entering and exiting the site, and other sources typical of any development. Though new light and glare could be created, it is not expected that any significant impact would result due to the following reasons: First, any potential light and glare generated by a future marijuana business would be similar with any other commercial and industrial business. Secondly, the project requires that all owners/operators of marijuana businesses first acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that significant levels of light and glare will not be created at any particular location. Thirdly, any future business would be required to comply with applicable City development and design standards that control the amount of light and illumination that could "spill over" to neighboring areas. Lights within the parking areas will be shielded and controlled. Lighting would be contained onsite, away from neighboring receptors.

## II. AGRICULTURE RESOURCES. Would the project:

a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agriculture use? ***No Impact.***

The City of Bellflower is within the greater Los Angeles metropolitan area and is "built-out" and urbanized. Accordingly, there is no area in the City that is designated Prime Farmland, Unique Farmland or Farmland of Statewide Importance. Future marijuana businesses permitted by the proposed project would not have the opportunity to potentially convert any farmland into non-agricultural land or affect any Prime Farmland, Unique Farmland or Farmland of Statewide Importance, since none are located in the City.

b. Conflict with existing zoning for agricultural use, or a Williamson Act Contract? ***No Impact.***

The City is "built-out" and urbanized. Accordingly, there is no area in the City that is under a Williamson Act Contract. Future marijuana businesses permitted by the proposed project would not have the opportunity to potentially conflict with any agricultural zone or any provisions of a Williamson Act contract, since none are located in the City.

c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))? ***No Impact.***

The City is "built-out" and urbanized. Accordingly, there is no area in the City that is designated forest land or timberland. Future marijuana businesses permitted by the proposed project would not have the opportunity to potentially conflict with any forest land or timberland zoning, since none are located in the City.

d. Result in the loss of forest land or conversion of forest land to non-forest use? ***No Impact.***

The City is "built-out" and urbanized. Accordingly, there is no area in the City that is designated forest land. Future marijuana businesses permitted by the proposed project would not have the opportunity to convert any forest land resource, since none are located in the City.

e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use? ***No Impact.***

The City is "built-out" and urbanized. Accordingly, there is no area in the City that is designated Farmland. Future marijuana businesses permitted by the proposed project would not have the opportunity to potentially impact or disrupt any existing Farmland, since none are located in the City.

## III. AIR QUALITY. Would the project:

a. Conflict with or obstruct implementation of the applicable air quality plan? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, any potential conflict with the South Coast Air Quality Management District's (AQMD) Air Management Plan cannot be evaluated on a project-specific level. The proposed project could result in additional traffic and other activities that could increase air pollutants. Any increase however, is not considered significant since any air pollutant increase would be similar to any other commercial or industrial business and because only six marijuana businesses would be allowed at any given time. This is not of a scale or intensity that would result in a significant impact. The proposed project also contains requirements that prevent any potential environmental impacts that may be unique to businesses involving marijuana dispensary, cultivation, and delivery, including prohibitions on nuisance odors and excessive energy usage. Operations Plans will be required for marijuana businesses to show that odor control devices and techniques will be incorporated to prevent marijuana odors from being detected by areas outside the business. The Operations Plans will also require a detailed electrical plan, which will show that excessive energy usage will not be generated. In addition, future businesses will be required to comply with standard practices of the AQMD to reduce dust and emissions during construction. Any future marijuana business will not significantly conflict with the AQMD Air Management Plan.

b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, any potential air quality violation cannot be evaluated on a project-specific level. The proposed project could result in additional traffic and other activities that could increase air pollutants and potentially violate air quality standards. Any increase however, is not considered significant since any air pollutant increase would be similar to any other commercial or industrial business and because only six marijuana businesses would be allowed at any given time. This is not of a scale or intensity that would result in a significant impact. The proposed project also contains requirements that prevent any potential environmental impacts that may be unique to businesses involving marijuana dispensary, cultivation, and delivery, including prohibitions on nuisance odors and excessive energy usage. Operations Plans will be required for marijuana businesses to ensure that odor control devices and techniques will be incorporated to prevent marijuana odors from being detected by areas outside the business. The Operations Plans will also require a detailed electrical plan, which will show that excessive energy usage will not be generated. In addition, future businesses will be required to comply with standard practices of the AQMD to reduce dust and emissions during construction. Any future marijuana business will not significantly violate any air quality standard.

c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard. ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, any potential cumulative air

quality violation cannot be evaluated on a project-specific level. The proposed project could result in additional traffic and other activities that could increase cumulative air pollutants. Any increase however, is not considered significant since any air pollutant increase would be similar to any other commercial or industrial business and because only six marijuana businesses would be allowed at any given time. This is not of a scale or intensity that would result in a significant impact. The proposed project also contains requirements that prevent any potential environmental impacts that may be unique to businesses involving marijuana dispensary, cultivation, and delivery, including prohibitions on nuisance odors and excessive energy usage. Operations Plans will be required for marijuana businesses to show that odor control devices and techniques will be incorporated to prevent marijuana odors from being detected by areas outside the business. The Operations Plans will also require a detailed electrical plan, which will show that excessive energy usage will not be generated. In addition, future businesses will be required to comply with standard practices of the AQMD to reduce dust and emissions during construction. Any future marijuana business will not significantly conflict with implementation of the AQMD Air Management Plan and would not cumulatively increase any criteria pollutant.

d. Expose sensitive receptors to substantial pollutants concentrations? ***Less Than Significant Impact.***

Future marijuana businesses will only be allowed within the following City areas:

- Within the C-G (General Commercial Zone and the M-1 (Light Industrial Zone).
- Areas that are at least 600 feet from any school (public, private, pre-school, transitional kindergarten, or K-12).
- Areas that are at least 600 feet from any college or university, religious facility, park, licensed child daycare facility, and/or drug or alcohol rehabilitation facility.

Sensitive receptors could be located near future marijuana businesses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that significant impacts to potentially sensitive receptors will not occur at any particular location.

e. Create objectionable odors affecting a substantial number of people? ***Less Than Significant Impact.***

Future marijuana businesses could potentially create objectionable odors from construction and operations. Temporary odors could be generated from construction activities and equipment. Significant impacts, however, are not expected. The proposed project contains requirements that prevent any potential environmental impacts that may be unique to businesses involving marijuana dispensary, cultivation, and delivery, including prohibitions on nuisance odors. Operations Plans will be required for marijuana businesses to show that odor control devices and techniques will be incorporated to prevent marijuana odors from being detected by areas outside the business. The Operations Standards further state that "It is unlawful for there to be any audible or olfactory evidence of marijuana cultivation from any street, sidewalk, public right-of-way or adjacent

property." In addition, future businesses will be required to comply with standard practices of the AQMD to reduce dust and emissions during construction. Significant levels of odors would not be created by the proposed project.

## IV. BIOLOGICAL RESOURCES. Would the project:

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? ***No Impact.***

The City of Bellflower is "built-out" and urbanized. Accordingly, there is no area in the City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas, that have habitats or species that have been identified as a candidate, sensitive, or special status specie. The proposed project would not have the opportunity to affect any habitats or species that have been identified as a candidate, sensitive, or special status specie in any local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, since none are located in the City.

b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? ***No Impact.***

The City is "built-out" and urbanized. Accordingly, there is no area in the City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas, that have riparian habitat or other sensitive natural communities. The proposed project would not have the opportunity to affect any riparian habitat or other sensitive natural community identified in any local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, since none are located in the City.

c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? ***No Impact.***

The City is "built-out" and urbanized. Accordingly, there is no wetland area in the City or any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas. The proposed project would not have the opportunity to affect any federally-protected wetlands, since none are located in the City.

d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? ***No Impact.***

The City is "built-out" and urbanized. Accordingly, there is no area in the City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas, that is designated a native resident or migratory wildlife corridor. The proposed project would not have the opportunity to affect the movement of any native fish or wildlife species or any wildlife corridor, since none are located in the City.

e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? ***No Impact.***

The City does not have any local policies or ordinances that protect specific biological resources, including tree preservation. The proposed project would not have the opportunity to affect any unique or sensitive trees or other biological resources, since none are located in the City.

f. Conflict with the provisions of an adopted Habitat Conservation Plan, or other approved local, regional, or state habitat conservation plan? ***No Impact.***

The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas, is not regulated by any Habitat Conservation Plan (HCP). The proposed project would not have the opportunity to affect any unique or sensitive habitat or HCP, since none are located in or apply to the City.

## V. CULTURAL RESOURCES. Would the project:

a. Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, impacts on potential historical resources cannot be evaluated on a project-specific level. Significant impacts, however, are not expected. The City will require a Conditional Use Permit and Marijuana Business Permit for all future marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that any future marijuana business would not potentially degrade the historical significance of any building or resource or conflict with Section 15064.5.

b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, impacts on potential historical resources cannot be evaluated on a project-specific level. Significant impacts, however, are not expected. The City will require a Conditional Use Permit and Marijuana Business Permit for all future marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that any future marijuana business would not potentially degrade the archaeological significance of any resource or conflict with Section 15064.5.

c. Directly or indirectly destroy a unique paleontological resource or site or unique geological feature? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, impacts on potential paleontological resources cannot be evaluated on a project-specific level. Significant impacts, however, are not expected. The City will require a Conditional Use Permit and Marijuana Business Permit for all future marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that any future marijuana business would not potentially degrade the paleontological significance of any resource.

d. Disturb any human remains, including those interred outside of formal cemeteries? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, impacts on potential human remain resources cannot be evaluated on a project-specific level. Significant impacts, however, are not expected. The City will require a Conditional Use Permit and Marijuana Business Permit for all future marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that any future marijuana business would not potentially degrade the significance of any human remains. It should be noted that in accordance with AB 52, the City consulted with eight Native American Tribal Governments. To date, the City did not receive any letters or comments from any of the Native American Tribal Governments.

## VI. GEOLOGY AND SOILS. Would the project:

a. Expose people or structures to potential substantial adverse effects, including the risk or loss, injury, or death involving:

i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. ***No Impact.***

The City of Bellflower, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas, is not located within any Alquist-Priolo Earthquake Fault Zoning Map study area. There is no opportunity for the proposed project to conflict with any provisions of the Fault Zoning Map or requirements of the State Geologist, since the City is not within any Fault Zoning Map.

ii. Strong seismic groundshaking? ***Less Than Significant Impact.***

The City of Bellflower, like the rest of Southern California, is located within a seismically active region as a result of being located between the North American and Pacific tectonic plates. The principal source of seismic activity will come from northwest-trending regional faults such as the San Andreas, San Jacinto, Los Alamitos, Newport-Inglewood, and Elsinore Fault Zones. The closest known active or potentially active fault near the City of Bellflower is the Newport-Inglewood Fault. The Newport-Inglewood Fault is approximately three miles to the southwest of Bellflower and is defined as a series of low, elongated hills extending from Newport Beach to Beverly Hills, including Signal and Dominguez Hills. Other faults are located about 10 miles from the City. The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas, is subject to seismic activity and groundshaking. Similar with any other commercial and industrial development, future buildings for marijuana businesses would be constructed according to those standards and requirements contained in the City Codes and California Building Code relating to construction, paving, and structural activities. Compliance with these standards and requirements ensure that future construction would not be compromised by any future seismic activity.

iii. Seismic-related ground failure, including liquefaction? ***Less Than Significant Impact.***

The term "liquefaction" describes a phenomenon in which saturated soil loses strength and becomes "liquefied" during strong ground shaking events. The factors known to influence liquefaction potential include soil type and depth, grain size, relative density, groundwater level, degree of saturation, and both the intensity and duration of ground shaking.

The City of Bellflower is located in a portion of southeast Los Angeles County that is known for liquefaction potential. Numerous soils tests have confirmed that liquefaction potential exists for any development within the City. The City is subject to seismic activity and potential ground failure, including potential liquefaction. Significant impacts, however, are not expected. Similar with any other commercial and industrial development, future marijuana businesses would be constructed according to those standards and requirements contained in the City Codes and California Building Code relating to construction, paving, and structural activities. Compliance with these standards and requirements ensure that future construction would not be compromised by any future ground shaking and liquefaction.

iv. Landslides? ***No Impact.***

The topographical character of the City of Bellflower, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas, is extremely flat. No severe topographical features exist within the City that could potentially result in a landslide or similar ground failure. There is no opportunity for any landslide to affect the City or any of the C-G (General Commercial Zone) or M-1 (Light Industrial Zone) areas, since landslides do not occur in the City.

b. Result in substantial soil erosion or the loss of topsoil? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, soil erosion impacts cannot be evaluated on a project-specific level. It should be noted that similar with any other commercial and industrial development, future marijuana businesses that require grading and earth movement would be required to first acquire a grading permit from the City. An erosion control plan would be prepared to explain how soil erosion and potential topsoil loss would be controlled. Substantial soil erosion or topsoil loss would not result with those future businesses that required grading.

c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? ***Less Than Significant Impact.***

The City of Bellflower is on the south-sloping Los Angeles Coastal Plain and along the western bank of the San Gabriel River. Soils within the City are predominantly Recent Alluvium, Basement Complex, and Sedimentary Bedrock. Similar with any other commercial and industrial development, future marijuana businesses would be constructed according to those standards and requirements contained in the City Codes and California Building Code relating to construction, paving, and structural activities. Compliance with these standards and requirements ensure that future construction would not be compromised by any potentially unstable soils or ground surfaces.

d. Be located on expansive soil, as defined in Table 18-1-B of the California Building Code (1994), creating substantial risks to life or property? ***Less Than Significant Impact.***

The City of Bellflower is on the south-sloping Los Angeles Coastal Plain and along the western bank of the San Gabriel River. Soils within the City are predominantly Recent Alluvium, Basement Complex, and Sedimentary Bedrock. Similar with any other commercial and industrial development, future marijuana businesses would be constructed according to those standards and requirements contained in the City Codes and California Building Code relating to construction, paving, and structural activities. Compliance with these standards and requirements ensure that future construction would not be compromised by any potentially expansive soils as defined by Table 18-1-B of the California Building Code.

e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? ***No Impact.***

Future marijuana businesses will not be allowed to use septic tanks or other alternative wastewater disposal systems. Future businesses would be required to hook-up to the County's wastewater disposal system.

## VII. GREENHOUSE GAS EMISSIONS. Would the project:

a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, greenhouse gas (GHG)

emissions cannot be evaluated on a project-specific level. It should be noted, however, that the proposed project contains requirements that prevent any potential environmental impacts that may be unique to businesses involving marijuana dispensary, cultivation, and delivery, including prohibitions on excessive energy usage. The City will require a Conditional Use Permit and Marijuana Business Permit for all marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will based on the City's Climate Action Plan, which provides thresholds for determining acceptable GHG emission levels and will ensure that significant levels of GHG will not be created at any particular location. Operations Plans will also be required for marijuana businesses to provide a detailed electrical plan, which will show that excessive energy usage will not be generated, thus, further minimizing GHG. In addition, future businesses will be required to comply with standard practices of the AQMD to reduce dust and emissions during construction. Future businesses would not result in any significant GHG emission levels.

**b.** Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, GHG emissions cannot be evaluated on a project-specific level. It should be noted, however, that the proposed project contains requirements that prevent any potential environmental impacts that may be unique to businesses involving marijuana dispensary, cultivation, and delivery, including prohibitions on excessive energy usage. The City will require a Conditional Use Permit and Marijuana Business Permit for all marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will based on the City's Climate Action Plan, which provides thresholds for determining acceptable GHG emission levels and will ensure that significant levels of GHG will not be created at any particular location. Operations Plans will also be required for marijuana businesses to provide a detailed electrical plan, which will show that excessive energy usage will not be generated, thus, further minimizing GHG. In addition, future businesses will be required to comply with standard practices of the AQMD to reduce dust and emissions during construction. Future businesses would not result in any significant GHG emission levels and would not significantly conflict with any plan, policy, or regulation relating to greenhouse gas reduction.

## VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:

**a.** Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials? ***Less Than Significant Impact.***

A hazardous material is defined as any material that due to its quantity, concentration, physical or chemical characteristics, poses a significant present or potential hazard to human health or to the environment if released. Hazardous materials include, but are not limited to, inorganic and organic chemicals, solvents,

mercury, lead, asbestos, paints, cleansers, or pesticides. Construction activities and equipment could transport and use potentially hazardous materials, such as oil, gas, paints, etc. At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, any potential impacts associated with hazardous materials cannot be evaluated on a project-specific level. It should be noted however, that the project requires that all owners/operators of marijuana businesses acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. These applications will be reviewed based on the following Operational Standards contained in the proposed Ordinance to reduce potential hazardous conditions:

- It is unlawful to use flammable or explosive substances in the cultivation of marijuana.
- Any person issued a permit...must follow all pesticide use requirements of local, State, and Federal Law.
- Cultivation of marijuana shall be undertaken in a manner that ensures the health, safety, and welfare of the public, the employees of the marijuana business, visitors, and neighboring properties.

These permit applications allow the City to review future businesses on a case-by-case basis and ensure that the required Operations Plans address and alleviates any potential hazards. The City will also ensure that those safety safeguards contained in the Statewide Initiative entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" will be followed. Compliance with these provisions relating to control of hazardous materials ensures that any potential impact associated with the routine use, storage, and transportation of hazardous materials would not result with construction and operation of any future marijuana business.

**b.** Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? ***Less Than Significant Impact.***

Construction of future marijuana businesses could accidently release hazards materials into the environment. Significant impacts and risks, however, are not expected. Similar with any other commercial and industrial development, future marijuana businesses will be required to comply with applicable regulations relating to control of hazardous materials. In addition, compliance with the Operations Standards contained in the proposed project would further reduce the likelihood of accidents and risks associated with release of hazardous materials.

**c.** Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, any potential impact on schools cannot be evaluated on a project-specific level. As discussed, the proposed project requires that any marijuana business be located at least 600 feet from a school, which reduces potential impact. In addition, the City will require a Conditional Use Permit and Marijuana Business Permit for all marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply

CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that schools will not be significantly impacted.

d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or environment? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, any potential conflict with Government Code Section 65962.5 cannot be evaluated on a project-specific level. As discussed, the proposed project requires that all owners/operators of marijuana businesses acquire a Conditional Use Permit and Marijuana Business Permit. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business location is not included on the hazardous materials sites list pursuant to Government Code Section 65962.5.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles or a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? ***No Impact.***

The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are located approximately five miles from Long Beach Airport and are not located within the sphere of the airport's land use plan. The City is not subject to the provisions of any airport land use plan. There is no opportunity to expose any people residing or working within the City of Bellflower to potential safety hazards, since the City is not affected by any airport land use plan.

f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? ***No Impact.***

The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are not within the vicinity of a private airstrip that would create excessive noise levels. There is no opportunity to expose any people residing or working in the vicinity to potential safety hazards, since the City is not affected by any private airstrip.

g. Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, any potential conflict with the City's emergency response and evacuation plans cannot be evaluated on a project-specific level. As discussed, the City will require a Conditional Use Permit and Marijuana Business Permit for all marijuana businesses and land uses. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the

appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the future business location would not potentially conflict with the City's emergency response and evacuation plans.

h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? ***No Impact.***

The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are not designated as a wildfire zone. There is no opportunity for any wildland fire to occur and expose people or structures to fire hazards, since the City is not within a wildfire zone.

## IX. HYDROLOGY AND WATER QUALITY. Would the project:

a. Violate any water quality standards or waste discharge requirements? ***Less Than Significant Impact.***

The proposed project could result in marijuana businesses that could create unique water quality discharges. Significant impacts, however, are not expected. First, only a maximum of six total marijuana businesses would be allowed at any given time. This intensity of development is not substantial enough to significantly increase any violation in water quality standards. Secondly, it is believed that any water quality impact would be similar to any other commercial and industrial development. Thirdly, the proposed project requires that all owners/operators of marijuana businesses acquire a Conditional Use Permit and Marijuana Business Permit. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business location would not potentially result in any significant water quality or waste discharge impacts. If grading is required for any particular future business, the City would require a grading permit. An erosion control plan would be prepared with the grading plan which would explain how soil erosion and potential topsoil loss would be controlled. Control of potential erosion would reduce the likelihood that any water quality standard or waste discharge requirement would be violated. Finally, the provisions of the National Pollution Discharge Elimination System (NPDES) would be reviewed and applied as appropriate. Compliance with these provisions and with requirements of the Regional Water Quality Board ensures that any future marijuana business would not violate any water quality standards or waste discharge requirements. Potentially significant water quality impacts would not result.

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (i.e., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted? ***Less Than Significant Impact.***

The City, including most of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are presently developed and predominantly covered with impervious surfaces. Therefore, the City is not considered a significant groundwater recharge area. Future marijuana businesses would continue to be

constructed on the same impervious surfaces. In addition, only a maximum of six total marijuana businesses would be allowed at any given time. This intensity of development is not substantial enough to significantly deplete groundwater supplies. The region's recharge capability and groundwater supplies would not be significantly lessened with the proposed project.

c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? ***Less Than Significant Impact.***

Drainage patterns will not be significantly altered. Most of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are presently developed and predominantly covered with impervious surfaces. Future marijuana businesses would likely be developed on these same impervious surfaces. Therefore, it is unlikely that existing drainage patterns will be significantly altered. The San Gabriel River runs in the north-south direction through the City boundaries. Runoff in the City is typically conveyed into catch basins located along City streets. The San Gabriel River would not be altered.

d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? ***Less Than Significant Impact.***

Drainage patterns will not be significantly altered. Most of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are presently developed and predominantly covered with impervious surfaces. Future marijuana businesses would likely be developed on these same impervious surfaces. Therefore, it is unlikely that existing drainage patterns will be significantly altered. The San Gabriel River runs in the north-south direction through the City boundaries. Runoff in the City is typically conveyed into catch basins located along City streets. The flow of the San Gabriel River would not be altered.

e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? ***Less Than Significant Impact.***

Given that most of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are presently developed and predominantly covered with impervious surfaces, future marijuana businesses would likely be operated on lots that are presently covered with impervious surfaces. Since additional impervious surfaces would not be created, the amount of future runoff would likely be the same as existing conditions. Future marijuana businesses would not significantly create or contribute runoff at such excessive levels that would exceed the existing and planned drainage system.

f. Otherwise substantially degrade water quality? ***Less Than Significant Impact.***

The proposed project could result in marijuana businesses that could create unique water quality discharges. Significant impacts, however, are not expected. First, only a maximum of six total marijuana businesses would be allowed at any given time. This intensity of development is not substantial enough to significantly increase any violation in water quality standards. Secondly, it is believed that any water quality impact would be similar to any other commercial and industrial development. Thirdly, the proposed project requires that all owners/operators of

marijuana businesses acquire a Conditional Use Permit and Marijuana Business Permit. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business location would not potentially result in any significant water quality or waste discharge impacts. If grading is required for any particular future business, the City would require a grading permit. An erosion control plan would be prepared with the grading plan which would explain how soil erosion and potential topsoil loss would be controlled. Control of potential erosion would reduce the likelihood that any water quality standard or waste discharge requirement would be violated. Finally, the provisions of the National Pollution Discharge Elimination System (NPDES) would be reviewed and applied as appropriate. Compliance with these provisions and with requirements of the Regional Water Quality Board ensures that any future marijuana business would not violate any water quality standards or waste discharge requirements. Potentially significant water quality impacts would not result.

g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? ***No Impact.***

The City is located within southeastern Los Angeles County, which is within the geographical flood plain area of the San Gabriel River. The San Gabriel River runs in the north-south direction, along the easterly boundary of the City. In 2002, the Los Angeles County Flood Control District improved the existing San Gabriel River Channel by providing concrete sides and bottom to reduce the potential for flooding. As a result, FEMA no longer requires residents of Bellflower to maintain flood insurance. The proposed project does not involve the construction of any residential uses. There is no opportunity to place housing within any 100-year flood hazard area as mapped on any Federal Flood Hazard Boundary, Flood Insurance Rate Map, or other flood hazard delineation map.

h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows? ***No Impact.***

As discussed, the City is not located within any 100-year flood plain as a result of improvements to the San Gabriel River Channel. There is no opportunity to place any structures within a flood plain that could potentially impede or redirect flood flows. Future marijuana businesses allowed by the proposed project would not be impacted by any flood hazard.

i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? ***No Impact.***

As discussed, the City is not located within any 100-year flood plain as a result of improvements to the San Gabriel River Channel. There is no opportunity to expose any people or structures to flood hazard, since the City is not within any 100-year flood plain. Furthermore, there are no levees or dams in the area that could potentially expose the City to hazards. Future marijuana businesses allowed by the proposed project would not be impacted by any flood hazard.

j. Inundation by seiche, tsunami, or mudflow? ***No Impact.***

The topographical character of Bellflower is relatively flat. No severe topographical

features exist within Bellflower that would potentially result in a landslide or similar ground failure. There is no opportunity for any mudflow to affect the City. Furthermore, the City is urbanized and located away from the ocean. There is no opportunity to be affected by seiches or tsunamis, since the City is not near any ocean. Future marijuana businesses allowed by the proposed project would not be impacted by any of these hazards.

## X. LAND USE AND PLANNING. Would the project:

a. Physically divide an established community? ***Less Than Significant Impact.***

The proposed project would not result in future marijuana businesses that could divide the community. First of all, a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could divide the community. Secondly, future businesses would only be allowed within the C-G (General Commercial Zone) and the M-1 (Light Industrial Zone), which allow other similar commercial and industrial businesses. An established community will be not divided by the proposed project.

b. Conflict with any applicable land use plan, policy, or regulation of any agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? ***Less Than Significant Impact.***

If the proposed project is approved, future marijuana businesses would not conflict with any City land use plan, policy, and/or regulation relating to avoiding or mitigating environmental effects, including the City's Climate Action Plan. Compliance with the Operational Standards contained in the proposed project will also alleviate environmental impacts.

c. Conflict with any applicable habitat conservation plan or natural community conservation plan? ***No Impact.***

The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas, is not regulated by any Habitat Conservation Plan (HCP). The proposed project would not have the opportunity to affect any unique or sensitive habitat or HCP, since none are located in or apply to the City.

## XI. MINERAL RESOURCES. Would the project:

a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? ***No Impact.***

The City, including most of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are presently developed and predominantly covered with impervious surfaces. Valuable mineral resources are not known to exist within the City. There is no opportunity to impact any mineral resource that could be of value to the region and the residents of the State, since none exist in the City. The proposed project would not impact any known mineral resource.

b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? ***No Impact.***

The City, including most of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are presently developed and predominantly covered with

impervious surfaces. There are no mineral resource recovery sites located within the City. There is no opportunity to impact any mineral recovery site, since none exist in the City. The proposed project would not impact any locally-important mineral resource recovery site.

## XII. NOISE. Would the project result in:

a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, noise impacts cannot be evaluated on a project-specific level. However, it is expected that potential noise levels would not be excessive for the following reasons. Construction-related noise from construction activities and equipment would only be temporary. Secondly, all construction activities will be required to comply with the City's Noise Element which establishes when construction activities could occur. Thirdly, in the long-term, sales and handling of marijuana associated with future marijuana businesses are not activities that would generate excessive noise levels. Cultivation of marijuana could potentially create noise. However, the Operations Standards contained in the proposed project does address this particular issue by requiring that all cultivation activities be conducted indoors. The proposed project states the following:

- Outdoor cultivation of marijuana is prohibited in all areas of the City.
- It is unlawful for there to be any audible or olfactory evidence of marijuana cultivation from any street, sidewalk, public right-of-way or adjacent property.

It is expected that noise levels that could be generated by future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. In addition, a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant levels of noise. Substantial permanent noise increases are not expected with the proposed project. Significant construction- and operations-related noise impacts would not be created with the proposed project.

b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? ***Less Than Significant Impact.***

As discussed, activities and operations associated with any future proposed marijuana business would not create any significant noise levels. In addition, any future proposed marijuana business is not of a land use that would require extensive construction activities nor would pile-driving be required. Therefore, excessive groundborne vibration and/or noise levels are not expected.

c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? ***Less Than Significant Impact.***

Sales and handling of marijuana associated with future marijuana businesses are not activities that would generate excessive noise levels. Cultivation of marijuana could potentially create noise. However, the Operations Standards contained in the proposed project does address this particular issue by requiring that all cultivation activities be conducted indoors. The proposed project states the

following:

- Outdoor cultivation of marijuana is prohibited in all areas of the City.
- It is unlawful for there to be any audible or olfactory evidence of marijuana cultivation from any street, sidewalk, public right-of-way or adjacent property.

It is expected that noise levels that could be generated by future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. In addition, a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant levels of permanent noise. Substantial permanent noise increases are not expected with the proposed project.

d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? ***Less Than Significant Impact.***

Potential construction-related noise levels would not be excessive for the following reasons. Construction-related noise from construction activities and equipment would only be temporary. Secondly, similar with any other commercial and industrial development, all construction activities will be required to comply with the City's Noise Element which establishes when construction activities could occur. Significant construction-related noise impacts would not be created with the proposed project.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? ***No Impact.***

The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are located approximately five miles from Long Beach Airport and are not located within the sphere of the airport's land use plan. The City is not subject to the provisions of any airport land use plan. There is no opportunity to expose any people residing or working within the City of Bellflower to excessive noise levels, since the City is not affected by any airport land use plan.

f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? ***No Impact.***

The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are not within the vicinity of a private airstrip that would create excessive noise levels. There is no opportunity to expose any people residing or working in the vicinity to excessive noise levels, since the City is not affected by any private airstrip.

## XIII. POPULATION AND HOUSING. Would the project:

a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? ***No Impact.***

Activities and operations of any future proposed marijuana business are not of a land use that would directly result in substantially new employment or destination opportunities. Accordingly, neither population or housing is expected to

significantly increase due to the proposed project.

b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? ***No Impact.***

Future marijuana businesses would not be allowed to be located on residentially-zoned property. There is no opportunity to displace any existing housing or require any replacement housing, since the proposed project does not involve residential development.

c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? ***No Impact.***

Future marijuana businesses would not be allowed to be located on residentially-zoned property. There is no opportunity to displace any people, thus, requiring replacement housing, since the proposed project does not involve residential development.

## XIV. PUBLIC SERVICES.

a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

i. Fire Protection? ***Less Than Significant Impact.***

Future marijuana businesses are not activities that would require additional fire protection services. It is expected that fire protection services that could be required for future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. In addition, a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could significantly burden existing fire protection capabilities.

ii. Police Protection? ***Less Than Significant Impact.***

Future marijuana businesses are activities that could require additional police protection services since crime activity could potentially be increased. Research was conducted on crime rates related to marijuana businesses. According to the article titled, "Violent Crime Drops Where People Have Access to Marijuana, Study Suggests" (Appendix A), written by Paul Armentano, AlterNet, in April 11, 2014, it was found that crime rates were <u>not</u> increased due to marijuana businesses. The article concluded the following:

"The central finding gleaned from the present study was that MML (medical marijuana legalization) is not predictive of higher crime rates and may be related to reductions in rates of homicide and assault. Interestingly, robbery and burglary rates were unaffected by medicinal marijuana legislation, which runs counter to the claim that dispensaries and grow houses lead to an increase in victimization due to the opportunity structures linked to the amount of drugs and cash that are present."

"In sum, these findings run counter to arguments suggesting the legalization of marijuana for medical purposes poses a danger to public health in terms of exposure to violent crime and property crimes. To be sure, medical marijuana laws were not found to have a crime exacerbating effect on any of the seven crime types. On the contrary, our findings indicated that MML (medical marijuana legalization) precedes a reduction in homicide and assault. While it is important to remain cautious when interpreting these findings as evidence that MML reduces crime, these results do fall in line with recent evidence and they conform to the longstanding notion that marijuana legalization may lead to a reduction in alcohol use due to individuals substituting marijuana for alcohol. Given the relationship between alcohol and violent crime, it may turn out that substituting marijuana for alcohol leads to minor reductions in violent crimes that can be detected at the state level."

Accordingly, it is concluded that crime rates may not necessarily increase due to the proposed project. It should also be noted that a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could significantly increase crime rates. It is believed that crime rates would be consistent with any other commercial and industrial development. Furthermore, impacts to police protection services are not expected because the proposed project includes specific Operational Standards to control and reduce any potential increase in crime activity resulting with future marijuana businesses. These Operational Standards include:

- A dispensary cannot store more than $200.00 in cash reserves overnight on the premises.
- Delivery people also cannot carry more than $200.00.
- All interior spaces of the dispensary which are open and accessible to the public (except restrooms), and all entrances and exits to and from the premises, must be monitored by 24-hour video security surveillance of at least HD quality with night vision capability. The video security system must be compatible with software and hardware utilized by the City as determined by the LACSD Commander or designee and set forth in the Operations Plan. Surveillance video must be recorded to a device that is securely located on the premises and all footage must be maintained for a minimum of 45 days. The video surveillance system specifications must be set forth in the Operations Plan before the City issues a Certificate of Occupancy for the marijuana dispensary.
- A marijuana dispensary must have a professionally installed, maintained, and monitored alarm system as approved through the Operations Plan.

The foregoing Operational Standards ensure that crime activity will be controlled to the greatest extent feasible. The standards that require only $200.00 cash to be stored overnight and carried by delivery people will help to reduce any incentive for criminal burglaries and robberies. The other standards require installation of video surveillance and alarm systems which also deter potential burglaries. Compliance with these Operational Standards ensure that the proposed project would not significantly burden existing police protection capabilities or require additional facilities.

iii. Schools? ***Less Than Significant Impact.***

The proposed project does not involve development of residential uses and therefore, would not generate additional student enrollment since new residents would not be created. The proposed project would not disturb any school or burden existing school capacities.

iv. Parks? ***Less Than Significant Impact.***

The proposed project requires that any future marijuana business be located at least 600 feet from any park facility. Therefore, operations and activities at any future marijuana business would not significantly disturb any park facility. The proposed project would not burden existing park capacities, since additional residents would not be created.

v. Other Public Facilities? ***Less Than Significant Impact.***

The proposed project does not propose any land uses that would directly result in the need for other additional public services. The proposed project would not burden any public facilities, since additional residents would not be created.

## XV. RECREATION.

a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? ***Less Than Significant Impact.***

The proposed project requires that any future marijuana business be located at least 600 feet from any park facility. Therefore, operations and activities at any future marijuana business would not significantly disturb any park or recreational facility. In addition, future marijuana businesses are not of a land use that would generate additional demands for recreational facilities since the project will not lead to increases in population. The proposed project would not directly result in the need for additional park and recreation facilities and services. The proposed project would not burden existing park or recreation capacities.

b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? ***Less Than Significant Impact.***

The proposed project requires that any future marijuana business be located at least 600 feet from any park facility. Therefore, operations and activities at any future marijuana business would not significantly disturb any park or recreational facility. In addition, future marijuana businesses are not of a land use that would generate additional demands for recreational facilities since the project will not lead to increases in population. The proposed project would not directly result in the need for additional park and recreation facilities and services. The proposed project would not burden existing park or recreation capacities. New recreational facilities would not be required.

## XVI. TRANSPORTATION/TRAFFIC. Would the project:

a. Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, traffic impacts cannot be evaluated on a project-specific level. However, potential traffic impacts should not be significant since sales and cultivation of marijuana associated with future marijuana businesses are not activities that would typically generate excessive traffic movements. It is expected that traffic movements that could be generated by future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. Deliveries and transport of marijuana would create additional vehicle trips. However, it is not expected that any increase in vehicle trips would result in significant congestion since only a limited (maximum of six) number of businesses would be allowed at any one time. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that significant levels of congestion will not be created at any particular location and will consider those Operational Standards contained in the proposed Ordinance, including the following standards that relate to delivery and transport of marijuana:

- A marijuana business permit for a marijuana dispensary may authorize the mobile delivery of marijuana as part of and in conjunction with the operation of the dispensary. Mobile delivery privileges may be suspended or terminated by the City Manager or designee.

- All marijuana and marijuana products sold or otherwise made available at a dispensary must be cultivated, manufactured, and transported by license facilities that maintain operations in full conformance with State and local regulations.

The foregoing Operational Standards ensure that delivery and transport of marijuana will be legal and in accordance with State and City regulations. The proposed project will not result in any significant impact.

b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? ***Less Than Significant Impact.***

The Los Angeles County Congestion Management Program (CMP) was developed as a means of addressing regional traffic growth and congestion as a function of land use and development decisions. The CMP includes City arterial roadways and intersections. At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, CMP impacts

cannot be evaluated on a project-specific level. However, potential traffic impacts should not be significant since sales and handling of marijuana associated with future marijuana businesses are not activities that would typically generate excessive traffic movements. It is expected that traffic movements that could be generated by future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. In addition, a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant levels of traffic. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that significant levels of congestion will not be created at any particular location that could potentially conflict with the County CMP and will consider those Operational Standards relating to delivery and transport of marijuana that were discussed in Response XVI.a.

**c.** Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? ***No Impact.***

The City, including any of the C-G (General Commercial Zone) and M-1 (Light Industrial Zone) areas are located approximately five miles from Long Beach Airport and are not located within the sphere of the airport's land use plan. The City is not subject to the provisions of any airport land use plan. There is no opportunity to change any air traffic pattern nor expose any people residing or working within the City of Bellflower to potential safety risks, since the City is not within the sphere of the airport's land use plan.

**d.** Substantially increase hazards due to a design feature (i.e., sharp curves or dangerous intersections) or incompatible uses (i.e., farm equipment)? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, business access and circulation design cannot be evaluated on a project-specific level. However, it is expected that potential impacts would not be significant. All future proposed marijuana businesses would be required to comply with applicable City standards and regulations relating to circulation and street improvements to ensure that all driveways and access points be designed with sufficient vehicular sight distance, thus alleviating safety hazards. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the business would not result in any safety hazards resulting from access and circulation design. The proposed project will not result in any significant impact.

e. Result in inadequate emergency access? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, emergency access design cannot be evaluated on a project-specific level. However, it is expected that potential impacts would not be significant. All future proposed marijuana businesses would be required to comply with applicable City standards and regulations relating to emergency access. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the business would provide sufficient emergency access. The proposed project will not result in any significant impact.

f. Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana businesses, operations, or activities being proposed at any particular location. Therefore, provision of alternative transportation features and improvements cannot be evaluated on a project-specific level. However, it is expected that potential impacts would not be significant. All future proposed marijuana businesses would be required to comply with applicable City policies, plans, and programs relating to alternative transportation improvements. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the business complies with City policies, plans, and programs relating to alternative transportation improvements. The proposed project will not result in any significant impact.

## XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:

a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? ***Less Than Significant Impact.***

The proposed project could result in marijuana businesses that could create unique water quality discharges. Significant impacts, however, are not expected. First, only a maximum of six total marijuana businesses would be allowed at any given time. This intensity of development is not substantial enough to significantly increase any violation in water quality standards. Secondly, it is believed that any water quality impact would be similar to any other commercial and industrial development. Thirdly, the proposed project requires that all owners/operators of marijuana businesses acquire a Conditional Use Permit and Marijuana Business Permit. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and

Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business location would not potentially result in any significant water quality or waste discharge impacts. If grading is required for any particular future business, the City would require a grading permit. An erosion control plan would be prepared with the grading plan which would explain how soil erosion and potential topsoil loss would be controlled. Control of potential erosion would reduce the likelihood that any water quality standard or waste discharge requirement would be violated. Finally, the provisions of the National Pollution Discharge Elimination System (NPDES) would be reviewed and applied as appropriate. Compliance with these provisions and with requirements of the Regional Water Quality Board ensures that any future marijuana business would not violate any water quality standards or waste discharge requirements. Potentially significant water quality impacts would not result.

b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? ***Less Than Significant Impact.***

Sales and handling of marijuana associated with future marijuana businesses are not activities that would generate excessive demands on water and sewer services. It is expected that water and sewer services that could be required by future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. Cultivation of marijuana however, could create more water demand. Research was conducted to estimate potential water demands resulting with cultivation activities. According to an article in the Sacramento Bee, titled, "California Takes New Approach on Water Regulation for Pot Farms" (Appendix B), written by Peter Hetch, dated August 29, 2015, the California Department of Fish and Game was quoted as stating, "Marijuana uses about the same amount of water as corn". Based on this estimate by the California Department of Fish and Game, it is concluded that excessive water demands would not be generated for marijuana cultivation. Water and wastewater impacts are further minimized when considering that a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant demands on water and wastewater facilities. It is believed that demands would be similar with any other commercial and industrial development. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business would not potentially result in any significant water and sewer demands. The City's review will also consider those Operational Standards contained in the proposed Ordinance, including the following standards that relate to water usage:

- The Operations Plan for a cultivation facility must include a detailed electrical and plumbing plan, along with projections for water usage.

The foregoing Operational Standard ensures that water usage for cultivation and

dispensary businesses would not directly require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities.

c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? ***Less Than Significant Impact.***

Given that the City is urbanized and "built out", future marijuana businesses would likely be operated on commercial and industrial lots that are presently covered with impervious surfaces. Since additional impervious surfaces would not be created, the amount of future runoff would likely be the same as existing conditions. Future marijuana businesses would not create or contribute runoff at such excessive levels that would exceed the existing and planned drainage system. The proposed project would not directly require or result in the construction of new drainage facilities or expansion of existing facilities.

d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? ***Less Than Significant Impact.***

Sales and handling of marijuana associated with future marijuana businesses are not activities that would generate excessive demands on water supplies. It is expected that water services that could be required by future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. Cultivation of marijuana however, could create more water demand. Research was conducted to estimate potential water demands resulting with cultivation activities. According to an article in the Sacramento Bee, titled, "California Takes New Approach on Water Regulation for Pot Farms" (Appendix B), written by Peter Hetch, dated August 29, 2015, the California Department of Fish and Game was quoted as stating, "Marijuana uses about the same amount of water as corn". Based on this estimate by the California Department of Fish and Game, it is concluded that excessive water demands would not be generated for marijuana cultivation. Water impacts are further minimized when considering that a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant demands on water facilities. It is believed that demands would be similar with any other commercial and industrial development. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business would not potentially result in any significant water demands. The City's review will also consider those Operational Standards contained in the proposed Ordinance, including the following standards that relate to water usage:

- The Operations Plan for a cultivation facility must include a detailed electrical and plumbing plan, along with projections for water usage.

The foregoing Operational Standard ensures that water usage for cultivation and dispensary businesses would not significantly burden the City's water supplies.

e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? ***Less Than Significant Impact.***

Future marijuana dispensary and cultivation businesses are not activities that would generate excessive demands on sewer services. It is expected that sewer services that could be required by future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. Wastewater impacts are further minimized when considering that a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant demands on wastewater facilities. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business would not potentially result in any significant sewer demands. The proposed project would not significantly burden the County's wastewater facilities.

f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? ***Less Than Significant Impact.***

Future marijuana dispensary and cultivation businesses are not activities that would generate excessive amounts of solid waste. It is expected that solid waste collection and disposal services that could be required by future marijuana businesses would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. Solid waste impacts are further minimized when considering that a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant demands on solid waste facilities. As discussed, all owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business would not significantly burden any collection and disposal service, and landfill facility.

g. Comply with Federal, State, and City statutes and regulations related to solid waste? ***Less Than Significant Impact.***

Future proposed marijuana businesses would be required to comply with all applicable Federal, State, and City statutes or regulations related to solid waste.

## XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana dispensary or cultivation businesses being proposed at any particular location. Therefore, environmental degradation at a specific location cannot be evaluated on a project-specific level. However, sales, cultivation, and handling of marijuana associated with future marijuana businesses are not activities that would create significant impacts related to fish or wildlife species or habitat, fish or wildlife population, plant or animal community, rare or endangered plant or animal species, or historical or prehistorical resources. It is expected that the level of impact at any future marijuana business location would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. Environmental impacts are further minimized when considering that a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant environmental impacts. All owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business would not significantly impact any biological or cultural resources; or result in any other significant environmental impact. The proposed project would <u>not</u> result in any significant impacts on any biological or cultural resources; or result in any other significant environmental impact.

b. Does the project have impacts that are individually limited, but cumulatively considerable? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana dispensary or cultivation businesses being proposed at any particular location. Therefore, cumulative environmental impacts at a specific location cannot be evaluated on a project-specific level. However, sales, cultivation, and handling of marijuana associated with future marijuana businesses are not activities that would create significant cumulative impacts. It is expected that the level of impact at any future marijuana business location would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. Cumulative environmental impacts are further minimized when considering that a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant cumulative environmental impacts. All owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination

(categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business would not create any significant cumulative impact on the environment. The proposed project would not generate significant impacts that are individually limited, but will become cumulatively considerable.

c. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? ***Less Than Significant Impact.***

At this writing, there are no actual marijuana dispensary or cultivation businesses being proposed at any particular location. Therefore, impacts on human beings at a specific location cannot be evaluated on a project-specific level. However, sales, cultivation, and handling of marijuana associated with future marijuana businesses are not activities that would create significant impacts on human beings. It is expected that the level of impact at any future marijuana business location would be consistent with any other commercial and industrial development that could be constructed in accordance with the underlying zoning. Environmental impacts on human beings are further minimized when considering that a maximum of six marijuana-related businesses could be allowed at any one time in the City. This number of businesses is not of a scale or intensity that could generate significant environmental impacts on human beings. All owners/operators of marijuana businesses must acquire a Conditional Use Permit and Marijuana Business Permit to allow marijuana dispensary and/or cultivation onsite. The City will review and evaluate all future marijuana businesses and land uses on a case-by-case basis as associated with each Conditional Use Permit and Marijuana Business Permit application and apply CEQA to each application and make the appropriate determination (categorical exemption or Initial Study) for each project to analyze any future proposed marijuana business and land use at the particular location. The City's review will ensure that the particular business would not create any significant impact on human beings or the environment. The proposed project would not generate significant impacts on human beings or the environment.

# E. PREPARERS OF DOCUMENT AND CONSULTED PERSONS AND AGENCIES

**City of Bellflower**

- Art Bashmakian, AICP Director of Planning and Building Services
- Duane Morita, Planning and Environmental Consultant

# F. SOURCES


1. City of Bellflower Draft Ordinance relating to Marijuana-Related Businesses and Land Uses.
2. "Violent Crime Drops Where People Have Access to Marijuana, Study Suggests" (Appendix A), written by Paul Armentano, AlterNet, dated April 11, 2014.
3. "California Takes New Approach on Water Regulation for Pot Farms" (Appendix B), written by Peter Hetch, Sacramento Bee, dated August 29, 2015.

## Appendix A

"Violent Crime Drops Where People Have Access to Marijuana, Study Suggests", written by Paul Armentano, AlterNet, dated April 11, 2014.

ALTERNET

DRUGS

# Violent Crime Drops Where People Have Access to Marijuana, Study Suggests

*Two scientific papers suggest the dire warnings we've heard about marijuana for decades don't hold water.*

By Paul Armentano / AlterNet | April 11, 2014

171 COMMENTS

Opponents of marijuana legalization, particularly members of law enforcement, frequently claim that liberalizing cannabis laws will lead to an increase in incidences of criminal activity, such as burglary, robbery, and driving under the influence. But two recent scientific papers report that just the opposite is true.

In the most recent paper, published online in March in the scientific journal PLoS ONE, researchers at the University of Texas at Dallas reported that the enactment of laws legalizing people's access to medical marijuana is not associated with any rise in statewide criminal activity, and that it may even be related to reductions in incidences of violent crime.

Investigators tracked crime rates across all 50 states in the years between 1990 and 2006, during which time 11 states—Alaska (1998), California (1996), Colorado (2000), Hawaii (2000), Maine (1999), Montana (2004), Nevada (2000), Oregon (1998), Rhode Island (2006), Vermont (2004), and Washington (1998)—legalized the use, home cultivation, and (in some cases) the retail dispensing of marijuana for medical purposes. (A total of 20 states and the District of Columbia have now approved similar laws.) Authors reviewed FBI Uniform Crime Report data to determine whether there exists any association between the enactment of medicinal cannabis laws and rates of statewide criminal activity, specifically the number of reported crimes involving homicide, rape, robbery, assault, burglary, larceny, and auto theft. Their analysis is the first to look at multiple offenses across multiple states and time periods to determine whether medical marijuana legalization impacts state crime rates.

Authors reported that the passage of medical marijuana laws is not associated

with an increase in any of the seven crime types assessed, but that liberalized laws are associated with decreases in certain types of violent crime. Authors wrote:

> "The central finding gleaned from the present study was that MML (medical marijuana legalization) is not predictive of higher crime rates and may be related to reductions in rates of homicide and assault. Interestingly, robbery and burglary rates were unaffected by medicinal marijuana legislation, which runs counter to the claim that dispensaries and grow houses lead to an increase in victimization due to the opportunity structures linked to the amount of drugs and cash that are present."

They concluded:

> "In sum, these findings run counter to arguments suggesting the legalization of marijuana for medical purposes poses a danger to public health in terms of exposure to violent crime and property crimes. To be sure, medical marijuana laws were notfound to have a crime exacerbating effect on any of the seven crime types. On the contrary, our findings indicated that MML (medical marijuana legalization) precedes a reduction in homicide and assault. While it is important to remain cautious when interpreting these findings as evidence that MML reduces crime, these results do fall in line with recent evidence and they conform to the longstanding notion that marijuana legalization may lead to a reduction in alcohol use due to individuals substituting marijuana for alcohol. Given the relationship between alcohol and violent crime, it may turn out that substituting marijuana for alcohol leads to minor reductions in violent crimes that can be detected at the state level."

Commenting on the findings in an accompanying news release, the study's lead author, Robert Morris, associate professor of criminology, said, "The results are remarkable.... It takes away the subjective comments about the link between marijuana laws and crime so the dialogue can be more in tune with reality."

The paper's results, specifically the notion that cannabis liberalization may lead to a reduction in alcohol-induced criminal activity, are similar to those previously documented in a study published last year in the Journal of Law and Economics. In that study, researchers at Montana State University, the University of Oregon, and the University of Colorado assessed whether the enactment of medical cannabis laws was associated with a reduction in incidences of alcohol-related

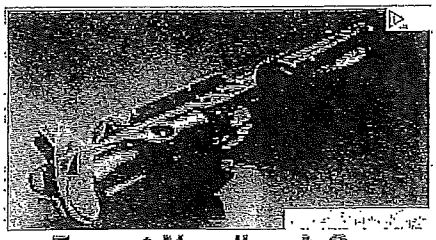
traffic fatalities for the years 1990 t[illegible]010. It was.

Authors wrote: "[T]he legalization of medical marijuana is associated with a 13.2 percent decrease in fatalities in which at least one driver involved had a positive BAC level. ... Why does legalizing medical marijuana reduce traffic fatalities? Alcohol consumption appears to play a key role. ... Using individual-level data from the Behavioral Risk Factor Surveillance System (BRFSS) ..., we find that MMLs (medical marijuana laws) are associated with decreases in the probability of [an individual] having consumed alcohol in the past month, binge drinking, and the number of drinks consumed.

"The negative relationship between the legalization of medical marijuana and traffic fatalities involving alcohol lends support to the hypothesis that marijuana and alcohol are substitutes," authors concluded.

Separate studies have also failed to link the establishment of marijuana retail dispensaries with any alleged increases in criminal activity. A 2011 study of crime rates in Los Angeles published by the Rand Corporation "found no evidence that medical marijuana dispensaries in general cause crime to rise." (Disturbingly, Rand withdrew the paper shortly following its publication because its findings were publicly criticized by the Los Angeles city attorney's office, which had long claimed that these operations were magnets for various street crimes.) A followup study commissioned by the federal government in 2012 similarly reported that the proliferation of cannabis dispensaries is not associated with elevated rates of either violent crimes or property crimes.

It concluded: "There were no observed cross-sectional associations between the density of medical marijuana dispensaries and either violent or property crime rates in this study. These results suggest that the density of medical marijuana dispensaries may not be associated with crime rates or that other factors, such as measures dispensaries take to reduce crime (i.e., doormen, video cameras), may increase guardianship such that it deters possible motivated offenders."


Forget Needing A Gun
The military recently released technology that is now available to the public. Get yours before they run out - limited stock in the US
Read More>>

Most recently, localized crime data from Colorado once again reinforced the notion that pot legalization isn't associated with increased criminal activity. According to a report in Vox.com, incidences of both violent crime and property crimes have dipped slightly during the three-month period following that state's enactment of full-

scale marijuana legalization. Yet me[illegible]bers of law enforcement are still continuing to publicly claim otherwise. Some things never change.

*Paul Armentano is the deputy director of NORML (National Organization for the Reform of Marijuana Laws) and serves as a senior policy advisor for Freedom Leaf, Inc. He is the co-author of the book, Marijuana Is Safer: So Why Are We Driving People to Drink? (Chelsea Green, 2013).*

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171 COMMENTS

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## Appendix B

"California Takes New Approach on Water Regulation for Pot Farms", written by Peter Hetch, Sacramento Bee, dated August 29, 2015.

WATER & DROUGHT AUGUST 29, 2015 5:01 PM

# California takes new approach on water regulation for pot farms

HIGHLIGHTS

Drought exacerbates concerns about marijuana grows

State wildlife officials are inviting pot growers for unique collaboration

Law enforcement raids on alleged commercial grows continue

Video: Water and Weed 2:13

BY PETER HECHT
phecht@sacbee.com

WILLOW CREEK — The California Department of Fish and Wildlife helicopter circled over steep timberland in Humboldt County's coastal mountains, prowling for potential water diversions and environmental damage caused by what is arguably the state's most lucrative agricultural product: marijuana.

The problems weren't hard to find.

The pot farms below sprawled out with factory-like orderliness. From the air, the rows of budding plants resembled citrus orchards. Leveled terraces supported plastic-lined greenhouses capable of producing multiple marijuana yields. Giant water tanks stood nearby.

Lt. DeWayne Little, a veteran game warden with a muscular build and a shaved head, snapped photos of the clearings. The view unsettled him.

"Marijuana uses about the same amount of water that corn uses," he said. "But you wouldn't grow corn up here. This area is not made for agriculture. But people are just carving out chunks of the mountain and casting that aside" for marijuana.

Little and other Fish and Wildlife officers had recently joined local narcotics teams in raiding pot farms said to be draining a half million gallons of water a day from the Eel River. But the information he gathered on the helicopter wasn't intended for a police incursion.

Little is a supervisor in a unique state effort that identifies growers willing to work with authorities to monitor water use and environmental impacts from marijuana cultivation. The compliance program signals a shift in regulatory oversight of an industry that has existed in a murky legal area since California became the first state to legalize marijuana for medical use in 1996.

Amid the state's prolonged drought, Gov. Jerry Brown last year approved $3 million in funding to dispatch oversight officers and environmental scientists to identify and inspect water-thirsty pot gardens in sensitive natural settings. Officials from the State Water Resources Control Board and Department of Fish and Wildlife so far have visited 150 sites with growers' approval. They have issued instructions on water conservation and filed 50 notices of environmental violations.

The compliance program kicked off with 11 full-time officers from the state water board and seven from Fish and Wildlife. The specialized team primarily has focused on small and medium-scale marijuana growers in the upper Central Valley and North Coast. Under pending legislation, the program stands to be expanded statewide.

CITY OF BELLFLOWER "GROWING TOGETHER"

# staff report

**TO:** Honorable Chairman and Members of the Planning Commission

**ATTENTION:** Art Bashmakian, Director of Planning and Building Services

**FROM:** Jason Friedman, Assistant Planner

**SUBJECT:** Consideration and possible action to conduct a public hearing regarding Zoning Ordinance Text Amendment Case No. ZOTA 16-05 and a Code Amendment repealing Chapter 8.48 and Section 17.04.110 of the Bellflower Municipal Code and adding Title 14 and Chapter 17.94 pertaining to the regulation of marijuana-related businesses and land uses, and Negative Declaration No. ND 16-05 associated with the proposed Zoning Ordinance Text Amendment and Code Amendment

**DATE:** September 6, 2016

## RECOMMENDATION

1) Open the public hearing, receive testimony, close the public hearing, consider the evidence, and adopt Resolutions No. PC 16-14, recommending the City Council approve the proposed amendments and associated Negative Declaration; or

2) Take such additional, related, action that may be desirable.

## PUBLIC NOTICE

A Notice of Public Hearing was published in the *Herald American* newspaper on August 4, 2016; and public hearing notices were posted at City Hall, Brakensiek Library, Bellflower Substation, Thompson Park, and Simms Park on August 2, 2016.

## CEQA STATUS

In accordance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000, et seq.; "CEQA") and CEQA regulations (Cal. Code Regs. tit. 14, §§ 15000, et seq.), an Initial Study and Negative Declaration have been prepared in accordance with the provisions of CEQA. The Initial Study and Negative Declaration determined that the adoption of this ordinance will not result in significant environmental impacts and that no further environmental review is required. The 20-day public review period for this document began on August 4, 2016 and expired on August 23, 2016. No public comments were received.

## BACKGROUND

On November 5, 1996, the voters of the State of California approved Proposition 215, codified as Health and Safety Code Section 11362.5, et seq., and entitled the Compassionate Use Act of 1996 ("CUA"). The CUA exempts qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for personal medical use. The intent of the CUA is to enable persons in the State of California who are in need of marijuana for medicinal purposes to obtain it and use it under limited, specified circumstances.

In October 2003, the California Legislature enacted Senate Bill 420, codified as Health and Safety Section 11362.7, *et seq.*, ("Medical Marijuana Program Act," or "MMPA") to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420. The MMPA created a state-approved voluntary medical marijuana identification card program and provided for certain additional immunities from state marijuana laws. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the Medical Marijuana Program to expressly recognize the authority of counties and cities to "[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective" and to civilly and criminally enforce such ordinances. The CUA and MMPA do not "legalize" marijuana, but provide limited defenses to certain categories of individuals with respect to certain conduct and certain state criminal offenses.

In *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, the California Supreme Court held that "[n]othing in the CUA or the MMP expressly or impliedly limits the inherent authority of a local jurisdiction, by its own ordinances, to regulate the use of its land. . . ." Additionally, in *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, the Court of Appeal held that "there is no right – and certainly no constitutional right – to cultivate medical marijuana. . . . ." The Court in *Maral* affirmed the ability of a local governmental entity to prohibit the cultivation of marijuana under its land use authority.

The Federal Controlled Substances Act, 21 U.S.C. § 801, et seq., classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, that has no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for use under medical supervision. The Federal Controlled Substances Act makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess, with intent to manufacture, distribute or dispense, marijuana.

On October 9, 2015 Governor Brown signed three bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act ("MMRSA"). MMRSA established a statewide licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate, in addition to a State license. MMRSA allows the City to completely prohibit commercial medical marijuana activities. The limited immunity from specified state marijuana laws provided by the CUA and MMPA does not confer a land use right or the right to create or maintain a public nuisance.

A statewide initiative entitled the "Control, Regulate and Tax Adult Use of Marijuana Act" ("AUMA") qualified for the November 2016 ballot. If the AUMA is approved by the voters, it will decriminalize (under California law), control and regulate the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years of age or older. The AUMA would also tax the commercial growth and retail sale of marijuana. It does not, and cannot, affect federal regulations as to marijuana or its derivatives. The AUMA expressly preserves local control over the regulation of marijuana-related businesses and marijuana-related land uses (proposed Business & Professions Code § 26200, *et seq.*)

## DISCUSSION

The Bellflower Municipal Code ("BMC") currently prohibits all commercial cannabis activity in the City, including medical marijuana dispensaries, medical marijuana cultivation, and medical marijuana delivery services. The proposed Zoning Ordinance Text Amendment and Code Amendment ("Amendments") would authorize limited cultivation, manufacture, dispensing, and delivery of marijuana and marijuana products in the City, subject to reasonable controls and regulations that will ensure marijuana-related activities do not pose a threat to the public health, safety or welfare, or pose a nuisance to properties or persons.

Among the proposed regulations for marijuana-related businesses is a requirement that each business first apply for and obtain a Conditional Use Permit prior to operating, a cap (maximum six) on the number of Conditional Use Permits to be issued and active at any given time, conditionally permitted only in the C-G (General Commercial) Zone and M-1 (Light Industrial) District, and prohibited elsewhere, and distance requirements from schools, religious institutions, licensed child daycare facilities, parks, youth centers, or licensed drug and alcohol rehabilitation facilities. Additionally, businesses would be required to submit an operations plan, subject to the review and approval of City staff and the Los Angeles County Sheriff's Department. These and the other Amendments are incorporated into the draft Ordinance (Exhibit A of Attachment A).

Except as specifically authorized in the amendments, the cultivation, processing, manufacture, dispensing, distribution, delivery, storing, testing, packaging, or sale of marijuana or any marijuana product would be prohibited. The Amendments would not become effective unless the voters of the state of California approve the AUMA at the November 8, 2016 general election. If the voters approve the AUMA, the Amendments would become effective on January 1, 2017.

- ***General Plan Findings***

The Amendments are compatible with and will not frustrate the goals and policies of the General Plan Land Use Element. Specifically:

- Land Use Element Goal 2, Policy 2.2
  *Provide commercial facilities to meet the retail and service needs of the community.*

- Land Use Element Goal 2, Policy 2.4
  *Promote recreational, cultural, entertainment, and employment opportunities to meet the needs of the community.*

- Land Use Element Goal 2, Policy 2.8
  *Encourage rehabilitation or redevelopment of designated commercial and industrial areas.*

- Land Use Element Goal 2, Policy 2.11
  *Retain industries now in Bellflower; attract new industry which provides new jobs and high value products.*

## ATTACHMENTS

Attachment A – Resolution No. PC 16-14
Attachment B – Initial Study/Negative Declaration No. ND 16-05
Attachment C – Text of the Initiative

**7-C Public Hearing –ND 16-04 & ZOTA 16-04 (Hotels) - Continued**

Staff and Assistant City Attorney King answered Commission questions relative to 1) clarification of rooming house verses boarding, 2) the reference to mortuaries and crematories, 3) the number of organizations affected by new ZOTA, 4) what happens if someone wants to expand their business, 5) minimum lot size of 35,000 square feet, 6) parking standards, 7) the July 9, 2001 date indicated on page 11 of the staff report, and 8) definitions for hotel, motel and rooming house.

Chairman Hamada opened the Public Hearing.

**Ken Patel**, stated 1) they are looking at developing in the City, and the amendments are good and constructive, 2) the current terms help the development of properties in the City and helps provide amenities required for hotels, 3) suggestion to "shrink down parking" was good, 4) the ZOTA looks at the needs of the community in terms of what hotel guest are looking for, 5) thanked staff for their help, and 6) stated he felt it would help bring more development to the City.

Speaking in favor, **Wayne Brown, resident**, stated 1) he has lived in Bellflower for many years, and 2) has seen a lot of areas that would benefit from these types of modifications and availability to doing things.

Chairman Hamada closed the Public Hearing.

It was moved by Commissioner Nowlin, seconded by Vice Chairman Franzen, and carried by the following roll call vote, to adopt Resolution No. PC 16-11 recommending adoption of Negative Declaration No. 16-04 and Zoning Ordinance Text Amendment Case No. ZOTA 16-04 subject to findings and with conditions as presented:

**AYES:** Commissioners - Nowlin, Franzen, and Chairman Hamada

**7-D Negative Declaration / Zoning Ordinance Text Amendment - Consideration and possible action to conduct a public hearing regarding Zoning Ordinance Text Amendment Case No. ZOTA 16-05 and a Code Amendment repealing Chapter 8.48 and Section 17.04.110 of the Bellflower Municipal Code and adding Title 14 and Chapter 17.94 pertaining to the regulation of marijuana-related businesses and land uses, and Negative Declaration No. ND 16-05 associated with the proposed Zoning Ordinance Text Amendment and Code Amendment.**

Director Bashmakian briefly reviewed the staff report highlighting the history, the background, and the proposed project. He answered Commission questions and concerns regarding 1) the possibility of facilities having different activities, 2) whether Findings could be met, 3) the proximity to certain types of uses, and areas that may not be appropriate in some situations, and 5) allowing use in the M-1 (Light Industrial) zone.

Assistant City Attorney King stated the Ordinance would only take affect if the initiative is adopted by the voters and would be contingent on local tax being approved. He stated if the State-wide initiative is adopted, recreational marijuana would be allowed so the next step would be to try to regulate and confine in a way that would protect and promote the public health, safety and general welfare.

Director Bashmakian further responded to Commission concerns regarding 1) Section 14.12.010 (Outside Cultivation Prohibited), 2) if there were any businesses not listed on Section 8, 3) distance requirement, 4) if licenses would have a sunset clause, and 5) potential law suits if Findings are not met and property values go down.

**7-D Public Hearing – ZOTA 16-05 (Cannabis) – Continued**

Assistant City Attorney King further responded stating 1) the business permit would expire after 12 months and would need to be renewed every year, 2) with regard to location restrictions, the City would only be able to take into account existing conditions, and they could look at conditions when the permit is issued and identify whether there is any sensitive uses, 3) the findings are the criteria that the City's code requires the Commission and the Council make in order to adopt the ZOTA. If any of the Commissioners feel they cannot make the findings, then they can direct staff to a) provide evidence that would support the findings, and bring it back for the Commission's review, or b) if the Commission has evidence the findings cannot be made then they should not vote to adopt the Ordinance, 4) he would argue that there is no evidence the proposed ZOTA would not adversely impact property values, and if Prop 64 is not approved by the voters, the Ordinance would not take effect. He stated the chances that this would have an adverse impact on neighboring value would be low, however, that is for the Commission and Council to decide, 5) he believes the City has full authority to limit the number of permits, 6) Section 14.16.020.D, it is limited to a marijuana dispensary and not other uses, 7) with regard to carrying a concealed weapon, staff can review the issue and amend the proposed Ordinance to address that, 8) lease agreements are a private matter, 9) any permit fees would have to allow law and code enforcement personnel onto the premises, 10) Federal Government has not changed their policy and classification of marijuana, 11) from City's perspective, they should be too concern with regulating the use because any ordinance by the City would simply be following suit with the voters because this is a voter initiated initiative.

Chairman Hamada opened the Public Hearing.

**Steven Gomez, 9723 Walnut Street**, stated 1) he's lived in Bellflower his whole life and worked for the City 15-years ago, 2) if item passes, he wants to do things right and follow all regulations, 3) explained the cultivation center process, 4) asked if the business license would be honored for the whole year, stated 5) he was in favor of allowing it in the C-G and M-1 zones, 6) there are ways to ensure smell is not a problem, 7) he would be looking for a 10,000 square foot warehouse with retail possibilities, and 8) with patience and communication he thinks this could benefit the City.

**James Garcia, resident,** stated 1) he did a lot of research, 2) considered himself an entrepreneur, 3) sees this as an opportunity and the likelihood of it passing in November is about 60%, 4) the marijuana industry is in the billions and 5) legalizing it only makes sense to control it, and it will actually do something good and make it legitimate instead of doing a black market operation.

**Darrell Kruze**, stated 1) he spoke before the Council in 2006, 2) he had a dispensary and the City decided to place a moratorium, 3) City decided that Federal law supersedes State law, 4) Federal Law has not changed in 10 years and now they are discussing allowing it, 5) he is asking for either preference or restitution since they shut him down in 2006, and 6) there are a couple of dispensary currently operating.

Mr. Gomez added an approved dispensary opened up next to his job in Santa Ana, and the business is flourishing. He stated there haven't been any concerns with the Feds shutting them down, and three more have opened. He stated there has been no criminal activity, it is located in the industrial area, and there are armed guards, alarm systems and cameras in place.

Mr. Kruze 1) commented on IRS audits, and 2) stated City of Bellflower should change their name to City of Bozaro World since they were against it before and now they are talking about allowing recreation marijuana.

**7-D Public Hearing – ZOTA 16-05 (Cannabis) – Continued**

Mr. Brown stated 1) he was not sure if there was any ability to oppose it, 2) asked if property owners have the right to not rent to an establishment like this, 3) they can romanticize it all they want but the City has had a history of having problems with dispensaries, and 4) they need to make sure they are covered.

Chairman Hamada closed the Public Hearing.

Following discussion it was moved by Commissioner Nowlin to adopt PC 16-14 recommending approval of ND 16-05, and ZOTA 16-05, subject to findings and with conditions.

Commissioner Nowlin's motion died for lack of second.

It was moved by Commissioner Nowlin, seconded by Vice Chairman Franzen, and carried by the following roll call vote, to continue this item to the next Planning Commission meeting held September 19, 2016, at 7:00 p.m., to better address the findings:

**AYES:** Commissioners - Nowlin, Franzen, and Chairman Hamada

**7-E Zoning Ordinance Text Amendment - Consideration and possible action to conduct a public hearing regarding Zoning Ordinance Text Amendment Case No. ZOTA 16-06 to amend various sections of the Municipal Code to ensure that religious assembly uses and institutions are not treated on less than equal terms as compared to similarly situated secular assembly uses and institutions.**

Planning Manager Genilo-Concepcion briefly reviewed the staff report highlighting the history, the background, and the proposed project. She answered Commission questions relative to 1) Section 17.44.030.D (Funeral Parlors, etc.) and 2) if the use of cannabis for religious services would be counted as the 6 permitted or would they be exempt.

With regard to the previous item before the Commission and how it relates to this item, Assistant City Attorney King stated the Commission focused more on dispensaries and retail businesses, and if a church was using marijuana as part of their religious activities, he did not think they would be a business needing a permit in order to use marijuana. He stated if they were cultivating it, it may not fall within what was before the Commission, so staff would have to review the definition of cultivation. He stated he believed the Ordinance is really focused on retail sales and profit because then the City would be imposing a tax on the use.

A discussion ensued between the Commission, staff, and Assistant City Attorney King relative to the list of CUPs indicated on page 67, and the possible omission of one of the uses.

Chairman Hamada opened the Public Hearing.

Mr. Brown stated he read the document and suggested the item be approved as amended.

Chairman Hamada closed the Public Hearing.

CITY OF BELLFLOWER "GROWING TOGETHER"

# staff report

**TO:** Honorable Chairman and Members of the Planning Commission

**ATTENTION:** Art Bashmakian, Director of Planning and Building Services

**FROM:** Jason Friedman, Assistant Planner

**SUBJECT:** Consideration and possible action to conduct a continued public hearing regarding Zoning Ordinance Text Amendment Case No. ZOTA 16-05 and a Code Amendment repealing Chapter 8.48 and Section 17.04.110 of the Bellflower Municipal Code and adding Title 14 and Chapter 17.94 pertaining to the regulation of marijuana-related businesses and land uses, and Negative Declaration No. ND 16-05 associated with the proposed Zoning Ordinance Text Amendment and Code Amendment

**DATE:** September 19, 2016

## RECOMMENDATION

1) Re-open the public hearing, receive testimony, close the public hearing, consider the evidence, and adopt Resolution No. PC 16-14, as amended, recommending the City Council approve the proposed amendments and associated Negative Declaration; or

2) Take such additional, related, action that may be desirable.

## PUBLIC NOTICE

A Notice of Public Hearing was published in the *Herald American* newspaper on August 4, 2016; and public hearing notices were posted at City Hall, Brakensiek Library, Bellflower Substation, Thompson Park, and Simms Park on August 2, 2016. The public hearing was held on September 6, 2016, and continued to September 19, 2016.

## CEQA STATUS

In accordance with the California Environmental Quality Act (Cal. Pub. Res. Code §§ 21000, et seq.; "CEQA") and CEQA regulations (Cal. Code Regs. tit. 14, §§ 15000, et seq.), an Initial Study and Negative Declaration have been prepared in accordance with the provisions of CEQA. The Initial Study and Negative Declaration determined that the adoption of this ordinance will not result in significant environmental impacts and that no further environmental review is required. The 20-day public review period for this document began on August 4, 2016 and expired on August 23, 2016. No public comments were received.

## BACKGROUND

On September 6, 2016, Staff presented to the Planning Commission the Staff Report (Attachment C), and draft Resolution containing the draft Ordinance pertaining to the regulation of marijuana-related businesses and land uses. At said meeting, the Planning Commission opened the public hearing to discuss the proposed amendments.

The Planning Commission raised several issues, such as the potential impacts of allowing cannabis businesses on neighboring businesses and the context for California's pending Adult Use of Marijuana Act initiative (Prop. 64) in relation to Federal Law. At the conclusion of the meeting, the Planning Commission continued the matter and directed Staff to expand on the findings supporting adoption of Resolution No. PC 16-14.

## ANALYSIS

At the direction of the Planning Commission, Staff has reviewed several studies and evaluated the potential impacts of the proposed ordinance, and will be prepared to present the results of their research at the meeting. For the Planning Commission's reference, included in this Staff Report are excerpts from a study conducted by the National Institutes of Health (Attachment E) and a study published by PLOS ONE related to the effect of medical marijuana laws on crime (Attachment E).

Further, Staff has revised the proposed resolution to expand on the Zoning Ordinance Text Amendment findings, which are required to be made under Bellflower Municipal Code § 17.04.030. Based on Staff's research and as stated in the findings, there is substantial research to support the required findings, and Staff recommends the Planning Commission adopt the Resolution.

## ATTACHMENTS

A. Resolution No. PC 16-14
B. Initial Study/Negative Declaration No. ND 16-05
C. September 6, 2016 Planning Commission Staff Report and Resolution
D. Text of the Initiative
E. Studies from National Institutes of Health and PLOS ONE

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**MARIJUANA LEGALIZATION. INITIATIVE STATUTE.** Legalizes marijuana and hemp under state law. Designates state agencies to license and regulate marijuana industry. Imposes state excise tax on retail sales of marijuana equal to 15% of sales price, and state cultivation taxes on marijuana of $9.25 per ounce of flowers and $2.75 per ounce of leaves. Exempts medical marijuana from some taxation. Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products. Allows local regulation and taxation of marijuana. Prohibits marketing and advertising marijuana to minors. Authorizes resentencing and destruction of records for prior marijuana convictions. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: **Net reduced costs ranging from tens of millions of dollars to potentially exceeding $100 million annually to state and local governments related to enforcing certain marijuana-related offenses, handling the related criminal cases in the court system, and incarcerating and supervising certain marijuana offenders. Net additional state and local tax revenues potentially ranging from the high hundreds of millions of dollars to over $1 billion annually related to the production and sale of marijuana. Most of these funds would be required to be spent for specific purposes such as substance use disorder education, prevention, and treatment.** (15-0103.)

## SECTION 1. TITLE.

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

## SECTION 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 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.

## SECTION 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.

**SECTION 4. PERSONAL USE.**

**Sections 11018 of the Health and Safety Code is hereby amended, and Sections 11018.1 and 11018.2 of the Health and Safety Code are hereby added 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.*

*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.*

*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.*

**Sections 11362.1 through 11362.45 are 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 subdivision (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. § 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.*

*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) of this section.*
*(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) of this subdivision shall become inoperable 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 California Attorney General.*
*(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.*

*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 the Business and Professions Code or Chapter 3.5 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 of Division 8 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 Tri-chloro-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.*

*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 and 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 subdivisions (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 and 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.*

*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.*

**SECTION 5. USE OF MARIJUANA FOR MEDICAL PURPOSES.**

**Sections 11362.712, 11362.713, 11362.84 and 11362.85 are added to the Health and Safety Code, and 11362.755 of the Health and Safety Code is amended 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.*

*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 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 (Civil Code § 56, et seq.) 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 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 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 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.*

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~~ *a* 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 $100 per application or renewal.*
(*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.*

*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.*

*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.*

**SECTION 6. MARIJUANA REGULATION AND SAFETY.**

**Division 10 is hereby added to the Business and Professions Code to read as follows:**

*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 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 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 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, co-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 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 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 in Chapter 3.5 of Division 8 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 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 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 have nor 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 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 Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana. The 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, 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.*
*(a) 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 five Members of the Senate, or ten 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 Articles 3 and 4 in Chapter 1.5 in Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, section 11340 et seq.).*

*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 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 operable 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 restrains 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 of Division 8.*
*(b) Notwithstanding subdivision (a), a person or entity that holds a state testing license under this division or Chapter 3.5 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 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 paragraph (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 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 operable 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 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 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 operable 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 of Chapter 3.5 of Division 8 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 of Chapter 3.5 of Division 8, 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 (Public Resources Code, Section 21000, et seq.), the California Endangered Species Act (Fish and Game Code, Section 2800 et. seq.), lake or streambed alteration agreements (Fish and Game Code, Section 1600 et. seq.), the Clean Water Act, the Porter-Cologne Water Quality Control Act, 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 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 Sections 11370.4 or 11379.8.*
*(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 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 Sections 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 of Division 8 in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Sections 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 Sections 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 of Chapter 3.5 of Division 8.*
*(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 of Chapter 3.5 of Division 8.*
*(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 Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not 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 of Chapter 3.5 of Division 8.*

*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 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. 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) of this section 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 twelve 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 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 11362.2 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 Pharmacopeia (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 in Chapter 3.5 of Division 8 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 in Chapter 3.5 of Division 8 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 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 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 Department of Public Health, unless remedial measures can bring the marijuana or marijuana products into compliance with quality assurance standards as promulgated by the 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 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 Department of Public Health shall apply to licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5 unless otherwise specified by the 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 in Chapter 3.5 of Division 8 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 Department of Public Health: ~~not less than 8 point font~~:*
*(1) Manufacture date and source.*
*(2) The following statements, in bold print:*
*(A) For marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I 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 21 C.F.R. section 101.9.*
*(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 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 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 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 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, development of products specifically designed to appeal to certain demographics, etc.*

*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 subsection (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 21years 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 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 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 website. 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 Bureau of State Audits 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 Bureau of State Audits 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 second hand 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 ten (10) days of notification, the bureau shall inform the relevant licensing authorities. Within ten (10) days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 of this Division 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 Marijuana Regulation and Safety Act Fund established in Section 19351 of Chapter 3.5 of Division 8 is hereby renamed the Marijuana Control Fund.*
*(b) Upon the effective date of this section, whenever "Medical Marijuana 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 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 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 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 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 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.*

**Section 147.6 of the Labor Code is hereby added as follows:**

*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 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.*

**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 Profession 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.

**SECTION 7. MARIJUANA TAX.**

*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 for in section 6005.*
*(k) "Microbusiness" shall have the same meaning as set for in Section 26070(a)(3) of the Business and Professions Code.*
*(l) "Nonprofit" shall have the same meaning as set for 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 fifteen percent (15%) of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 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 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 non-itemized, 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 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 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 of this division 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 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 of Division 8 of the Business and Professions Code or Division 10 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 of Division 8 of the Business and Professions Code or under Division 10 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 of Division 8 of the Business and Professions Code or Division 10 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 of the Revenue and Taxation Code). 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 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 of Division 8 of the Business and Professions Code or Division 10 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 have 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 Divisions 8 or 10 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 section 34012(d) 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 of Division 8 of the Business or Professions Code or Division 10 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 subject to 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 four percent (4%) of tax revenues received.*
*(2) Reasonable costs incurred by the Bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health for implementing, administering, and enforcing Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 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 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 of Division 8 of the Business and Professions Code or Division 10 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 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 of Division 8 of the Business and Professions Code and Division 10 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 Department of Social Services, to administer a Community Reinvestments grants program to local health departments and at least fifty-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 four percent (4%) 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 (60%) shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the 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 Department of Health Care services shall enter into inter-agency agreements with the Department of Public Health and the 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 four percent (4%) 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 (20%) 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 task force 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 Statutes of 2014).*
*(3) Twenty percent (20%) 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 Section 11362.2(b)(3) 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) of this section. 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) of this section.*

*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.*
*(a) 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 of Division 8 of the Business and Professions Code or Division 10 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.*

**SECTION 8. CRIMINAL OFFENSES, RECORDS, AND RESENTENCING.**

**Sections 11357, 11358, 11359, 11360 and 11361.5 of the Health and Safety Code are amended, and Sections 11361.1 and 11361.8 are added to read as follows:**

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~~ possess*ession 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).*
(~~c~~*b*) Except as authorized by law, ~~every person who~~ possess*ession 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.
(~~d~~*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.*
(~~e~~*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) of this section.* ~~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.~~

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 Sections 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.*

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.*

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 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 a*n 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.*

*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 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.*

*(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.*

**Subdivision (a) of 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 (~~c~~*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.*

**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 this 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 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 Penal Code Section 3000.08 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 this 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 this 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.*
*(l) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.*

**SECTION 9. INDUSTRIAL HEMP.**

**Section 11018.5 of the Health and Safety Code is amended to read as follows:**

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 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 of the Food and Agricultural Code, inclusive.*

**Sections 81000, 81006, 81008, and 81010 of the Food and Agricultural Code are amended to read, and Section 81007 of the Food and Agricultural Code is repealed as follows:**

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.

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* ~~two~~ acres 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.

~~81007. Prohibitions; De minimis considerations~~
~~(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.~~

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.

81010. Operation of division
*(a)* This division, *and Section 221 of the Food and Agricultural Code,* 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 of the Business and Professions Code.*

**SECTION 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 and 6 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 Section 6 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 Section 6 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.

**SECTION 11. CONSTRUCTION AND INTEPRETATION.**

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.

**SECTION 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.

**SECTION 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.

National Institute on Drug Abuse

# RESEARCH

MONOGRAPH SERIES

# Drugs and Violence: Causes, Correlates, and Consequences

103

U.S. Department of Health and Human Services • Public Health Service • National Institutes of Health

# Drugs and Violence: Causes, Correlates, and Consequences

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# Violence as Regulation and Social Control in the Distribution of Crack

*Jeffrey Fagan and Ko-lin Chin*

## INTRODUCTION

After nearly a century of research on the relation between substance use and violence, drug use and trafficking have only recently been examined separately as etiological factors in violence and aggression. Violence associated with selling illicit substances has been evident since the Opium Wars in China and illegal whiskey importation into the American colonies (Musto 1989). In this century, illicit distribution of alcohol during the Prohibition Era led to widespread violence as criminal organizations competed for market share and territory (Zahn 1989). Violence intrinsic to drug distribution has been associated with marijuana production and selling (Adler 1985), heroin selling (Ianni 1974; Goldstein et al. 1984; Johnson et al. 1985; McBride 1981), and, more recently, cocaine and crack selling (Goldstein et al. 1987; Goldstein et al., in press; Johnson et al., in press; Williams 1989; Adler 1985; Murphy et al., unpublished manuscript).[1]

Recognition of the etiological relevance of drug trafficking to violence has resulted in more careful formulation of theories of the drug-violence relationship. Specifically, examination of homicides and other violent behaviors that involve drugs suggests separate explanatory frameworks for violence that occurs following intoxication, violence that occurs in the "service" of substance use, and violence that occurs during the course of drug trafficking (Goldstein 1985; Goldstein 1989). In the context of drug selling, further distinctions are evident between violence associated with wholesale distribution and violence in street-level transactions (Goldstein 1989).

There are several influences on violence that occurs in the context of street-level (seller-user) drug distribution. Violence may be used to enforce organizational discipline or resolve business disputes. Disputes over drugs and drug paraphernalia are commonplace among users and sellers. Territorial disputes are commonplace among drug sellers. Street-level sellers may skim profits from mid-level suppliers or crew bosses. In the absence of

legal recourse for illegal activities, such disputes are likely to be settled either by economic reprisal or by violence. Violence in drug dealing can be viewed as an extension of behaviors that are associated with efficiency and success in legitimate businesses (Black 1983).

The social *milieu* of drug-selling and drug-buying areas also is conducive to robbery of sellers and users for either cash or drugs. The spurious connection of drug use and crime suggests that drug selling will be concentrated in social areas with concentrations of the social structural features of violent crime and victimization. The reciprocal nature of the drug business and violence may influence the decision to participate in drug selling-individuals averse to violence may avoid street-level drug transactions, leaving only those willing to engage in violent behaviors as participants. Self-selection of violent individuals for participation in the drug business also may increase the likelihood of violence during drug transactions. For example, Fagan (1989) found that the drug selling-violence relationship among youth gangs was strongest for gangs most frequently involved in all types of violence.

This chapter examines violence and aggression among crack and other illicit drug sellers in New York City. Few studies have addressed the origins of violence in drug selling, specifically whether such violence reflects generalized violence or violent behaviors contingent on drug selling. Aggression in crack selling appears to be commonplace and severe (Goldstein et al., unpublished manuscript; Goldstein 1989; Johnson et al. 1990; New York Times 1989b) and is the focus of this study. Aggression evident in nondrug criminality is compared for crack sellers and other seller types. If violence in drug selling is a distinct behavior that reflects the contingencies of the unregulated marketplace, participation of sellers in nondrug violence will be less evident. However, if violence in drug selling involves processes of self-selection of generally violent individuals, their participation in nondrug violent crimes will be extensive. This interpretation would further suggest that systemic violence in drug selling is spuriously related to other etiological factors in violence and crime commission, rather than a function of unique social processes of drug selling.

### The Emergence of Crack and Crack Markets

The appearance of crack in New York City in 1985 has been widely associated with increased violence in illicit drug markets (*New York Times* 1989a; Fagan and Chin, in press). Crack was introduced in New York shortly after the use and sale of powdered cocaine had reached its highest level nationwide in 1982 (Zimmer 1987). Most cocaine users had been aware of the intensified high from smoking freebase cocaine (Siegel 1982; Siegel 1987). However, sufficient quantities of cocaine for "basing" had been beyond the economic means of most drug users. An apparent reduction in the import price of cocaine in the mid-1980s made the raw material for smokable

constructed by summing the positive responses to each of the six features. Table 5 shows that marijuana sellers (Type 1) least often reported being part of a selling group (10.2 percent). Between 24 and 33 percent of members of Types 2, 3, and 4 reported being in a group, while over half of Types 5 and 6 reported being in a drug-selling group.

The types differed significantly on cross-tabulations for each dimension. Among those reporting group participation, most said that their group had a specific name, although Type 4 respondents had a lower rate. The findings for the other dimensions reflected patterns similar to those in table 4. Participants in Types 1, 2, and 4 least often reported the presence of the several features of group. Inclusively, their reports suggested that they saw their groups as being less formally organized and having fewer unifying social processes.

Respondents in Types 3, 5, and 6 who reported being in selling groups most often reported the presence of formal structures or processes. Similar patterns for these types were found for role differentiation in table 4. More than 80 percent reported prohibitions against using drugs while selling, compared to about half in Types 2 and 4. They more often reported having specific territory, leaders and supervisors, and formal rules and sanctions. They also more often reported using juveniles (less than 16 years of age) in drug selling.

The index of group organization further showed these distinctions: respondents in Types 5 and 6 reported the highest scores for group organization, and respondents in Types 1, 2, and 3 had the lowest ($p=.000$). Significantly, these two types are most often involved in selling crack. Type 3 sellers, despite their involvement in selling cocaine HCl and heroin, had lower indices of group organization. The results suggest that crack selling is a more formally organized activity: it more often occurs within selling groups, and crack-selling groups more often have a formal, hierarchical social organization.

### Violence in Drug Selling

Although there is overwhelming evidence of an association between drugs and violence, the violence that characterizes drug use or selling actually is a heterogeneous set of behaviors. The empirical evidence of causal directions between drug involvement and violence consistently has yielded contradictory results (Watters et al. 1985). Thus, the drug-violence connection for now may be best understood as a probabilistic function, with uncertain causal mechanisms or temporal order (Anglin 1984).

Goldstein (1985; Goldstein 1989) suggests that different theories may be needed to account for different drug-crime relationships. In his tripartite framework, he distinguishes "pharmacological" violence linked to

psychoactive effects of drug ingestion from "economic compulsive" violence in which drug users engage in crimes to support the costs of drug use. "Systemic" violence is the third type of drug-crime relationship. It is violence that is intrinsic to buying and selling any illicit substance:

> . . . traditionally aggressive patterns of interaction within the system of drug distribution and use . . . disputes over territory between rival drug dealers, assaults and homicides committed within dealing hierarchies as a means of enforcing normative codes, robberies of drug dealers and the usually violent retaliation by drug dealers or their bosses, elimination of informers, disputes over drugs and/or drug paraphernalia, punishment for selling phony or adulterated drugs, punishment for failing to pay for one's debts, and robbery violence related to the social ecology of [buying] areas. (Goldstein 1989, p. 30)

Systemic violence was expected to be greater in crack distribution than in other drug markets for two reasons. First, crack selling was concentrated in neighborhoods where social controls had been weakened by intensified social and economic dislocations in the decade preceding the emergence of crack. Second, the rapid development of new drug-selling groups following the introduction of crack brought with it competition. Accordingly, violence within new selling groups *internally* to maintain control and violence *externally* to maintain selling territory and integrity (product quality) was more likely to characterize the unstable crack markets than more established drug markets and distribution systems. Table 6 examines the percent of respondents within types reporting "regular" systemic violence. Items were constructed to reflect the dimensions of systemic violence defined above.

For each type of systemic violence, there were significant differences in the prevalence of regular violence. Most important, each type of systemic violence was reported most often by sellers in two of the three crack-seller types and least often by marijuana and heroin sellers. Type 4 (Low-Level Crack and Cocaine) sellers reported systemic violence less often than did other crack or cocaine sellers; their reports of systemic violence closely resemble the reports of heroin or marijuana sellers for nearly all items. Evidently, a wide range of violent acts is intrinsic to frequent crack or cocaine selling. For nearly all varieties of systemic violence, between 40 and 50 percent of the Type 5 and 6 respondents reported their regular occurrence.

Sellers who worked in groups were compared with those who sold outside any formal or informal structure for the level of systemic violence. Respondents were classified according to whether they reported that their selling activity was alone or in a group (see table 5). A scale of systemic violence was constructed by summing responses to the eight individual

TABLE 6. *Systemic violence by seller type (percentage reporting "regular" occurrence)*

| Violence in Drug Selling | Type of Seller: Marijuana n=49 | Heroin n=33 | Cocaine, Heroin, and Marijuana n=45 | Low Crack and Cocaine n=93 | Crack, Cocaine, and Marijuana n=54 | Crack, Cocaine, and Heroin n=26 | Significance p (chi square) |
|---|---|---|---|---|---|---|---|
| Fights With Rival Dealers | 10.2 | 9.1 | 28.9 | 28.4 | 48.7 | 38.5 | .001 |
| Assaults to Collect Debts | 12.2 | 12.1 | 28.9 | 18.3 | 44.4 | 38.5 | .000 |
| Fights With Other Dealers Over Quality of Drugs | 16.3 | 12.1 | 32.6 | 16.1 | 48.7 | 42.3 | .001 |
| Robbery of Other Drug Dealers | 6.1 | 12.1 | 18.6 | 11.8 | 44.4 | 15.4 | .000 |
| Robbery of Drug Buyers | 12.2 | 6.1 | 23.8 | 8.6 | 33.3 | 23.1 | .001 |
| Disputes Over Paraphernalia | 22.4 | 38.3 | 23.3 | 28.0 | 50.0 | 34.6 | .028 |
| Victimization While Selling | 12.2 | 18.2 | 28.9 | 26.9 | 50.0 | 46.2 | .000 |
| Fights With Buyers Over Quality of Drugs | 4.1 | 21.2 | 23.3 | 12.9 | 42.6 | 38.8 | .000 |

# The Interrelationships Between Alcohol and Drugs and Family Violence

*Brenda A. Miller*

## INTRODUCTION

The relationships between family violence and alcohol and drug problems are multidimensional and complex. For example, family violence may occur when the perpetrator has been using or abusing alcohol, drugs, or both, or the experiences of family violence may lead both to short- and long-term consequences that include alcohol and drug problems. This chapter presents research findings that explore these multidimensional relationships between family violence and alcohol or drug problems. Three forms of family violence will be considered: child abuse, childhood sexual abuse, and spousal violence.

Family violence has received more attention from researchers during the past 15 years. In 1975, estimates of family violence were obtained from self-report data for a nationally representative sample of 2,143 families (Straus et al. 1980). This nationwide survey was repeated in 1985 with 6,002 families, and comparisons to the original survey were made (Straus and Gelles 1990). Findings revealed that nearly two-thirds of parents reported using either minor or severe violence against their children for the year before the survey in both 1975 and 1985 (63 percent and 62 percent, respectively).[1] Spousal violence (minor and severe) was reported for 16 percent of the couples in the year before the survey for both the 1975 and 1985 surveys (Straus and Gelles 1990). Despite the evidence of family violence and the central role of families in our society, there is an incomplete understanding of how alcohol and drug problems affect family relationships, family stability, and family violence.

In 1985, a nationwide random survey indicated that 22 percent of the population had experienced some form of childhood sexual abuse (Timnick 1985) with a greater proportion of females sexually abused (27 percent)

alcohol abusers only. Crack use was not separated for these analyses from cocaine because of the relatively low levels of crack use at the time of the data collection.

**Effect of Victim's Alcohol and Drug Abuse on Spousal Violence.** To explore whether the victim's alcohol and drug abuse affected the level of spousal violence experienced, when controlling for the perpetrator's alcohol and drug problems, regression analyses were completed. Initially, the regression analyses included both his and her alcohol problems and revealed no significant main effects on parolee-to-spouse violence. The addition of the interaction of parolee alcohol problems by spouse alcohol problems was significant, however. As figure 3 indicates, there was more violence initiated by the parolee in couples in which either or both of the individuals in the relationship experienced high levels of alcohol problems than when both had low levels of alcohol problems. Thus, the existence of high levels of alcohol problems in the relationship for either member of the couple appeared to be an important contributor to parolee-initiated violence, but the presence of problems in both members of the couple did not necessarily inflate the level of violence any more than if only one member had reported high levels of alcohol problems.

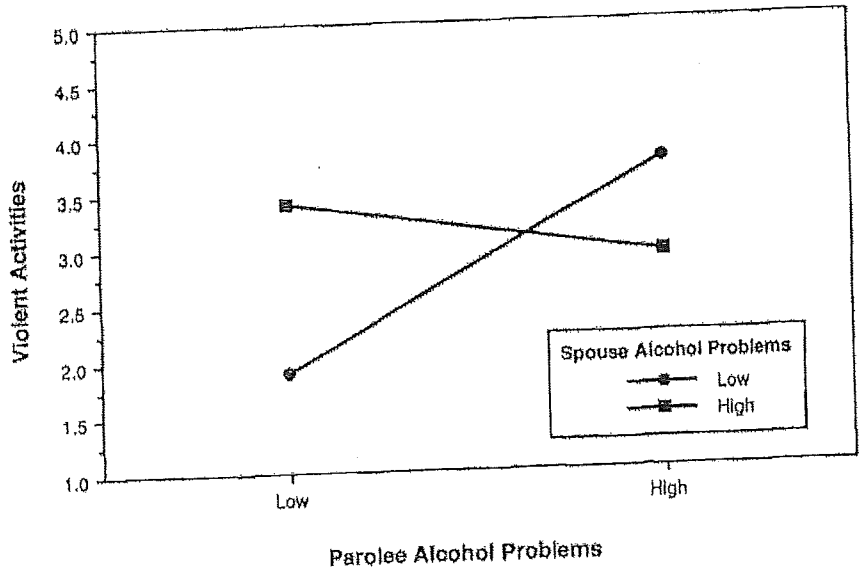


**FIGURE 3.** *Parolee-to-spouse violence by parolee and spouse alcohol problems*

SOURCE: Miller et al. 1990, copyright 1990, Haworth Press.

Neither the main nor interaction effects of parolee and spouse drug abuse contributed significantly to the equation for predicting his violence to her.

**Summary**

Our studies have provided evidence that the victim's alcohol problems are related to their experiences of spousal violence. In our first study, women alcoholics were much more likely than a random sample to experience spousal violence. In our second study, the interaction effects suggest that alcohol problems in women contribute to the level of spousal violence women experience. To date, we have not found a positive relationship between the victim's drug abuse and experiences of spousal violence. However, further studies are being conducted to explore this relationship.

In addition, these studies provide evidence that the alcohol and drug problems of the perpetrator are related to the level of violence experienced by the victim. Data from our second study revealed that the relationships between alcohol and drug problems and spousal violence are not simple relationships. The interactions of drug and alcohol problems and the interaction of victim's and perpetrator's alcohol problems were aitical to understanding these interrelationships. When parolees reported no drug problems, alcohol problems increased the level of violence. However, alcohol problems did not increase the level of violence when the parolee had drug problems. One possible explanation is that drug use may have ameliorated the violence that was associated with alcohol problems. While intentional self-medication for violent tendencies has not been well documented in the literature, this is a possibility. The psychopharmacologic effects of marijuana and heroin, for instance, have been attributed to "mellowing out" or causing individuals to "nod out," conditions that are likely to ameliorate violent tendencies.

Combined alcohol and drug abuse may produce a situation in which the individual is incapable of responding aggressively. Coleman and Straus (1979) reported a decline in domestic violence among men who were almost always drunk, possibly for a similar reason. Additionally, the spouse of a combined alcohol-and-drug abuser may avoid any confrontations or conflicts, since any productive communication may be futile, thereby reducing the opportunity for domestic violence. Other variables not collected in this study should also be considered. The context in which the drugs were taken might have offered further insight into these relationships. Perhaps there was more likely to be concomitant alcohol use between parolees and spouses than concomitant drug use, which again might have affected the outcome of the behavior.

Alcohol problems within couples may increase stress levels within the family. Lifetime alcohol problems may reflect the higher probability that most interactions between the members of the couple are likely to occur

with heavy alcohol consumption or intoxication. Intoxication has been hypothesized to affect marital interactions in such a way as to produce intense conflict, thereby increasing the likelihood of violence (Leonard and Jacob 1988).

Much of the existing literature has suggested that perpetrators' alcohol problems may explain victims' experiences of violence. Our findings suggest a more complex relationship; victims' drinking is linked to their experiences of violence. What is still unclear is the temporal order between these events. There is some indication that victims' alcoholism leads to spousal violence. According to Sandmaier (1980), alcoholic women are labeled more negatively than nonalcoholic women and men and even alcoholic men, including a variety of labels that denote or connote "sexual looseness." This negative labeling may directly affect negative verbal interactions (including sexual and other insults) directed at them by the spouse and may indirectly increase spousal violence directed at alcoholic women. Violence may be perceived as more socially acceptable when directed at negatively labeled women and drinking may reinforce this negative label.

Further research is needed into the effect of women's drug use on spousal violence. Our sample of spouses did not have sufficient numbers of women using drugs to test the effect of their drug use on spousal violence. Studies are planned with a sample of drug-abusing women to explore these relationships further. Additional studies on alcoholic women are being conducted to determine whether there are differences in levels of spousal violence that occur following the woman's alcohol and drug problems as opposed to levels of family violence that occur in the absence of any alcohol or drug problems for the women. Finally, additional studies are needed to explore anomalous effects of drugs on certain people. It may be that the usual reaction to a specific drug does not increase or decrease violent tendencies, but certain individuals behave very atypically.

## INTERRELATIONSHIPS OF CHILD ABUSE AND ALCOHOL AND DRUG PROBLEMS

### Review of the Literature

Few studies provide any information concerning connections between alcohol and drug abuse and the perpetration of child abuse. In a typology of child abusers, one cluster that comprised about 13 percent of the sample was defined by variables that included alcohol intoxication at the time of the abuse (Gil 1971). However, the importance of alcohol problems to the perpetration of child abuse is still not clear (Black and Mayer 1980, Herman and Hirschman 1981; Smith et al. 1973). In their review of the literature, Leonard and Jacob (1988) suggest that if the perpetrator's alcohol abuse is important to understanding child abuse, it is true for subgroups of abusers rather than a characteristic of most abusers. However, few

disorder has a strong and negative effect on the probability of future arrest for a violent crime. No other drug effect was a significant predictor of arrest for violent crime.

**TABLE 2.** *Final logistic regression model predicting arrest for violent crime during 3-year followup by 728 male jail detainees*

| Variable | Regression Coefficient | Standard Error | Coefficient/ Standard Error |
|---|---|---|---|
| Marijuana Only | -.0237 | .0523 | -.4538 |
| Opiate Only | -.1778 | .0876 | -2.0288 |
| Polydrug | -.0182 | .0640 | -.2840 |
| Age | -.0107 | .0034 | -3.1441 |
| Education | -.0450 | .0195 | -2.3037 |
| $Educ^2$ | -.0074 | .0032 | -2.2791 |
| Past Violent Arrests | .2684 | .0320 | 8.3999 |
| Days Out | .0460 | .0090 | 5.1111 |
| Constant | -.8008 | .0526 | -15.2152 |

NOTE: Goodness-of-fit chi square=635.309; df=618; p=.306.

## DISCUSSION

The results of this study were consistent with much of the literature predicting violent crime and shed some light on the drug-violence connection.

Poor education was a very strong predictor of both past and future violent arrest. Poor intellectual ability has consistently been found to be predictive of violence. Researchers have interpreted this relationship to be a result of the reduced coping resources available to persons of low intelligence (Klassen and O'Connor 1988a; Klassen and O'Connor 1988b; Hedlund et al. 1973; Langevin et al. 1987).

Increased age was also found to be predictive of the number of past violent arrests. Having lived longer, older detainees have had more opportunity to commit crimes. The age effect, however, diminishes with each year of age. This reflects the high rate of violent crime among young detainees. For future arrest, youth was a strong predictor. This finding is consistent with the literature: violent crimes tend to be perpetrated by the young (Harry and Steadman 1988, Holcomb and Ahr 1988; Klassen and O'Connor 1988a; Klassen and O'Connor 1988b; Steadman et al. 1978).

We found no race effects, other than an inverse relationship between being Hispanic and past violent arrests. Because our sample included so few Hispanics, further study is necessary before making any additional conclusions regarding the relation between ethnicity and violence.

Neither schizophrenia nor depression predicted arrest for violence. These findings were consistent with research on mental disorder and violence. Monahan and Steadman (1983) have suggested that, after controlling for variables known to correlate with crime and mental disorder (e.g., race and social class), the relation between serious mental disorders (e.g., schizophrenia, major affective disorder) and crime disappear (Langevin et al. 1987). Interestingly, alcohol disorder also was not predictive of violence.

In contrast, antisocial personality disorder was a strong predictor of past violent arrest, even after we removed the confounding diagnostic criteria (arrest and conviction items). Antisocial personality did not, however, predict subsequent arrest for violent crime. This may be because this model also included an index of past violent crime arrests. The strong correlation between past violent crime and subsequent violent crime (Harry and Steadman 1988; Holcomb and Ahr 1988, Klassen and O'Connor 1988a; Klassen and O'Connor 1988b; Shah 1978; Steadman et al. 1978) may have obfuscated the relationship between the antisocial personality disorder and subsequent crime.

In general, drug disorder, uncomplicated by other disorders, was inversely related to violent crime. Our findings for the specific drug disorder profiles were quite interesting. Researchers have found it difficult to establish the connection between marijuana and crime because marijuana is often used in conjunction with other drugs (Wish and Johnson 1986). We found, however, that when marijuana was the only drug used, it had no correlation with violent crime. The relation between opiate use and violence has been debated (Wish and Johnson 1986). We found that, after controlling for other variables, pure opiate disorder lessened the likelihood of violent crime arrest. Our findings concerning polydrug use were also intriguing. Drug-crime researchers have consistently found that the more drugs used (or the greater the amount), the greater the criminal involvement (Chaiken and Chaiken 1982; Wish et al. 1985). In contrast, we found that, within the multivariate context, polydrug disorder did not predict violent crime arrests.

It is also important to note that the "days available" variable was critical to the final model. Thus, this study confirms the importance of including variables that control for the availability to commit crimes. Although this would seem an obvious point, researchers often neglect to include this control variable.

## RECOMMENDATIONS FOR RESEARCH

These findings suggest several directions for future research. First, these data were collected before the cocaine epidemic. Cocaine is thought to have a unique relation to criminal, possibly violent, behavior. Further work is needed to expand our knowledge of cocaine addiction, co-occurring psychopathology, and crime,

Second, official records are a limited, albeit convenient, indicator of violence. Thus, our models may be more predictive of drug-psychopathology-violence interrelations among failed criminals (those who are caught) than among the universe of offenders. Future researchers should attempt to use a multi-indicator and cross-validational approach to measuring crime.

Third, further research is needed to extend our findings on racial and ethnic differences.

Fourth, our sample, although fairly large, was not large enough to explore the array of drug-use disorders. For example, although we were able to examine the effect of pure opiate-use disorder on violent crime, the sample was too small to explore barbiturate- or amphetamine-use disorders. Large samples, although expensive, are needed to document correlations between the specific drug-use profiles, psychopathological profiles, and crime.

Finally, future research should include both measures of use at the time of the crime and measures of disorder. This will help distinguish between the effects of disorder vs. the effects of drug intoxication on criminality.

Notwithstanding the need for further refinements, our results painted a consistent picture of the violent criminal within the parameters we selected. Essentially, it is the young, poorly educated, antisocial detainee with a violent past who is most likely to be involved in violent crime. This study suggests that drug use per se is not predictive of arrest for violent crime; opiate use seems even to mitigate against it. On the other hand, many drug users are young, poorly educated, and antisocial and are likely to commit violent crime.

Unfortunately, the psychiatric literature indicates that the presence, type, and degree of psychopathology is at least as important as the category and frequency of drug use in determining treatment outcome with substance abusers. Generally speaking, psychopathology is associated with poorer treatment outcome for drug abuse. In particular, antisocial personality disorder bodes poorly for treatment success among drug users. Thus, the very drug users who are at risk for violent behavior are those most recalcitrant to treatment.

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# The Effect of Medical Marijuana Laws on Crime: Evidence from State Panel Data, 1990-2006

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**Abstract**

***Background:*** Debate has surrounded the legalization of marijuana for medical purposes for decades. Some have argued medical marijuana legalization (MML) poses a threat to public health and safety, perhaps also affecting crime rates. In recent years, some U.S. states have legalized marijuana for medical purposes, reigniting political and public interest in the impact of marijuana legalization on a range of outcomes.

***Methods:*** Relying on U.S. state panel data, we analyzed the association between state MML and state crime rates for all Part I offenses collected by the FBI.

***Findings:*** Results did not indicate a crime exacerbating effect of MML on any of the Part I offenses. Alternatively, state MML *may* be correlated with a reduction in homicide and assault rates, net of other covariates.

***Conclusions:*** These findings run counter to arguments suggesting the legalization of marijuana for medical purposes poses a danger to public health in terms of exposure to violent crime and property crimes.

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## Introduction

The social ramifications of marijuana legalization have been hotly debated for at least four decades [1]. Despite a long history of marijuana use for medical purposes, policymakers and in some instances, the scientific community, have been quick to note the potential problematic social outcomes of marijuana legalization [2]. In spite of these political discussions, medical marijuana legalization (MML) has occurred in 20 states and the District of Columbia (between 1996 and the writing of this paper) and its recreational use has now been legalized in Colorado and Washington [3]. An interest in the ramifications of these laws has led to an increase in scholarly activity on the topic [4], [5]. The issue addressed in this article is whether MML has the effect of increasing crime. While there are many mechanisms by which MML might affect crime rates, the most obvious is by increasing the number of marijuana users, which may lead to a broader social acceptance of drug using behaviors and drug users [6]. To the extent that marijuana use serves as a "gateway" to harder drugs such as cocaine and heroin, MML could lead to long-term increases in crime as an ever-growing number of illicit drug users engage in serious predatory crimes to support their habits (but see [7]). But even if MML does not lead to a rise in marijuana use (especially among youth), the laws could still stimulate crime as newly opened medical marijuana dispensaries provide criminals with a highly attractive target with their repository of high quality marijuana and customers carrying large amounts of cash (but see [8]). As a member of the California Chiefs of Police Association stated, "A disturbing and continuing trend is the increasing number of home invasion robberies and associated violence resulting in the victimization of those cultivating and possessing marijuana … [D]ispensaries also continue to be targeted based upon the availability of larger quantities of drugs and cash" (see http://californiapolicechiefs.org/wp-content/uploads/2012/02/July_September_2010_Final.pdf). Though anecdotal evidence abounds to support both theses, and a few single-jurisdiction and cross-sectional studies have examined the MML-crime link (e.g., [9]), no single analysis has assessed the overall consequences of medical marijuana laws on crime rates across the United States. This study seeks to inform the debate by providing a comprehensive evaluation of the effects of state MML on state crime rates.

### The Positive Correlation between Marijuana Use and Criminal Behavior

Though the gateway hypothesis applies to the progression of drug-using behaviors, there remains the possibility that marijuana use leads to delinquent or criminal behavior via a similar mechanism. A number of studies have specifically examined the relationship between marijuana use and crime [10], [11], [12], [13], [14]. Early studies compared the amount of crimes committed by juveniles whose urine tested positive for marijuana upon entering a detention center and those committed by individuals who tested negative for marijuana. Dembo and associates [15], [16], for instance, found that youths who tested positive for marijuana had a significantly higher number of

referrals to juvenile court for nondrug felonies than those testing negative for marijuana use.

Arseneault and colleagues [17] examined the relationship between marijuana dependence and the risk for violence in a sample of New Zealand adolescents. The authors controlled for gender, socioeconomic status, and many other concurrent disorders and concluded that marijuana dependence was related to a 280 percent increase in the odds of violence. This association was stronger than the individual effects of manic disorder, alcohol dependence, and schizophrenia. In a study using data collected from school-age adolescents in the Netherlands, those who reported marijuana use tended to report more delinquent and aggressive behaviors [18]. This relationship was significant after controlling for variables such as alcohol and tobacco use and the strength of the relationship increased with higher frequency of marijuana use. This study is noteworthy because marijuana use is decriminalized in the Netherlands, thus the relationship is unlikely to be based on the fact that marijuana users have to participate in the illegal market and are therefore at an increased risk for violence. While these studies were cross-sectional and show a correlation between current marijuana use and criminality or violent behaviors, other scholars have examined the link with longitudinal data.

Using multi-wave data, research has shown adolescents who reported marijuana use at age 15 were more likely to report violent involvement at age 19, indicating that marijuana use, particularly during adolescence may impact violent behavior in young adulthood [19]. Similarly, research has shown that frequent marijuana use during adolescence was a strong predictor of being involved in intimate partner violence [5]. Results revealed that consistent marijuana use during adolescence was related to a 108 percent increase in the likelihood of being involved in intimate partner violence in young adulthood and consistent marijuana use was associated with an 85 percent increase in the odds of being the perpetrator of intimate partner violence, independent of alcohol use.

These studies provide evidence to the notion that marijuana use is at a minimum correlated with an increase in violent or aggressive behaviors. What remains unclear is whether these findings imply a causal link between marijuana use and violence or whether the relationship is driven by an uncontrolled variable(s) (i.e., a spurious correlation). Along these lines, it could be argued that the relationship between violence and marijuana use is primarily due to its illegality and thus would not exist in an environment in which marijuana use, at least medicinally, is legalized.

### The Negative or Null Correlation between Marijuana Use and Criminal Behavior

Most researchers who have examined the relationship between marijuana use and crime report that these laws do not have an effect on violent crime [20], [21]. Green and associates [20], for instance, concluded that while marijuana use was related to an increase in drug and property crime, it was not related to an increase in violent crime. Pedersen and Skardhamar [21] also found a relationship between marijuana use and subsequent arrest, although once the authors removed all types of drug charges from the models, the relationship was no longer significant. Results revealed no evidence that marijuana use was related to an increase in later non-drug arrest, such as arrests for violent crimes. The authors argued that the association between marijuana use and crime appears to exist because of its illegality. Thus, if the possession and sale of marijuana was legal the relationship between marijuana and crime might disappear.

It has been argued that medicinal marijuana laws may increase crime because the dispensaries and grow houses provide an opportunity for property crime and violent crime to occur, such as burglary and robbery. Kepple and Freisthler [9] examined the relationship between medical marijuana dispensaries and crime and their results suggested that after controlling for a host of ecological variables, no relationship existed between medicinal marijuana dispensaries and property or violent crime. Additional research has shown that medical marijuana dispensaries may actually reduce crime within the immediate vicinity of the dispensaries [8]. This may be due to the security measures implemented by dispensary owners (i.e., having security cameras, having a doorman, and having signs requiring identification). Importantly, medical marijuana dispensaries do not appear to increase crime in their surrounding areas.

In sum, research on the relationship between medicinal marijuana and crime is mixed. Studies have shown that states allowing the use of medical marijuana have higher prevalence rates of marijuana use [13], [14], yet other studies have found that legalized medicinal marijuana does not lead to an increase in its overall use [21], [22]. Research has also suggested that marijuana use is associated with an increase in illicit drug use [23], [19] and an increase in crime [17], [19], [16]. Others, however, have revealed that marijuana is not related to additional illicit drug use [22], [7], [17] or crime [8], [20], [9], [21]. Thus, the available evidence is equivocal and in need of a rigorous evaluation of the MML-crime relationship.

## Methods

### Data & Measures

**Dependent Variables.** Data on all seven Part I offenses—homicide, rape, robbery, assault, burglary, larceny, and auto theft—for each state between 1990 and 2006 were obtained from the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program, published as *Crime in the United States*. The data were obtained using the "data for analysis" tool on the Bureau of Justice Statistics Web site (http://www.ojp.usdoj.gov/bjs/dtd.htm). All data were gathered for each of the 50 U.S. states across the 17 year time span for a total $N = 850$. Values reflect the rate of each crime per 100,000 residents.

**Medical Marijuana Legalization (MML).** To determine if and when MML occurred within a state, we searched the official legislative website of each US state. Between 1990 and 2006, the following 11 states legalized marijuana for medical use, with the year the law was passed in parentheses: Alaska (1998), California (1996), Colorado (2000), Hawaii (2000), Maine (1999), Montana (2004), Nevada (2000), Oregon (1998), Rhode Island (2006), Vermont (2004), and Washington (1998). We also ran models based on MML "legislation-effective year" rather than "legislation-passed year" and found no substantive differences in the results. The MML effective dates were also gathered from each State's official legislative website. Only 2 states (Connecticut and Colorado) had an MML effective year different than "passed" year, both being only a 1-year difference. While there are many options in modeling the effects of MML adoption on crime, we opted to use a post-law trend variable. The trend variable represents the number of years the law has been in effect with a value of zero for all years before the law was passed, a value of 1 for the year the law was passed, and a value of $1+k$, where $k$ = number of years after the initial passage of the law, for all subsequent years. Unlike the traditional "dummy variable" approach (i.e., 0 = no MML law, 1 = MML law), which posits a once-and-for-all impact on crime, the post-law trend variable

captures any changes in the linear trend of crime that may be observed over time. If opponents of MML are correct that the laws lead to increased marijuana use by teenagers, many of whom are likely to continue illicit hard drug use throughout their adulthood, one might expect a gradual increase in crime over time. Such an effect would be best captured by the post-law trend variable.

**Sociodemographic Control Variables.** Sociodemographic variables were included in the analysis to aid in controlling for a vast array of other time-varying influences that might be potential confounding factors over the study period. These variables, and their sources, have been described previously [24]. Specifically, they include each state's percent of the civilian labor force unemployed; the total employment rate; percent of the population living below the poverty line; real per-capita income (divided by the Consumer Price Index); the proportion of residents aged 15–24; the proportion of residents aged 25–34, the proportion of residents aged 35–44 years; the per-capita rate of beer consumption [25]; the proportion of residents with at least a bachelor's degree; and the percent of the state's population that lived in a metropolitan area. State-level unemployment data were obtained from the Bureau of Labor Statistics website (www.bls.gov/sae/home). Data on poverty were acquired via the Bureau of the Census website (www.census.gov/hhes/www/poverty). Personal income and real welfare payments data were taken from the Bureau of Economic Analysis website (www.bea.doc.gov/bea/regional/reis). The age variables were obtained directly from the U.S. Bureau of the Census. Data on beer consumption were taken from the Beer Institute website (www.beerinstitute.org). The percent of the population with college degrees or higher and the percent of the population living in a metropolitan area are linear interpolations of decennial census data, as reported in various editions of the *Statistical Abstracts of the United States*.

Additional measures included the number of prison inmates per 100,000 residents and the number of police officers per 100,000 residents. The number of prisoners was measured as the number of prisoners sentenced to more than a year in custody as of December 31 per 100,000 residents and was obtained from the Bureau of Justice Statistic's website (www.ojp.usdoj.gov/bjs). Data on the total number of police, including civilians, were taken from the Public Employment series prepared by the Bureau of the Census. Louisiana and Mississippi were missing information on this variable for the year 2006, therefore reducing the usable case count by two units. Substantive results were identical when values for this year were imputed with values from the previous year. Summary statistics for these explanatory variables are presented in Table 1.

## Analysis Plan

To identify the effect of MML on crime, we use a fixed-effects panel design, exploiting the within state variation introduced by the passage of MML in 11 states over the 17 year observation period. The design allows for the assessment of whether states adopting MML experienced changes in the trend of crime by analyzing within state changes in crime rates over time and comparing those changes to the crime rate trends among states that did not pass an MML law. To carry out this analysis, we estimate fixed-effects ordinary least squares regression models, where the natural log of each crime rate variable (i.e., homicide, rape, robbery, assault, burglary, larceny, and auto theft) is the dependent variable. This model directly accounts for dynamic factors that cause crime to vary from state to state, as well as those stable unmeasured factors that differ between states [26], [27]. In addition, we also include "year fixed-effects," which capture any national influences on crime that are not captured in any of the

**Table 1.** Summary Statistics.

| | Mean | SD |
|---|---|---|
| *Dependent Variables (prior to log transformation)* | | |
| Homicide Rate | 5.778 | 3.347 |
| Rape Rate | 36.774 | 13.212 |
| Robbery Rate | 130.346 | 91.687 |
| Assault Rate | 303.573 | 161.996 |
| Burglary Rate | 845.706 | 304.654 |
| Larceny Rate | 2,727.552 | 687.953 |
| Auto Theft Rate | 406.504 | 208.103 |
| *Independent Variable* | | |
| Medical Marijuana Law (Post-law Trend) | .393 | 1.489 |
| *Sociodemographic control variables* | | |
| Unemployment rate | 5.162 | 1.393 |
| Employment rate | 58,568.89 | 5,043.444 |
| Poverty rate | 12.442 | 3.638 |
| Real per-capita income | 5.193 | .844 |
| Proportion persons ages 15 to 24 | .142 | .011 |
| Proportion persons ages 25 to 34 | .145 | .017 |
| Proportion persons ages 35 to 44 | .156 | .011 |
| Beer shipments (31-gallon barrels) per 100k | 73,670.89 | 12,003.72 |
| Percent persons with college degree | 23.897 | 4.903 |
| Percent persons residing in metropolitan area | 67.654 | 20.636 |
| Prisoners per 100k | 343.072 | 144.897 |
| Police officers per 100k | 278.473 | 48.917 |

Note: Descriptive statistics are for the 1990–2006 period. The data sources are noted in the text.

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time-varying explanatory variables. Robust standard errors are clustered at the state level to avoid biased standard errors due to the non-independence of data points over time [28]. Thus, the fixed effects models can be expressed algebraically following the convention set forth by Wooldridge [27] as:

$$\log(\ddot{y}ijt) = bi0 + bi1M\ddot{M}Ljt + \ldots + bik\ddot{x}jt + \ddot{e}it$$

where:

- the subscripts $i$, $j$, and $t$ are used to identify the crime rate variable being used as the dependent variable, the 50 states, and time (1990–2006), respectively;
- $\log(\ddot{y}ijt)$ = the time-demeaned (see [27]) logged crime rate outcome variable;
- $bi0$ = the crime-specific constant term;
- $bi1M\ddot{M}Ljt$ = the time-demeaned crime-specific average impact of MML on crime rates;
- $+\ldots+bik\ddot{x}jt$ = the time-demeaned crime-specific effect of the various control variables, including year dummies, a linear trend variable, and state fixed effects;
- and, $\ddot{e}it$ = the time-demeaned crime-specific error term.

It is important to note that fixed-effects models are not without limitations. While they are well suited to address the issue at hand and account for unobserved time-invariant factors, they are always

vulnerable to time-varying factors that are not accounted for that differ between states with MML and those without. However, we have accounted for the bulk of factors that have been shown associated with state crime rates and our models explain a considerable amount of variation in each outcome. It is also important to acknowledge that fixed-effects models do not account for temporal ordering for time-varying predictors within a given observation period. For example, it is unknown whether states adopted MML after experiencing lower crime rates in a given year(s), however, this is unlikely to be an issue here since policy response to crime rates tend to take time and we account for this via operationalization of MML as an additive effect.

## Results

### Primary Findings

Before consulting the results from the fixed effects regression models, a series of unconditioned crime rates for each offense type were generated and are presented in Figure 1. Note that two crime rate trends are presented in each panel. One trend—the solid line—shows the crime rate, by year, for states that had *not* passed an MML law. Thus, states that eventually did pass an MML law contribute to the solid line up until the year that they passed the MML law. As expected from the overall crime trend during this time period, the solid line reveals that all states experienced a reduction in each of the seven crimes from 1990 to 2006. Important to note is the trend revealed by the dashed line, which shows the crime rate trends for states *after* passing an MML law. With one exception—forcible rape—states passing MML laws experienced reductions in crime and the rate of reduction appears to be steeper for states passing MML laws as compared to others for several crimes such as homicide, robbery, and aggravated assault. The raw number of homicides, robberies, and aggravated assaults also appear to be lower for states passing MML as compared to other states, especially from 1998–2006. These preliminary results suggest MML may have a crime-reducing effect, but recall that these are unconditional averages, meaning that the impact of the covariates and other factors related to time series trends have not been accounted for in these figures.

The results of the fixed effects analyses are presented in Table 2. It is important to note that a Hausman test was carried out to determine whether the fixed effects model was preferable over the random effects model; the latter model is more parsimonious and, thus, should be preferred when results do not systematically differ across the two approaches. The results of the Hausman tests (with year fixed effects omitted for both equations because they are inestimable in the random effects model) suggested that the fixed effects model was preferred in each of the seven analyses. For reference, the Hausman $\chi^2$ values were 302.61, 23.64, 102.50, 414.94, 58.87, 34.18, and 31.28 for homicide, rape, robbery, assault, burglary, larceny, and auto theft, respectively.

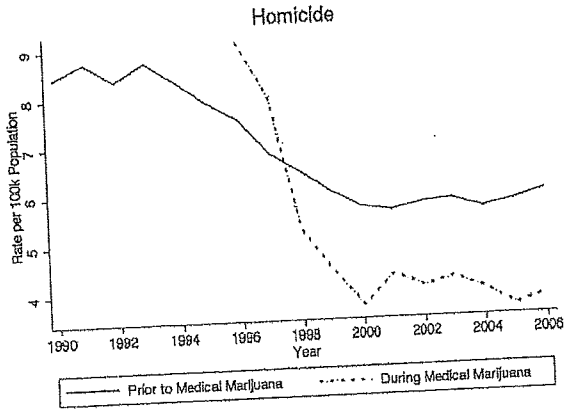
The key results gleaned from the fixed effects analyses are presented in row 1 of Table 2, which reveals the impact of the MML trend variable on crime rates, while controlling for the other time-varying explanatory variables. Two findings worth noting emerged from the different fixed effects regression analyses. First, the impact of MML on crime was negative or not statistically significant in all but one of the models, suggesting the passage of MML *may* have a dampening effect on certain crimes. The second key finding was that the coefficients capturing the impact of MML on homicide and assault were the only two that emerged as statistically significant. Specifically, the results indicate approximately a 2.4 percent reduction in homicide and assault, respectively, for each additional year the law is in effect. Because log-linear models were estimated, the coefficient must be transformed according to the following formula to generate percentage changes in crime for a one-unit increase in MML: $e^{(b-1)*100}$ [27]. However, it is important to note that the finding for homicide was less variable (i.e., a lower standard error) as compared to assault. One might argue a Bonferroni correction is necessary given the exploratory nature of the study and the multiple models that were analyzed. Once a Bonferroni correction was carried out (i.e., $\alpha/7$), only the effect of MML on homicide remained statistically significant ($.05/7 = .007$). Perhaps the most important finding in Table 2 is the lack of evidence of any increase in robbery or burglary, which are the type of crimes one might expect to gradually increase over time if the MML-crime thesis was correct. Thus, in the end, MML was not found to have a crime enhancing effect for any of the crime types analyzed.

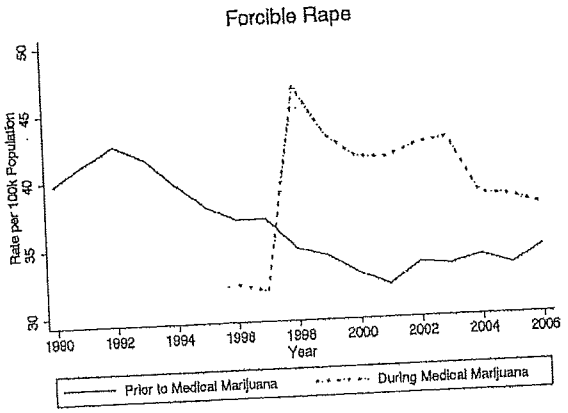
### Sensitivity Analyses

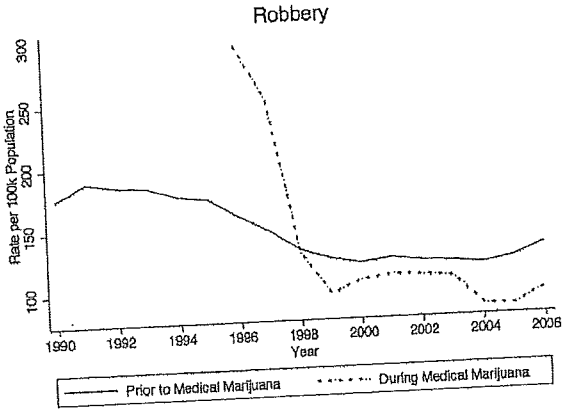
The fixed effects models presented above were subjected to a range of sensitivity tests to determine whether the findings were robust to alternative model specifications. First, and as previously noted, data for the two missing cases were imputed using matched case replacement for Louisiana and Mississippi. Importantly, substantive results were identical when this strategy was carried out. A second sensitivity analysis explored the possibility that the effect of MML on crime rates was non-linear. No evidence emerged to support the hypothesis that MML has a non-linear effect on crime rate trends. Third, a related issue concerns whether the MML effect has *both* a trend effect (shown above) *and* a one-time shock effect. We considered this issue by including the MML trend variable (discussed above) along with a dummy variable coded 0 for years when no MML law was present (by state) and coded 1 in years when an MML law had been passed. The findings were practically identical to those shown above: the MML trend variable was negatively related to homicide ($b = -.02$, $p < .10$) and assault ($b = -.02$, $p < .10$). A fourth sensitivity analysis re-estimated the original models (shown above), by weighting each state proportional to its population size. When these weighted fixed effects models were estimated, the substantive findings were somewhat different than those presented above. Specifically, the effect of MML on homicide rates was no longer statistically significant ($b = -.01$, $p = .30$), MML negatively predicted robbery rates ($b = -.02$, $p < .10$), MML negatively predicted assault rates ($b = -.03$, $p < .01$), and MML *positively* predicted auto theft rates ($b = .03$, $p < .05$). While it is common in the crime policy literature to weight observations by resident population to correct for possible heteroskedasticity, this will be the efficient feasible GLS (generalized least squares) procedure only if the heteroskedasticity takes a particular form, i.e. variance proportional to the square of the population. In the present study, the unweighted results produce findings that are substantively consistent with the weighted results, although they differ slightly quantitatively. The most likely explanation for this discrepancy is that the weighted results are driven by a few large population states. For this reason, we present the unweighted results as the main results and the weighted results as part of our numerous robustness checks.

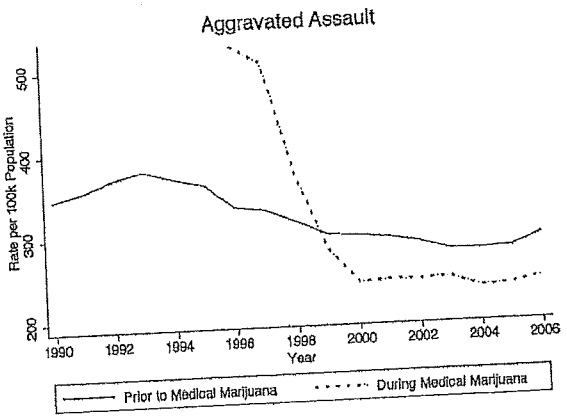
## Discussion and Conclusion

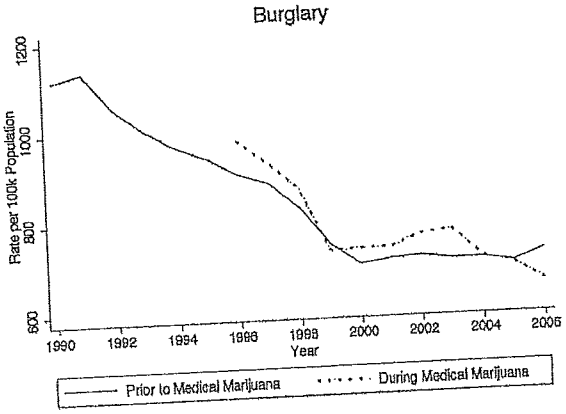
The effects of legalized medical marijuana have been passionately debated in recent years. Empirical research on the direct relationship between medical marijuana laws and crime, however, is scant and the consequences of marijuana use on crime remain unknown. Studies have shown that marijuana use was associated with higher prevalence of subsequent illicit drug use [19] and an

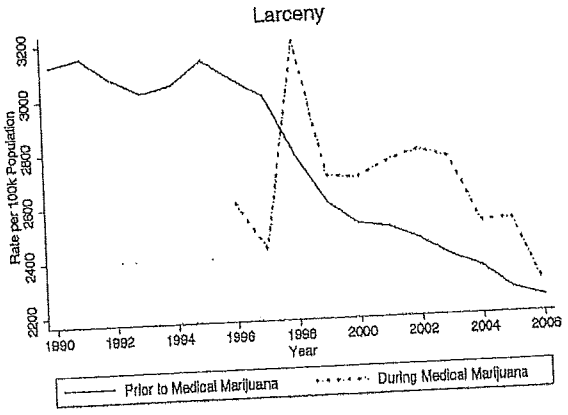

Homicide
Rate per 100k Population
Year
Prior to Medical Marijuana
During Medical Marijuana


Forcible Rape
Rate per 100k Population
Year
Prior to Medical Marijuana
During Medical Marijuana


Robbery
Rate per 100k Population
Year
Prior to Medical Marijuana
During Medical Marijuana


Aggravated Assault
Rate per 100k Population
Year
Prior to Medical Marijuana
During Medical Marijuana


Burglary
Rate per 100k Population
Year
Prior to Medical Marijuana
During Medical Marijuana


Larceny
Rate per 100k Population
Year
Prior to Medical Marijuana
During Medical Marijuana

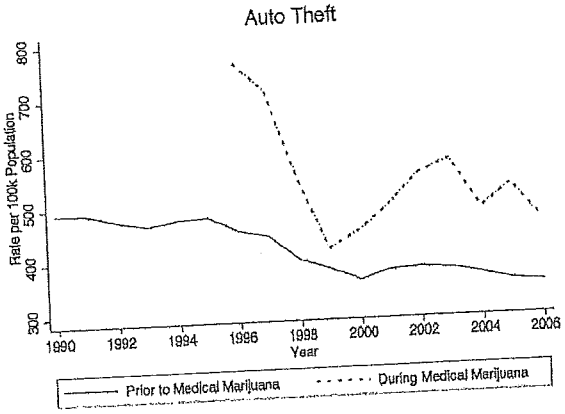

Auto Theft
Rate per 100k Population
Year
Prior to Medical Marijuana
During Medical Marijuana

**Figure 1. Mean State Crime Rates as a Function of Year, by Medical Marijuana Law (MML).** NOTE: Crime rates for states mandating MML after 1996 remained in the "Prior to Medical Marijuana" line until transition to MML.
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increased risk of violence [17]. Yet, other studies have found that once additional factors were controlled for, there was no relationship between marijuana use and later serious drug use [7]. Research has also shown that marijuana use is not related to violent crime when measured at the individual-level [20]. Once drug charges are controlled for, Pedersen and Skardhamar [21] reported that the relationship between marijuana and crime was not significantly different from zero. Unfortunately, no study has examined the effect of legalized medical marijuana on state crime rates across the United States. The current study sought to fill this gap by assessing the effect of legalized medicinal marijuana on the seven Part I UCR offenses. The analysis was the first to look at multiple offenses across multiple states and time periods to explore whether MML impacts state crime rates.

The central finding gleaned from the present study was that MML is not predictive of higher crime rates and *may* be related to reductions in rates of homicide and assault. Interestingly, robbery and burglary rates were unaffected by medicinal marijuana legislation, which runs counter to the claim that dispensaries and grow houses lead to an increase in victimization due to the opportunity structures linked to the amount of drugs and cash that are present. Although, this is in line with prior research suggesting that medical marijuana dispensaries may actually reduce crime in the immediate vicinity [8].

In sum, these findings run counter to arguments suggesting the legalization of marijuana for medical purposes poses a danger to public health in terms of exposure to violent crime and property crimes. To be sure, medical marijuana laws were *not* found to have a crime exacerbating effect on any of the seven crime types. On the contrary, our findings indicated that MML precedes a reduction in homicide and assault. While it is important to remain cautious when interpreting these findings as evidence that MML *reduces* crime, these results do fall in line with recent evidence [29] and they conform to the longstanding notion that marijuana

**Table 2.** The Impact of Medical Marijuana Laws on Crime Rates.

| Variable | Homicide | Rape | Robbery | Assault | Burglary | Larceny | Auto Theft |
|---|---|---|---|---|---|---|---|
| Medical Marijuana Law (MML) | −0.024*** | −0.005 | −0.016 | −0.024* | −0.004 | −0.002 | 0.026 |
| | (0.007) | (0.009) | (0.010) | (0.013) | (0.007) | (0.004) | (0.016) |
| Unemployment rate | 0.031** | −0.001 | 0.039** | −0.021 | 0.022** | 0.005 | 0.036** |
| | (0.012) | (0.014) | (0.015) | (0.022) | (0.011) | (0.009) | (0.017) |
| Employment rate | 1.325 | −3.672*** | −3.637** | −4.249*** | 0.420 | −0.584 | −0.069 |
| | (1.277) | (1.156) | (1.536) | (1.383) | (0.943) | (0.747) | (1.715) |
| Poverty rate | −0.008** | 0.006 | 0.001 | 0.001 | −0.004 | −0.002 | −0.007* |
| | (0.003) | (0.004) | (0.005) | (0.005) | (0.003) | (0.002) | (0.004) |
| Per-capita income | −0.013 | −0.226*** | −0.148** | −0.173* | −0.194*** | −0.099*** | −0.137 |
| | (0.057) | (0.067) | (0.072) | (0.100) | (0.048) | (0.036) | (0.102) |
| Proportion aged 15 to 24 | 3.528 | −0.279 | −3.591 | −3.245 | 0.676 | −0.266 | 5.279 |
| | (2.447) | (1.681) | (3.371) | (2.961) | (1.696) | (1.422) | (3.509) |
| Proportion aged 25 to 34 | −4.250** | −0.202 | −3.478 | −7.492** | 5.150*** | 2.729 | 11.352*** |
| | (1.884) | (2.038) | (2.920) | (3.112) | (1.904) | (1.712) | (2.609) |
| Proportion aged 35 to 44 | −1.393 | −3.083 | −4.008 | −13.777*** | −1.940 | 0.193 | −3.558 |
| | (2.041) | (2.319) | (3.366) | (4.654) | (1.928) | (1.489) | (4.075) |
| Beer consumption | 0.903** | 0.504* | 1.261*** | 0.436 | 0.857*** | 0.762*** | 1.376** |
| | (0.399) | (0.283) | (0.442) | (0.576) | (0.291) | (0.280) | (0.580) |
| Percent college degree | −0.004 | 0.016 | −0.032** | −0.012 | −0.001 | 0.005 | −0.018 |
| | (0.011) | (0.010) | (0.012) | (0.017) | (0.007) | (0.007) | (0.013) |
| Percent metropolitan | 0.015** | 0.022** | 0.004 | 0.004 | −0.006 | −0.005 | −0.009 |
| | (0.007) | (0.008) | (0.009) | (0.015) | (0.008) | (0.006) | (0.014) |
| Prisoners per 100k | −45.675 | −20.410 | −33.918 | −41.979 | −7.186 | 9.724 | −56.412 |
| | (33.964) | (22.442) | (35.013) | (30.046) | (26.127) | (18.575) | (48.726) |
| Police officers per 100k | −0.001 | 0.000 | −0.002 | −0.001* | −0.000 | 0.001 | −0.001 |
| | (0.001) | (0.001) | (0.001) | (0.001) | (0.001) | (0.001) | (0.002) |
| $R^2$ | .50 | .46 | .58 | .44 | .83 | .75 | .44 |

Robust standard errors in parentheses.
*** p<0.01, ** p<0.05, * p<0.1
Note: State fixed-effects and year fixed-effects are included in all estimates but are not shown in the table. The following variables were divided by 100000 in order to produce coefficients that did not require scientific notation to interpret: Employment rate, Beer consumption, and Prisoners per 100k.
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legalization may lead to a reduction in alcohol use due to individuals substituting marijuana for alcohol [see generally 29, 30]. Given the relationship between alcohol and violent crime [31], it may turn out that substituting marijuana for alcohol leads to minor reductions in violent crimes that can be detected at the state level. That said, it also remains possible that these associations are statistical artifacts (recall that only the homicide effect holds up when a Bonferroni correction is made).

Given that the current results failed to uncover a crime exacerbating effect attributable to MML, it is important to examine the findings with a critical eye. While we report no positive association between MML and any crime type, this does not *prove* MML has no effect on crime (or even that it reduces crime). It may be the case that an omitted variable, or set of variables, has confounded the associations and masked the true positive effect of MML on crime. If this were the case, such a variable would need to be something that was restricted to the states that have passed MML, it would need to have emerged in close temporal proximity to the passage of MML in all of those states (all of which had different dates of passage for the marijuana law), and it would need to be something that decreased crime to such an extent that it "masked" the true positive effect of MML (i.e., it must be something that has an opposite sign effect between MML [e.g., a positive correlation] and crime [e.g., a negative correlation]). Perhaps the more likely explanation of the current findings is that MML laws reflect behaviors and attitudes that have been established in the local communities. If these attitudes and behaviors reflect a more tolerant approach to one another's personal rights, we are unlikely to expect an increase in crime and might even anticipate a slight reduction in personal crimes.

Moreover, the present findings should also be taken in context with the nature of the data at hand. They are based on official arrest records (UCR), which do not account for crimes not reported to the police and do not account for all charges that may underlie an arrest. In any case, this longitudinal assessment of medical marijuana laws on state crime rates suggests that these laws do not appear to have any negative (i.e., crime exacerbating) impact on officially reported criminality during the years in which the laws are in effect, at least when it comes to the types of offending explored here. It is also important to keep in mind that the UCR data used here did not account for juvenile offending, which may or may not be empirically tethered to MML in some form or another; an assessment of which is beyond the scope of this study.

## Author Contributions

Analyzed the data: RM JCB. Contributed reagents/materials/analysis tools: TK. Wrote the paper: RM MT JCB TK.

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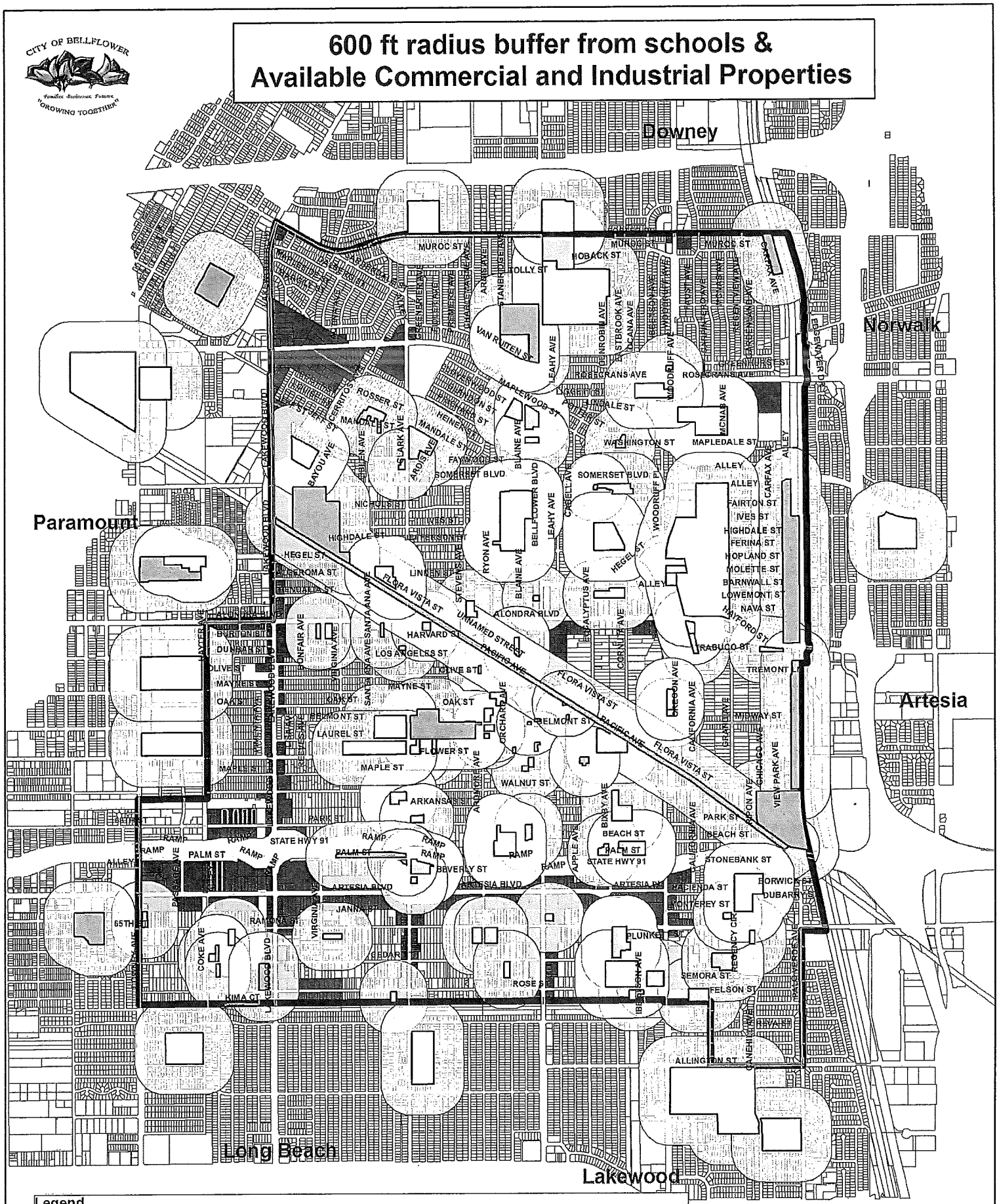


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