



# staff report

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TO: Honorable Mayor and Members of the City Council

FROM: Jeffrey L. Stewart, City Manager

SUBJECT: City Council Workshop to consider additional public opinion and commentary on the City's draft cannabis ordinances and proposed tax measure

DATE: November 28, 2016

## **EXECUTIVE SUMMARY**

Per the City Council's discussion during its November 14, 2016, Meeting, this item is a workshop to provide an additional opportunity for public input regarding the proposed cannabis regulations and tax. The purpose of this meeting is to receive public commentary that will assist the City Council in making the appropriate decision in Bellflower.

## **RECOMMENDATION TO CITY COUNCIL**

- 1) Open the meeting and receive public testimony; and
- 2) Discuss and provide direction regarding the cannabis regulatory ordinance that was introduced on October 10, 2016 (Ordinance No. 1323); the draft cannabis ordinance; and the draft ballot proposition adopting a cannabis tax; or
- 3) Alternatively, discuss and take other action related to this item.

## **FISCAL IMPACT**

None. The workshop is not intended to result in any action that immediately affects the budget.

## **PUBLIC NOTICE**

None formally required. However, staff did notify in writing those who attended and addressed the second reading of the Introduced Cannabis Ordinance No. 1323 at the November 12, 2016 City Council Meeting.

## **DISCUSSION**

The issue of permitting and taxing cannabis and cannabis-related products was first discussed by the City Council on April 26, 2016. At that meeting, staff received a unanimous vote of the City Council to develop ordinances that would permit the sale, cultivation, and taxation of cannabis in Bellflower prior to the November 8, 2016, Statewide Election. The intent of the City Council was to draft ordinances prior to the election that would become effective only if California voters approved the statewide

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ballot measure, Proposition 64, regarding statewide sales and cultivation of cannabis for recreational adult use. As the Council is aware, Proposition 64 was approved both statewide and by a majority of voters in Bellflower.

As directed, staff brought a draft cannabis ordinance back to the City Council for consideration on October 10, 2016, in a “workshop meeting.” The only comments that day included statements from the Captain and Lieutenant of Lakewood Station and two members of the public – who did not state a position for or against the issue. The item was considered a third time on October 24, 2016, during a regularly scheduled City Council meeting. There were no public comments that day, but the item was pulled from the Consent Calendar by the City Council and continued until November 14, 2016. On November 14, 2016, five members of the public provided public comment and the item was again pulled from the Consent Calendar tabled for consideration at a later date. Of the five persons speaking that day, four were opposed the City Council taking action to approve a cannabis ordinance and one person supported the ordinance.

The City Council should be aware that on Tuesday, November 15, 2016, the Mayor and members of the staff met with Ms. Tosin Balogun and Ms. Maurina Cintron about their stated concerns on the draft cannabis ordinance. They were joined at the meeting by Mr. Joel Reynoza. All stated they were residents of Bellflower and all have serious issues concerning the sale and cultivation of marijuana in the community. But, they did seem to understand the beneficial financial impact of allowing the use in Bellflower. When asked if there was “middle ground” that might be acceptable, they uniformly stated the following: 1) the stated goal of having twelve facilities in Bellflower was simply too much; 2) they do not support retail marijuana dispensaries, but stated they might be able to tolerate one or two; 3) they do not support transportation and delivery services of marijuana in the community; 4) they believe that, if the City moves forward with implementing a cannabis ordinance, it should provide some funding for anti-cannabis education for young people; and 5) they are seeking to limit the ability of persons to grow up to six plants. Please note that the plant limit was established by Proposition 64 and cannot be reduced by the City. The City of Cerritos was cited as working on a local measure to limit personal plant cultivation. To date, however, staff does not have any evidence of that.

It is not possible to determine whether or not the sentiments above reflect the will of the community. However, it is clear there are more questions about the issue than staff and Council previously believed. Accordingly, it is appropriate that the Council conduct a workshop for the sole purpose of receiving public testimony regarding the potential permitting of a cannabis use in the City.

The City Council should also be aware of the County of Los Angeles’ deadline regarding submittal of a potential tax measure for the March 7, 2017, General Municipal Election. That particular issue is currently on the agenda for the regularly scheduled City Council meeting of November 28, 2016; the meeting immediately following this planned workshop. The issue of whether or not to place the tax measure on the March 7, 2017, Citywide ballot must be decided by the City Council and sent to the County prior to December 9, 2016. If that item is tabled or deferred at the regularly scheduled meeting, the City Council would be required to conduct a Special City Council Meeting prior to December 9, 2016, to make sure the potential tax measure makes the March 2017 ballot.

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Finally, staff believes it necessary to point out that the Federal Government's consideration of the several statewide efforts to legalize marijuana and cannabis use may have changed dramatically since the election of President-Elect Trump. His apparent nominee for United States Attorney General is current United States Senator Jeff Sessions. Senator Sessions has been known as a Legislator who stridently opposes recreational marijuana use. Though no formal comment has been made about Senator Sessions' position or the future Trump administration's position on statewide efforts to widen the permitted use of cannabis and marijuana use, the issue bears close scrutiny.

**ATTACHMENTS**

A. Introduced Cannabis Ordinance No. 1323..... 4  
B. Draft Ordinance No. 13XX implementing a Cannabis Tax..... 34  
C. Draft ballot proposition adopting a Cannabis Tax ..... 53

**CITY OF BELLFLOWER**

**ORDINANCE NO. 1323**

**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

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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.

**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.

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**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.

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“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.

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“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:

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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.**

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**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.

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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 proposed business location 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.

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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.

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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.

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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 31<sup>st</sup> 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 31<sup>st</sup> 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.

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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.

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- 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.

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- 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

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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.**

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**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.

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- 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.

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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.**

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**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.

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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 or 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.

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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.**

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- 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) 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.

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**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.

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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).

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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 October 10, 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,” IDA

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3. 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.
4. 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.
5. 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.

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**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. 1323 HAD ITS FIRST READING ON OCTOBER 10, 2016, ITS SECOND READING ON NOVEMBER 28, 2016, AND WAS DULY PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER AT ITS REGULAR MEETING OF NOVEMBER 28, 2016.**

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**Dan Koops, Mayor**

**ATTEST:**

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**Mayra Ochiqui, City Clerk**

**APPROVED AS TO FORM:**

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**Karl H. Berger, City Attorney**

**CITY OF BELLFLOWER**

**ORDINANCE NO. 13XX**

**AN ORDINANCE ADDING CHAPTER 3.37 TO TITLE 3 OF THE BELLFLOWER MUNICIPAL CODE ENTITLED “CANNABIS TAX” AND IMPOSING A TAX ON VARIOUS CANNABIS-RELATED BUSINESSES**

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

**SECTION 1.** A new Chapter 3.37, entitled “*Cannabis 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 TAX**

**ARTICLE I – CANNABIS TAX GENERALLY**

**§ 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 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 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.

**§ 3.37.030 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.

**ARTICLE II – VOTER APPROVED TAX\***

**§ 3.37.040 VOTER APPROVAL REQUIRED.**

This Article II of Chapter 3.37 of the Bellflower Municipal Code must be approved by voters in accordance with applicable law.

**§ 3.37.050 TAX IMPOSED.**

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

**§ 3.37.060 CANNABIS 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 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.

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\* Pursuant to Article XIIC, § 2 of the California Constitution, this Article II of BMC Chapter 3.37 is effective only if approved by a majority of voters at a municipal election.

3. 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 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.
4. 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 transportation businesses.**

Every person who is engaged in a cannabis transportation business must pay an annual Cannabis tax of \$1,500.00 per year effective July 1, 2017.

**D. Tax on all other commercial cannabis businesses.**

1. Every person who is engaged in business as a dispensary, manufacturer, testing laboratory, or distribution facility, or engaging in delivery of cannabis in the City must pay an annual commercial Cannabis 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.

**§ 3.37.070 AUTOMATIC TAX INCREASE.**

- A. Beginning on July 1, 2024, non-gross receipts based taxes imposed by this chapter will be increased annually each July 1<sup>st</sup> 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 31<sup>st</sup> 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.

**§ 3.37.080 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 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 or business owing a Cannabis 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.
  - 2. If the Cannabis 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.

**§ 3.37.090 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.

**§ 3.37.100 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.

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

Unless voter 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 addition, adopt by ordinance or resolution such additional regulations that may be necessary to implement the purposes of this chapter.

### ARTICLE III – ADMINISTRATION OF CANNABIS TAX

#### § 3.37.120 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.

#### § 3.37.130 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.

#### § 3.37.140 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.

**§ 3.37.150 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.

**§ 3.37.160 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.
  
- F. If any person subject to the gross receipts based tax and the record-keeping requirements under this section is being audited by the Internal Revenue Service, Franchise Tax Board, Board of Equalization, or any other similar taxing and regulatory entities, the person must submit all audit notices, findings, adjustments, and determination letters to the administrator within five working days.

**§ 3.37.170 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.

**§ 3.37.180 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.

**§ 3.37.190 APPROPRIATIONS LIMIT.**

The City's appropriations limit established under Article XIII B 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.

**ARTICLE IV – ENFORCEMENT**

**§ 3.37.200 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.

**§ 3.37.210 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.

**§ 3.37.220 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.

**§ 3.37.230 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.

**§ 3.37.240 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.

**§ 3.37.250 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.

**§ 3.37.260 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."

**SECTION 2.** *Environmental Analysis.* This Resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 2100, *et seq.*, "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures to implement government funding mechanisms; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this Resolution does not constitute a "project" that requires environmental review (*see specifically* 14 CCR § 15378(b)(4-5)).

**SECTION 3.** *Reliance on Record.* Each and every finding and determination in this Ordinance is based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project, and reflect the independent judgment of the City Council. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

**SECTION 4.** *Continuity.* 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 5.** Savings Clause. Repeal of any provision of the BMC or any other regulation by this Ordinance 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 6.** 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 7.** Validity of Previous Code Sections. If this the entire Ordinance or its application is deemed invalid by a court of competent jurisdiction, any repeal of the BMC or other regulation by this Ordinance will be rendered void and cause such BMC provision or other regulation to remain in full force and effect for all purposes.

**SECTION 8.** Effective Date. This Ordinance will become effective on the 31<sup>st</sup> day following its passage and adoption.

**SECTION 9.** The City Clerk must certify as to the adoption of this ordinance and cause the summary thereof to be published within fifteen calendar (15) days of the adoption and post a certified copy of this ordinance, including the vote for and against the same, in the office of the City Clerk, in accordance with Government Code § 36993, for the City of Bellflower.

**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 \_\_\_\_\_.**

\_\_\_\_\_  
Dan Koops, Mayor

Attest:

\_\_\_\_\_  
Mayra Ochiqui, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Karl H. Berger, City Attorney

**EXHIBIT A  
FULL TEXT OF THE BALLOT MEASURE**

**CITY OF BELLFLOWER**

**ORDINANCE NO. 1324**

**A PROPOSITION ADOPTING AN ORDINANCE TO APPROVE ARTICLE II OF CHAPTER 3.37 TO TITLE 3 OF THE BELLFLOWER MUNICIPAL CODE ENTITLED “CANNABIS TAX” AND IMPOSING A TAX ON VARIOUS CANNABIS RELATED BUSINESSES.**

**THE PEOPLE OF THE CITY OF BELLFLOWER DO HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** Article II of Chapter 3.37 in Title 3 of the Bellflower Municipal Code (“BMC”) , entitled “*Cannabis tax*,” is approved to read as follows:

**“ARTICLE II – VOTER APPROVED TAX**

**§ 3.37.040 VOTER APPROVAL REQUIRED.**

This Article II of Chapter 3.37 of the Bellflower Municipal Code must be approved by voters in accordance with applicable law.

**§ 3.37.050 TAX IMPOSED.**

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

**§ 3.37.060 CANNABIS 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 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 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 transportation businesses.**

Every person who is engaged in a cannabis transportation business must pay an annual Cannabis tax of \$1,500.00 per year effective July 1, 2017.

**D. Tax on all other commercial cannabis businesses.**

1. Every person who is engaged in business as a dispensary, manufacturer, testing laboratory, or distribution facility, or engaging in delivery of cannabis in the City must pay an annual commercial Cannabis 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.

**§ 3.37.070 AUTOMATIC TAX INCREASE.**

- A. Beginning on July 1, 2024, non-gross receipts based taxes imposed by this chapter will be increased annually each July 1<sup>st</sup> 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 31<sup>st</sup> 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.

**§ 3.37.080 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 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 or business owing a Cannabis 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.
  - 2. If the Cannabis 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.

**§ 3.37.090 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.

**§ 3.37.100 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.

**§ 3.37.110 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 addition, adopt by ordinance or resolution such additional regulations that may be necessary to implement the purposes of this chapter.”

**SECTION 2.** *Environmental Analysis.* This Resolution is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 2100, *et seq.*, “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, *et seq.*) because it establishes rules and procedures to implement government funding mechanisms; does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. Accordingly, this Resolution does not constitute a “project” that requires environmental review (*see specifically* 14 CCR § 15378(b)(4-5)).

**SECTION 3.** *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 4.** *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 5.** *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 6.** *Effective Date.* This Proposition will enact and impose a general tax. Accordingly, it will be submitted to a general election on March 7, 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 7.** *City Council Authority.* BMC 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 XIII C. Should the provisions of Government Code § 53720, *et seq.* or California Constitution Article XIII C 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 8.** *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 March 7, 2017 approve the Proposition.

**I HEREBY CERTIFY MEASURE \_\_ (ORDINANCE NO. 1324) WAS PASSED, APPROVED, AND ADOPTED BY THE VOTE OF THE PEOPLE OF THE CITY OF BELLFLOWER ON \_\_\_\_\_.**

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney