AGENDA REPORT

Meeting Date: July 18, 2017
Item Number: F-1
To: Honorable Mayor & City Council
From: Cynthia Owens, Senior Management Analyst
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL) EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS, MAKING RELATED MUNICIPAL CODE AMENDMENTS, AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

Attachments:
1. Ordinance
3. Planning Commission Public Notice
4. Planning Commission Staff Report (No Attachments)
5. Planning Commission Resolution No. 1813
6. SB 94 Effect on Current Ordinance
7. Cole Memo
8. Business and Professional Code; Local Control
9. Health and Safety Code; Cannabis and Medical Marijuana Program
10. Business and Professional Code; Licensing
11. Summary of Public Health and Safety Concerns
12. Redline of Ordinance since Planning Commission
13. City Council Public Notice
14. Public Comment

RECOMMENDATION
Staff recommends that the City Council conduct a public hearing, move to waive the full reading of the ordinance, and that the ordinance entitled "AN ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL) EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS, MAKING RELATED MUNICIPAL CODE AMENDMENTS, AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT" be introduced and read by title only (Attachment 1).
INTRODUCTION
Existing regulations within the City of Beverly Hills Municipal Code (§10-3-2761: Marijuana Dispensary, Store, Co-Op, or Cultivation Operation Prohibited (Attachment 2)) bans marijuana dispensaries from operating in the City of Beverly Hills. If the City wishes to prohibit all types of commercial cannabis activity including the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products, the City will need to amend its ordinance to explicitly prohibit these uses.

The proposed ordinance strengthens the wording of the current ordinance to specifically prohibit all forms of commercial cannabis activity with the exception of allowing medical marijuana delivery to residents. It does not discuss, prohibit, or further regulate the personal cultivation of marijuana beyond the regulations set forth under state law.

Staff will be determining what, if any, regulations are necessary for the reasonable regulation of residential marijuana cultivation and bring it back to Council at a future date if necessary.

DISCUSSION
Background
On November 8, 2016, Proposition 64, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA") passed with 57% voter approval in California and became law on November 9, 2016. In Beverly Hills, it passed with 64% voter approval. What is unknown is if the voters in Beverly Hills supported the recreational use of marijuana or if they supported both the recreational use and the allowance of commercial cannabis businesses in Beverly Hills.

At the January 24, 2017 City Council study session, the City Council discussed the change in state law and directed staff to draft an ordinance regarding cannabis and cannabis-based businesses that would be as restrictive as possible under the new regulations. The City Council also provided direction to allow the delivery of medical marijuana within the City. These viewpoints were re-iterated at the City Council Priorities study session held on April 20, 2017.

On June 22, 2017, staff conducted a public hearing (Attachments 3 and 4) at the Planning Commission on the proposed cannabis ordinance. The ordinance strengthens the wording of the City's current marijuana ordinance to expressly prohibit all forms of commercial cannabis activity with the exception of allowing medical marijuana delivery to residents. The Planning Commission adopted a resolution (Attachment 5) in support of the ordinance.

On June 26, 2017, staff made a presentation to the Health and Safety Commission regarding the proposed ordinance. This was an informational presentation as the Commission has no authority over a zoning ordinance. The consensus of the Health and Safety Commission is that the ordinance is the correct direction for the City at this time.

On June 27, 2017, Governor Jerry Brown signed Senate Bill 94, the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("SB 94" or the "MAUCRSA"). This law reconciled the Medical Cannabis Regulation and Safety Act (MCRSA) and the AUMA. SB 94 merges medical and non-medical cannabis regulations into a single regulatory scheme. The City is now required to provide the newly created Bureau of Cannabis
Control ("the Bureau") with a copy of any ordinance related to commercial cannabis activity and the contact information for the person designated by the City to serve as the contact person regarding commercial cannabis activity within the jurisdiction.

Additionally, SB 94 requires the Bureau to first notify the contact person for the City that it has received an application from a prospective cannabis business to operate in the City. The City must then notify the Bureau if the applicant is compliant with local ordinance(s). If the City does not respond within 60 business days of this notification, the result is a rebuttable presumption that the applicant is compliant with local ordinance(s), and the state may issue a license to the cannabis business. The effects of SB 94 on our current ordinance are outlined in Attachment 6.

Staff recommends that the City be proactive in establishing an ordinance that expressly prohibits all forms of commercial cannabis activity as, beginning on January 1, 2018, cannabis businesses can obtain state licenses to engage in these activities.

Federal Law
Marijuana use, possession, and distribution is illegal under federal law 21 U.S.C. § 801 et seq. There are no exceptions or special treatments allowed for medical use.

California law cannot be less restrictive than federal law. However, in August 2013, Deputy Attorney General James Cole issued what has become known as the Cole Memo (Attachment 7). This memo allows federal prosecutors to consider whether a marijuana case is located in a state with a "strong and effective regulatory and enforcement system" for legalized marijuana when deciding whether to prosecute. This prosecutorial discretion implies that law-abiding patients and distributors in such states will, in general, be ignored by the federal government for prosecution.

In 2017, Attorney General Jeff Sessions ordered federal prosecutors to pursue maximum sentences in all drug-related cases. He has expressed disapproval of marijuana legalization.

Moreover, due to federal banking restrictions, over 70% of all cannabis-based businesses are cash-only in the states where cannabis is legal. The United States Department of Justice and the United States Treasury Department's Financial Crimes Enforcement Network have issued guidelines allowing banks to work with marijuana businesses that are in compliance with new state legalization laws. However, even with the new Treasury guidelines, bank officials continue to be reluctant to do business with cannabis-based businesses as they fear that they will still be subject to investigation and prosecution for laundering drug money as cannabis remains a Schedule I controlled substance under federal law.

Additionally, credit card companies, like banks, will often times refuse to process cannabis transactions for the same reasons. This in turn causes many cannabis businesses to be "cash-only" businesses, making them targets for burglaries and robberies.

Proposition 64, The Adult Use of Marijuana Act (AUMA)
On November 8, 2016, the AUMA passed in California. This proposition legalizes marijuana under state law, for use and personal cultivation by adults 21 or older. It also imposes state taxes on cannabis sales and commercial cultivation; provides for industry
licensing and establishes standards for cannabis products; and allows local regulation and taxation of cannabis businesses.

Further, the AUMA specifically provides that local jurisdictions may still adopt and enforce ordinances to regulate non-medical cannabis activities/businesses through local zoning, land use, and police powers (Attachment 8). However, any jurisdiction that prohibits all retail sales, commercial cultivation, and does not allow for outdoor personal cultivation would not be eligible to receive state grants to assist with law enforcement, fire protection, and other local programs addressing public health and safety associated with the implementation of the AUMA. A timeline for the legalization of marijuana in California can be found at www.beverlyhills.org/marijuana.

The California Health and Safety Code (Attachment 9) reflects the changes instituted by the passage of the AUMA. The following activities became legal under state law on November 9, 2016:

- The recreational use of cannabis by adults 21 or older when not in public.
- Residential cultivation of up to six cannabis plants.
- Public possession of up to 28.5 grams of cannabis or 8 grams of concentrate.

Some of the activities that are illegal under the AUMA include:

- Consuming or smoking marijuana or marijuana products in any public place.
- Consuming or smoking marijuana in a vehicle or getting high and driving, which includes motor vehicles, boats, vessels, and other vehicles used for transportation.
  - This applies to both drivers and passengers.
  - Open packages or containers of marijuana or marijuana products are also not allowed while driving, operating or riding in a vehicle.
- Buying unlicensed marijuana.
- Selling unlicensed marijuana.
- Smoking marijuana anywhere that tobacco smoking is prohibited.
- Smoking marijuana within 1,000 feet of a school, day care center, or youth center while children are present, unless it is in a private residence and the smoke is not detectable by others from the grounds of the school, day care center, or youth center.
- Possessing, smoking or ingesting marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

Under the AUMA, the state must begin issuing licenses to cannabis-based businesses no later than January 1, 2018, where it is not specifically prohibited by local law. It will then become legal to buy licensed, commercial marijuana in jurisdictions that permit such businesses. There are 20 licensing categories (Attachment 10) that the state may issue licenses for in jurisdictions that have not specifically prohibited them. This includes cultivation, manufacturing, testing, retail, distribution, and microbusinesses. If no local law exists, a state license can be issued and will be valid until expiration, even if a local government prohibits a particular business type after a state license has been issued.

Under state law, the City cannot prohibit the transportation of marijuana through the City by a licensed business.
Public Health and Safety
There is concern for public health and safety with the legalization of the recreational use of marijuana. Numerous articles and reports on public health and safety can be found at www.beverlyhills.org/marijuana. These articles discuss:

- Health related issues due to the usage of cannabis;
- Concerns regarding an increase in crime in areas around marijuana dispensaries;
- An increase in traffic fatalities involving marijuana in Colorado and Washington since the legalization of marijuana; and
- An increase in the number of hospitalizations related to marijuana after legalization in Colorado.

A summary report on some of the public health and safety concerns can be found in Attachment 11.

Revisions to the Proposed Ordinance since the Planning Commission
After the Planning Commission considered and made a recommendation on the proposed ordinance, Governor Jerry Brown signed SB 94 into law. The proposed ordinance presented to the City Council takes into account revisions prompted by SB 94 which are discussed below. A redline showing the revisions that were made to the proposed ordinance after it was considered by the Planning Commission is attached (Attachment 12).

The proposed ordinance amends the definitions of cannabis, commercial cannabis activity, and delivery so that these definitions are consistent with the definitions that are used in the MAUCRSA. The proposed ordinance also deletes all references to the MCRSA, and the AUMA, and instead now references the MAUCRSA.

Additionally, the proposed ordinance now includes a catch-all exception that states the article shall not prohibit any commercial cannabis activity that the City is required by state law to permit within its jurisdiction pursuant to the MAUCRSA. For instance, Business and Professions Code section 26054(c) provides that it shall not be a violation of local law for a manufacturer of marijuana accessories to possess, transport, purchase or otherwise obtain cannabis and cannabis products as necessary to conduct research and development related to the cannabis accessories. Examples of marijuana accessories include items such as marijuana stash boxes, cannabis rolling trays, and smoking pipes specific to cannabis. This exception would ensure that the City is not prohibiting activities that it is preempted from prohibiting pursuant to state law.

Proposed Ordinance
The proposed ordinance would add Article 47 to Chapter 3 of Title 10, BHMC § 10-3-47, "Cannabis Prohibitions and Regulations" to the Municipal Code. As outlined in the ordinance, with the exception of delivery of medical marijuana to a resident, all other commercial cannabis activity would be prohibited.

The MAUCRSA allows cities to establish reasonable regulations of the cultivation of up to six plants at a residence. At this time, staff is not proposing any local regulations for limiting the indoor or outdoor cultivation beyond the regulations set forth under state law.
General Plan Consistency
The proposed changes are consistent with the City’s General Plan including the following goals and policies that relate to the support of businesses in the City:

- **Goal LU 2 Community Character and Quality.** A built environment that is distinguished by its high level of site planning, architecture, landscape design, and sensitivity to its natural setting and history.
- **Goal LU 15 Economic Sustainability.** Vital and successful businesses that contribute to the City's identity and culture, provide high-paying jobs, and contribute revenue that sustains the level and quality of services in the City.
- **Policy LU 2.9 Public Safety.** Require that development be located and designed to promote public safety by providing street-fronting uses, lighting, sightlines, and features that enhance community safety. (Imp. 2.1, 2.4)

- **Policy LU 15.2 Priority Businesses.** Retain and build upon the key business sectors contributing to the City's identity, economy, and revenue for resident services, such as entertainment-related Class-A offices, high end retail and fashion, restaurant, hotel, technology, and supporting uses.
- **Policy ES 1.4 Retain Existing Industries.** Consistent with future economic sustainability plans, encourage existing industries such as luxury retail, tourism, hoteling, finance, entertainment and media businesses and services to remain and expand within the City.

ENVIRONMENTAL ASSESSMENT
The proposed ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines, and the environmental regulations of the City. Planning Division staff has determined that the adoption and implementation of the proposed ordinance is eligible for a class 5 categorical exemption for minor changes in land use limitations and will not have a significant environmental impact. The proposed ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations.

Planning Division staff has also determined that the proposed ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption and implementation of the ordinance to prohibit commercial cannabis activity except for the delivery of medical cannabis will have a significant effect on the environment. The proposed ordinance will not result in a permanent alteration of property nor the construction of any new or expanded structures.

PUBLIC OUTREACH AND NOTIFICATION
Public notice for this item was published in the Beverly Hills Courier on Friday, July 7, 2017, and the Beverly Hills Weekly on Thursday, July 13, 2017 (Attachment 13).

The Planning Commission also held a duly noticed public hearing on June 22, 2017. Members from the public were present at the meeting to provide comment both in support and opposition to the proposed ordinance.

All comment letters that have been received regarding the project are included in Attachment 14.
FISCAL IMPACT
None

George Chavez
Approved By
ORDINANCE NO. 17-0-______

AN ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL) EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS, MAKING RELATED MUNICIPAL CODE AMENDMENTS, AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purpose.

A. The City of Beverly Hills, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). The AUMA added Division 10 to the California Business and Professions Code, sections 26000, et seq., which grants State agencies the authority to create, issue, renew, discipline, suspend, or revoke licenses for cannabis businesses. The AUMA provides that the State shall begin issuing licenses to cannabis businesses under Division 10 of the California Business and Professions Code by January 1, 2018. California Business and Professions Code section 26055(e) provides that a State licensing authority shall not approve an application for a State license for commercial non-medical cannabis activity if approval of the State license will violate the provisions of any local ordinance.

C. On October 9, 2015, Governor Brown signed Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643 into law, which were collectively known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA established a State licensing scheme for commercial medical cannabis uses, while protecting local control by requiring that all such businesses have a local license or permit to operate in addition to a State license. The MCRSA allowed the City to completely prohibit commercial medical cannabis activities.

D. On June 22, 2017, the Planning Commission of the City of Beverly Hills held a public hearing on this proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing.

E. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 1813 recommending that the City Council adopt the proposed Ordinance, to prohibit all commercial cannabis activity except for the delivery of medical cannabis.

F. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA,
and created a single regulatory scheme for both medical and non-medical cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether commercial cannabis activity could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a business to engage in commercial cannabis activity if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority begin issuing licenses to marijuana businesses beginning January 1, 2018.

G. On July 18, 2017, the City Council of the City of Beverly Hills held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

H. All legal prerequisites to the adoption of this Ordinance have occurred.

SECTION 2. The definition of “Person” contained in Section 1-2-1 (Application of Definitions) of Chapter 2 (Definitions) of Title 1 (General Provisions) is hereby amended to read as follows:

“PERSON: A natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, cooperative, and collective, and any manager, lessee, agent, servant, officer or employee thereof.”

SECTION 3. The definition of Marijuana Dispensary, Store, Co-Op, or Cultivation Operation from Section 10-3-100 (Words Defined) of Article 1 (Definitions) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning) is hereby deleted, with all other definitions remaining in effect without amendment.

SECTION 4. The City Council of the City of Beverly Hills hereby deletes Section 10-3-2761 (Marijuana Dispensary, Store, Co-Op, or Cultivation Operation Prohibited) from Article 27 (Other Uses and Building Restrictions) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning).

SECTION 5. The City Council of the City of Beverly Hills hereby adds Article 47 (Cannabis Prohibitions and Regulations) to Chapter 3 (Zoning) of Title 10 (Planning and Zoning) to read as follows:

“ARTICLE 47 CANNABIS PROHIBITIONS AND REGULATIONS

Section 10-3-4700: Purpose.
Section 10-3-4701: Definitions.
Section 10-3-4702: Prohibited uses and activities.

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Section 10-3-4703: Exceptions.

Section 10-3-4704: Violation, penalty.

10-3-4700 Purpose.

A. The purpose of this article is to expressly prohibit the establishment of commercial cannabis uses in the city.

B. The city council finds that prohibitions on commercial cannabis activity are necessary for the preservation and protection of the public health, safety, and welfare of the city. The prohibition of such uses is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public health, safety and welfare of the city.

10-3-4701 Definitions.

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

A. “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” includes cannabis that is used for medical, non-medical, or other purposes.

“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. “Cannabis” also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

B. “Cannabis accessories” means any equipment, products or materials of any kind which is 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 cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

C. “Cannabis product” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.

D. “Commercial cannabis activity” means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, non-medical, or any other purpose and includes the activities of any business licensed by the State or other government entity under
Division 10 of the California Business and Professions Code, or any provision of State law that regulates the licensing of cannabis businesses.

E. “Concentrated cannabis” means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate.

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

G. “Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer.

H. “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed under Division 10 of the California Business and Professions Code, as they may be amended from time to time.

I. “Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

J. “MAUCRSA” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the Business and Professions Code, as the same may be amended from time to time.

K. “Private residence” means a house, an apartment unit, condominium, or other similar dwelling that is lawfully used as a residence.

10-3-4702 Prohibited uses and activities.

A. Commercial cannabis activity, whether or not for profit, is prohibited in all zones, specific plan areas, and overlay zones of the city. No person shall establish, operate, maintain, conduct, allow, or engage in commercial cannabis activity anywhere within the city. To the extent that this prohibition conflicts with any other provision of this Municipal Code, this prohibition will control.

B. A property owner shall not rent, lease or otherwise permit any person or business that engages in commercial cannabis activity to occupy real property in the city. A property owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in commercial cannabis activity on any real property owned or controlled by that property owner that is located in the city.

C. Subsection A above shall prohibit all activities for which a State license is required pursuant to the MAUCRSA, as the same may be amended from time to time. Accordingly, the city shall not issue any permit, license or other entitlement for any activity for which a State license is required under the MAUCRSA, as the same may be amended from time to time. The city shall also not issue any local license to a non-profit entity pursuant to California Business and Professions Code section 26070.5.
D. To the extent not already prohibited by subsection A above, all deliveries of cannabis or cannabis products for non-medical purposes, to or from any location are expressly prohibited. No person shall conduct or perform any delivery of any cannabis or cannabis products for a non-medical purpose, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

10-3-4703 Exceptions.

A. Notwithstanding Subsection 10-3-4702 above, the delivery of medical cannabis from a business located outside the city and licensed under the MAUCRSA, or any other provision of law that permits State licenses for medical cannabis businesses, shall be permitted into the city.

B. To the extent that the following activities are permitted by State law, nothing in this article shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis;

3. Smoking or ingesting cannabis or cannabis products except as prohibited by California Health and Safety Code section 11362.3;

4. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons 21 years of age or older without compensation whatsoever; or

5. Engaging in the cultivation of six or fewer live cannabis plants within a single private residence, inside an accessory structure located upon the grounds of a private residence, or if grown outdoors within a locked space that is not visible by normal, unaided vision from a public place.

C. This article shall also not prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant to the MAUCRSA.

10-3-4705 Violation, penalty.

In addition to any other enforcement permitted by this Section 10-3-205 of the Beverly Hills Municipal Code, the city attorney or city prosecutor may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action
brought pursuant to this article, a court of competent jurisdiction may award reasonable attorneys’ fees and costs to the prevailing party. Notwithstanding the penalties set forth in Section 10-3-205 of the Beverly Hills Municipal Code, no provision of Section 10-3-205 or this Article 47 authorizes a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code section 11362.71, et seq. or section 11362.1, et seq., as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Section 10-3-205 of the Beverly Hills Municipal Code and any penalties set forth in State law, the maximum penalties allowable under State law shall govern.”

SECTION 6. The Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines, and the environmental regulations of the City. Planning Division staff has determined that the adoption and implementation of the Ordinance is eligible for a class 5 categorical exemption for minor changes in land use limitations and will not have a significant environmental impact. The Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations. Planning Division Staff has also determined that the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption and implementation of the Ordinance to prohibit commercial cannabis activity except for the delivery of medical cannabis will have a significant effect on the environment. The adoption and implementation of the Ordinance will not result in a permanent alteration of property nor the construction of any new or expanded structures. The City Council has reviewed Planning Division Staff’s determination of exemption, and based on its own independent judgment, concurs with Staff’s determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 7. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 8. Restatement of Existing Law. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 9. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk’s certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.
SECTION 10. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted: ____________________________
Effective: ____________________________

LILI BOSSE
Mayor of the City of Beverly Hills

ATTEST:

____________________________
(SEAL)

BYRON POPE
City Clerk

APPROVED AS TO FORM: [Signature]
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT: [Signature]
MAHDI ALUZRI
City Manager
Attachment 2
10-3-2761: MARIJUANA DISPENSARY, STORE, CO-OP, OR CULTIVATION OPERATION PROHIBITED:

No person shall establish or conduct any "marijuana dispensary, store, co-op or cultivation operation", as defined in section 10-3-100 of this chapter, in any zone or overlay zone. (Ord. 11-O-2606, eff. 4-1-2011)

10-3-100: WORDS DEFINED:

MARIJUANA DISPENSARY, STORE, CO-OP, OR CULTIVATION OPERATION: A business or other person or entity, including any location, structure, facility, residence, or similar enclosure for the same, used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way, made available, located, stored, placed, planted, cultivated, or processed, including, without limitation, any location, structure, facility, residence or similar enclosure if used in connection with the delivery of marijuana; except that cultivation or storage by a patient or that patient's caregiver, at the residence of the patient and incidental to a residential use by such patient, and for the sole use of the patient who resides there, shall not be considered a dispensary.
Attachment 3
NOTICE OF PUBLIC HEARING

DATE: June 22, 2017
TIME: 1:30 PM, or as soon thereafter as the matter may be heard
LOCATION: City Council Chamber
Beverly Hills City Hall
455 North Rexford Drive
Beverly Hills, CA 90210

The Planning Commission of the City of Beverly Hills, at its regular meeting on Thursday, June 22, 2017, will hold a public hearing beginning at 1:30 PM, or as soon thereafter as the matter may be heard to consider:

AN ORDINANCE OF THE CITY OF BEVERLY HILLS, CALIFORNIA AMENDING THE DEFINITION OF "PERSON" CONTAINED IN SECTION 1-2-1 OF THE BEVERLY HILLS MUNICIPAL CODE AND ADDING ARTICLE 47 TO CHAPTER 3 OF TITLE 10 OF THE BEVERLY HILLS MUNICIPAL CODE TO PROHIBIT ALL COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL) EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(b)(3) OF THE CEQA GUIDELINES

The proposed Ordinance would amend the definition of "person" contained in Section 1-2-1 of Chapter 2 of Title 1 of the Beverly Hills Municipal Code to include the words cooperative and collective as part of the definition.

The proposed Ordinance would add Article 47 to Chapter 3 of Title 10 of the Beverly Hills Municipal Code to prohibit all commercial cannabis activity in the City. "Commercial cannabis activity" is defined to include the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery or sale of cannabis and cannabis products. The term "commercial cannabis activity" also means and includes the activities of any business licensed by the State or other government entity under Chapter 3.5 of Division 8 or Division 10 of the Business and Professions Code, as they may be amended from time to time. The prohibition on commercial cannabis activity would apply to cannabis used for medical, non-medical, or any other purpose.

The proposed Ordinance contains an exception that allows for the delivery of medical cannabis into the city. Additionally, consistent with State law, the prohibitions adopted under the proposed Ordinance will not prohibit a person twenty-one (21) years of age or older from: (1) possessing, processing, purchasing, transporting, obtaining or giving away to persons twenty-one (21) years of age or older, without compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis or up to eight (8) grams in the form of concentrated cannabis; (2) smoking or ingesting marijuana or marijuana products; or (3) possessing, transporting, purchasing, obtaining, using, manufacturing or giving away marijuana accessories to persons twenty-one (21) years of age or older without compensation.
whatsoever, to the extent that such activities are authorized by Health and Safety Code Sections 11362.1 and 11362.2, as the same may be amended from time to time.

This project has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.), and the City's CEQA Guidelines. Pursuant to CEQA Guidelines Section 15061(b)(3), the Planning Commission will consider finding that the project will not have a significant environmental impact because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment. The proposed Ordinance will not result in a permanent alteration of property nor the construction of any new or expanded structures.

Any interested person may attend the meeting and be heard or present written comments to the Commission.

According to Government Code Section 65009, if you challenge the Commission's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact Cynthia Owens, Senior Management Analyst in the City Manager's Office at 310.285.1026, or by email at cowens@beverlyhills.org. The case file, including associated documents are on file in the Community Development Department, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

Sincerely,

Cynthia Owens
Senior Management Analyst

In accordance with the Americans with Disabilities Act, the Council Chamber is wheelchair accessible and is equipped with audio equipment for the hearing impaired. If you need special assistance to attend this meeting, please call the City Manager's Office at (310) 285-1014 or TTY (310) 285-6881. Please notify the City Manager's Office at least forty-eight (48) hours prior to the meeting if you require captioning service so that reasonable arrangements can be made.
Attachment 4
Meeting Date: June 22, 2017

Subject: Commercial Marijuana Ordinance

Project Applicant: City Initiated Action

Recommendation: That the Planning Commission:
1. Conduct a public hearing to receive testimony on the proposed ordinance; and
2. Adopt the attached resolution memorializing the Commission’s findings and making recommendations to the City Council.

REPORT SUMMARY
On November 8, 2016, Proposition 64, the Adult Use of Marijuana Act (AUMA) passed with 57% voter approval in California and became law on November 9, 2016. In Beverly Hills, it passed with 64% voter approval. What is unknown is if the voters in Beverly Hills supported the recreational use of marijuana or if they supported both the recreational use and the allowance of commercial cannabis businesses in Beverly Hills.

At the January 24, 2017 City Council study session, Council discussed the change in law and directed staff to draft an ordinance regarding marijuana and marijuana-based businesses that would be as restrictive as possible under the new regulations. The City Council also provided direction to allow the delivery of medical marijuana within the City, and re-iterated these viewpoints at the City Council Priorities study session held on April 20, 2017.

Existing regulations within the City of Beverly Hills Municipal Code (§10-3-2761: Marijuana Dispensary, Store, Co-Op, or Cultivation Operation Prohibited (Attachment A)) ban several types of marijuana-related businesses in the City of Beverly Hills. The proposed ordinance (Attachment B) strengthens the wording of the current ordinance to expressly prohibit all forms of cannabis-related businesses with the exception of allowing medical marijuana delivery to residents.

The proposed ordinance addresses the commercial prohibition and regulation of cannabis and related businesses. It does not discuss, prohibit, or further regulate the personal cultivation of marijuana beyond state law. As the state is required by the AUMA to begin licensing cannabis-
based businesses no later than January 1, 2018, staff is bringing forward an ordinance to specifically address the commercial licensing aspect of the AUMA. Staff will be researching what, if any, regulations are necessary for the reasonable regulation of residential marijuana cultivation.

DISCUSSION

Federal Law
Marijuana use, possession, and distribution is illegal under federal law 21 U.S.C. § 801 et seq. There are no exceptions or special treatments allowed for medical use.

California law cannot be less restrictive than federal law. However, in August 2013, Deputy Attorney General James Cole issued what has become known as the Cole Memo (Attachment C). This memo allows federal prosecutors to consider whether a marijuana case is located in a state with a “strong and effective regulatory and enforcement system” for legalized marijuana when deciding whether to prosecute. This prosecutorial discretion implies that law-abiding patients and distributors in such states will, in general, be ignored by the federal government for prosecution.

In 2017, Attorney General Jeff Sessions ordered federal prosecutors to pursue maximum sentences in all drug-related cases. He has expressed disapproval of marijuana legalization.

Additionally, due to federal banking restrictions, over 70% of all cannabis-based businesses are cash-only in the states where cannabis is legal. The United States Department of Justice and the United States Treasury Department’s Financial Crimes Enforcement Network have issued guidelines allowing banks to work with marijuana businesses that are in compliance with new state legalization laws. However, even with the new Treasury guidelines, bank officials continue to be reluctant to do business with growers, manufacturers, dispensaries, and other cannabis businesses as they fear that they will still be subject to investigation for accepting cash that drug sniffing dogs can target. Given that marijuana remains a Schedule I controlled substance under federal law, banks fear they could be prosecuted under money laundering laws for accepting funds from legalized businesses where that business is still illegal under federal law. This in turn causes marijuana businesses to keep too much cash on hand, making them targets for burglaries and robberies.

Proposition 64, The Adult Use of Marijuana Act (AUMA)
On November 8, 2016, the AUMA passed in California. This proposition legalizes marijuana under state law, for use and personal cultivation by adults 21 or older. It also imposes state taxes on marijuana sales and commercial cultivation; provides for industry licensing and establishes standards for marijuana products; and allows local regulation and taxation of marijuana business. Further, the AUMA specifically provides that local jurisdictions may still adopt and enforce ordinances to regulate non-medical marijuana activities/businesses through local zoning, land use, and police powers (Attachment D). However, any jurisdiction that prohibits all commercial businesses and does not allow for outdoor personal cultivation would not be eligible to receive state funding for a variety of programs, including education of children on the dangers of marijuana use. A timeline for the legalization of marijuana in California can be found at www.beverlyhills.org/marijuana.
The California Health and Safety Code (Attachment E) reflects the changes instituted by the passage of the AUMA. The following activities became legal under state law on November 9, 2016:

- The recreational use of marijuana by adults 21 or older when not in public.
- Residential cultivation of up to six plants where the resident keeps the harvest.
- Public possession of up to 28.5 grams of cannabis or 8 grams of concentrate.

Some of the activities that are illegal under the AUMA include:

- Consuming marijuana or marijuana products in any public place.
- Consuming marijuana in a vehicle or getting high and driving, which includes motor vehicles, boats, vessels, and other vehicles used for transportation.
  - This applies to both drivers and passengers.
  - Open packages or containers of marijuana or marijuana products are also not allowed within the vehicle.
- Buying unlicensed marijuana.
- Selling unlicensed marijuana.
- Smoking marijuana anywhere that smoking has been prohibited by a local jurisdiction.
- Smoking marijuana within 1,000 feet of a school, day care center, or youth center while children are present.
- Possessing, smoking or ingesting marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

Under the AUMA, the state must begin issuing licenses to cannabis-based businesses no later than January 1, 2018, where it is not specifically prohibited by local law. It will then become legal to buy licensed, commercial marijuana in jurisdictions that permit such businesses.

Additionally, other types of businesses such as the manufacturing of marijuana products, testing marijuana products for potency, nurseries, commercial cultivation, etc. can be licensed under state law where not prohibited by local law. If no local law exists, a state license will be issued and will be valid until expiration, even if a local government prohibits a particular business type after a state license has been issued. Under state law, the City cannot prohibit the transportation of marijuana through the City by a licensed business and/or carrier.

**Beverly Hills Municipal Code §10-3-2761 — Current City Regulation**

The Municipal Code currently prohibits marijuana dispensaries, stores, cooperatives, and cultivation operations. Although the current zoning ordinance expressly prohibits marijuana dispensaries, stores, cooperatives, and cultivation operations, it does not directly prohibit other commercial cannabis industries such as laboratory testing facilities, nurseries, and distribution centers. There is a de facto prohibition of the establishment of any cannabis-based businesses, as they are not listed as a permitted use in any zone in the City, and therefore are currently considered prohibited.

Should the City take no action to modify the Municipal Code, beginning no later than January 1, 2018, the state may issue licenses to businesses who wish to undertake these activities within
the City limits where permitted by zoning ordinance. As stated above, there is a de facto prohibition in place; however, the City Attorney’s Office has suggested the City strengthen the current ordinance to be more specific. By clarifying the ordinance, it is unlikely that the state will issue a license. Should the state determine that the Municipal Code does not prohibit a certain business type, then that business would be allowed to operate within the City.

The state has announced they intend to release applications for state business licenses this fall. It is possible that the state could issue licenses prior to the January 1, 2018, deadline established by the AUMA once they begin receiving applications.

**Beverly Hills Municipal Code §10-3-100 – Current City Regulation**
The definition of a marijuana dispensary, store, cooperative, or cultivation operation is defined in the current City Municipal Code 10-3-100. This definition includes an exception that only allows for the personal cultivation of medical marijuana. To date, the City has received no complaints on any excessive indoor or outdoor cultivation of marijuana.

Under the AUMA, the recreational cultivation of up to six plants is allowed at a residence. This can be done either indoor or outdoor. The resident must keep the harvest and is not allowed to sell the harvest. They are allowed to give the harvest away to persons over the age of 21.

The AUMA does allow a local jurisdiction to reasonably regulate the cultivation of up to six plants per residence. It is important to note that under state law marijuana plants must either be kept inside a person’s private residence or, if they are grown outdoors, they must be in a locked space that is not visible by normal, unaided vision from a public place. Staff is investigating whether any additional regulations for residential cultivation would be necessary or feasible for this community. As such, residential cultivation regulations may be revisited as part of a future ordinance if necessary.

**Public Health and Safety**
There is concern for public health and safety with the legalization of the recreational use of marijuana. Numerous articles and reports on public health and safety, including those specifically mentioned below, can be found at www.beverlyhills.org/marijuana. Of concern is that Colorado has experienced an increase in traffic fatalities involving marijuana and the number of hospitalizations related to marijuana has also increased.

**Public Health**
In the “Monitoring Health Concerns Related to Marijuana in Colorado: 2016” report by Colorado’s Department of Health and Environment, they reviewed scientific literature on potential health effects of marijuana use. Some of those studies have moderate to substantial evidence that marijuana does have some detrimental health effects which are listed below:

- Weekly marijuana use by adolescents is associated with impaired learning, memory, math and reading, even 28 days after last use.
- Strong evidence shows that marijuana smoke contains many of the same cancer-causing chemicals found in tobacco smoke.
- It can take up to four hours after consuming an edible marijuana product to reach the peak THC (tetrahydrocannabinol, the main psychoactive component of marijuana) blood concentration and feel the full effects.
• The risk of a motor vehicle crash increases among drivers with recent marijuana use and, the higher the blood THC level the higher the motor vehicle crash risk.
• Strong evidence shows that daily or near daily marijuana users are more likely to have impaired memory lasting a week or more after quitting.
• Biological evidence shows that THC passes through the placenta to the fetus, so that the unborn child is exposed to THC. THC also has been shown to pass through breast milk to a breastfeeding child. There is moderate evidence that suggests if a child’s mother used marijuana while pregnant there could be impaired cognitive function and attention.

Additionally, the use of marijuana by both youths and adults has increased since the legalization of marijuana in Colorado. The national average for youth (ages 12-17) marijuana use is 7.20%. Colorado is at 11.13%, the highest in the nation. The national average for adult use is 19.70%, while in Colorado it is at 31.75%.

Hospitalizations
Per the Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics released in “Marijuana Legalization in Colorado: Early Findings”, hospitalizations have increased since the legalization of marijuana. Prior to the legalization of medical marijuana, the rate of hospitalizations due to marijuana was 575 per 100,000. During the medical marijuana era, this increased to 803 hospitalizations per 100,000. When retail commercialization of marijuana occurred, there was a significant increase to 2,413 hospitalizations per 100,000. This data excludes Emergency Department visits.

In the “SUPPLEMENT to: “The Legalization of Marijuana in Colorado: The Impact, Volume 4, September 2016”, Emergency Department visits have increased by 35% since the legalization of recreational marijuana going from 660 per 100,000 to 889 per 100,000.

Traffic Accidents
Marijuana-related traffic deaths increased 48% in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization. During the same time period, all traffic deaths increased 11%. Also of note, the number of driving under the influence of drugs (DUIDs) involving marijuana has increased from 674 per year in 2014 to over 760 in 2016.

In 2009, Colorado marijuana-related traffic deaths involving operators testing positive for marijuana represented 10% of all traffic fatalities. By 2015, that number doubled to 21%.

Additionally, since Washington State legalized recreational marijuana use, marijuana-related DUIDs accidents have also doubled. The Washington State Traffic Safety Commission also reports that drivers with active THC in their blood involved in a fatal driving accident have increased by 122% from 2010 (16) to 2014 (23).

Crimes at or near Marijuana Businesses
Marijuana-industry-related crime is where licensed marijuana businesses were either the victim or perpetrator of a crime. In Denver, burglary or attempted burglary accounted for 64% of marijuana-industry-related crime while theft accounted for another 11% of marijuana-industry-
related crime in 2014. Overall, marijuana businesses make up less than 1% of all businesses in Denver but account for approximately 11% of all reported business burglaries from 2012-2015. However, marijuana industry-related crime represents less than ½ of 1% of overall crime in Denver. In 2015, of the 192 marijuana industry-related crimes, 117 were burglaries and 21 were for theft.

A 2016 study, “A Micro-Temporal Geospatial Analysis of Medical Marijuana Dispensaries and Crime in Long Beach California” found that an increase of one dispensary per square mile related to a 0.4% to 2.6% increase in property crime. Additionally, greater densities of medical marijuana dispensaries were related to higher rates of violent crimes in areas adjacent to the dispensary locations. The 2016 study found that a citywide decline in dispensaries from the March 2012 peak of 37 dispensaries to the August/September 2013 low of 5 dispensaries, was associated with a decline of 182.5 violent crimes per year and 219.3 property crimes per year. Comparatively, an equivalent drop of alcohol outlets was associated with a decline of only 26.2 violent crimes and 113.9 property crimes per year. These results suggest that local agencies that enact and enforce bans on dispensaries will reduce crime in neighborhoods next to where the dispensaries are located.

While advocates for cannabis-based businesses will state that overall arrests for marijuana have declined significantly since the legalization of marijuana in places like Colorado and Washington, this is most likely due to the fact that possession and being under the influence in public (but not driving) is now legal.

Attached Draft Ordinance
The attached draft ordinance would add Article 47 to Chapter 3 of Title 10, BHMC § 10-3-47, “Cannabis Prohibitions and Regulations” to the Municipal Code. As outlined in the ordinance, with the exception of delivery of medical marijuana to a resident, all other commercial marijuana businesses would be prohibited.

The AUMA allows cities to establish reasonable regulations of the cultivation of up to six plants at a residence. At this time, staff is not proposing any local regulations for limiting the indoor or outdoor cultivation beyond state law. Should the City desire to adopt reasonable regulations for personal cultivation, then a taskforce would be formed while draft regulations were created. Staff anticipates that the correct plan of action would take over a year to develop due to the various nuances associated with personal cultivation.

GENERAL PLAN CONSISTENCY
The proposed changes are consistent with the City’s General Plan including the following goals and policies that relate to the support of businesses in the City:

- Goal LU 2 Community Character and Quality. A built environment that is distinguished by its high level of site planning, architecture, landscape design, and sensitivity to its natural setting and history.
- Goal LU 15 Economic Sustainability. Vital and successful businesses that contribute to the City's identity and culture, provide high-paying jobs, and contribute revenue that sustains the level and quality of services in the City.
- Policy LU 2.9 Public Safety. Require that development be located and designed to promote public safety by providing street-fronting uses, lighting, sightlines, and features
that enhance community safety. (Imp. 2.1, 2.4)

- Policy LU 15.2 Priority Businesses. Retain and build upon the key business sectors contributing to the City's identity, economy, and revenue for resident services, such as entertainment-related Class-A offices, high end retail and fashion, restaurant, hotel, technology, and supporting uses.
- Policy ES 1.4 Retain Existing Industries. Consistent with future economic sustainability plans, encourage existing industries such as luxury retail, tourism, hoteling, finance, entertainment and media businesses and services to remain and expand within the City.

ENVIRONMENTAL ASSESSMENT
This Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The adoption and implementation of the Ordinance is eligible for a class 5 categorical exemption for minor changes in land use limitations and will not have a significant environmental impact. This Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations.

PUBLIC OUTREACH AND NOTIFICATION
Notice for this item was published in the Beverly Hills Courier on Friday, June 9, 2017, and the Beverly Hills Weekly on Thursday, June 15, 2017.

Staff has been contacted by two cannabis industry advocates prior to the publication of the public hearing notice. Staff has spoken with both advocates and they do not wish the City to prohibit any marijuana-based businesses. Communications received in writing in support or opposition of this ordinance are attached to this report (Attachment F).

CONCLUSION
The proposed ordinance will prohibit all marijuana-based businesses in the City of Beverly Hills with the exception of the delivery of medical marijuana to residents and the transportation of marijuana through the City. Based upon the direction received at the City Council Study Session on January 24, 2017 and at the City Council Priorities Setting Session, staff believes the proposed ordinance is consistent with the stated objectives.

An informational report on this ordinance will be provided to the Health and Safety Commission on Monday, June 26, 2017. Then on July 18, 2017, it will be presented to the City Council at both the Study Session and Formal Session.

Report Reviewed By:

Ryan Gohlich, AICP, Assistant Director of Community Development / City Planner
Attachment 5
RESOLUTION NO. 1813

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BEVERLY HILLS RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL) EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS, AND MAKING A FINDING OF EXEMPTION FROM CEQA UNDER SECTION 15061(B)(3) OF THE CEQA GUIDELINES

The Planning Commission of the City of Beverly Hills hereby finds, resolves, and determines as follows:

Section 1. On October 9, 2015, Governor Brown signed Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643 into law, which collectively are now known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA establishes a State licensing scheme for commercial medical cannabis 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. It is anticipated that on January 1, 2018, the State will begin issuing licenses to medical cannabis businesses. The MCRSA allows the City to completely prohibit commercial medical cannabis activities.

Section 2. On November 8 2016, California voters passed Proposition 64 (the Control, Regulate, and Tax Adult Use of Marijuana Act, herein referred to as the “AUMA”), which added Division 10 (Cannabis) to the California Business and Professions Code, sections 26000, et seq.. The AUMA grants State agencies the authority to create, issue, renew, discipline, suspend, or revoke licenses for non-medical cannabis businesses. The AUMA provides that the State shall begin issuing licenses to cannabis businesses under Division 10 of
the California Business and Professions Code by January 1, 2018. California Business and Professions Code section 26055(e) provides that a State licensing authority shall not approve an application for a State license for commercial non-medical cannabis activity if approval of the State license will violate the provisions of any local ordinance.

**Section 3.** The City Council has expressed that the City should adopt an ordinance as restrictive as possible in terms of prohibiting all commercial cannabis activity, while allowing for medical cannabis deliveries into the City, because the State will begin issuing licenses for such commercial businesses no later than January 1, 2018. Although the current zoning ordinance directly prohibits all marijuana dispensaries, stores, cooperatives, and cultivation operations, it does not directly prohibit other commercial cannabis industries such as laboratory testing facilities, nurseries, and distribution centers. Nonetheless, there is a de facto prohibition of the establishment of any cannabis-based businesses because they are not listed as a permitted use in any zone in the City and thus are currently considered prohibited.

**Section 4.** The Planning Commission of the City of Beverly Hills, at a duly noticed public hearing on June 22, 2017, considered zone text amendments to the Beverly Hills Municipal Code adding Article 47 to Chapter 3 of Title 10 as set forth in Exhibit A (“Code Amendments”). At the public hearing, the Planning Commission received oral and documentary evidence relative to the proposed Code Amendments.

**Section 5.** The Planning Commission finds that prohibiting commercial cannabis activity is necessary for the preservation and protection of the public health, safety, and welfare of the city. In addition, the establishment of such businesses would change the character
of the City's commercial districts and would be inconsistent with various General Plan Policies including ES 1.4 Retain Existing Industries and LU 15.2 Retain Priority Businesses due to the fact that cannabis-based businesses do not retain or build upon the key businesses that contribute to the City's identity.

Section 6. The Planning Commission further finds that the establishment of cannabis-based businesses has the potential to adversely change the character of the Beverly Hills community.

Cannabis-based businesses do not currently exist in the City. General Plan Policy ES 1.4 provides that the City shall encourage existing industries in the City, such as luxury retail, tourism, hoteling, finance, entertainment, and media businesses to remain and expand in the City in order to maintain a strong sustainable economic base. Cannabis-based businesses are not an existing industry of the City and the establishment of these types of businesses in the City would be inconsistent with this policy. Further, General Plan Land Use Goal 15 states that the City seeks to have vital and successful businesses that contribute to the City's identity and culture, provide high-paying jobs, and contribute revenue that sustains the level and quality of services in the City. General Plan Policy LU 15.2 sets forth the City's policy to retain and build upon key businesses that contribute to the City's identity such as entertainment-related Class-A offices, high end retail and fashion, restaurant, hotel, technology, and supporting uses. Cannabis-based businesses are not a part of this list nor do they contribute positively to the City's identity. The location of cannabis-based businesses in the City would be contrary to General Plan Land Use Goal 15 and General Plan Policies ES 1.4 and LU 15.2.
Section 7. The Code Amendments are consistent with the objectives, principles, and standards of the General Plan. General Plan Goal “LU 2 – Community Character and Quality” calls for a built environment that is distinguished by its high level of site planning and includes the General Plan Policy “LU 2.9 Public Safety” which requires developments be located and designed to promote public safety. There are no locations in the City where a cannabis-based business would promote public safety. Additionally, General Plan Goal “LU 15 – Economic Sustainability” establishes that vital and successful businesses contribute to the City’s identity and culture, provide high-paying jobs and contribute revenue that sustains the level and quality of services in the City. This goal is supported by General Plan Policy “LU 15.2 – Priority Businesses” which focuses on retaining and building upon key business sectors that contribute to the City’s identity. Other relevant General Plan Policies include “ES 1.4 – Retain Existing Industries” which encourages existing industries such as luxury retail, tourism, hoteling, finance, entertainment, and media businesses to remain and expand within the City.

Section 8. The Code Amendments have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The Code Amendments do not authorize construction and, in fact, prohibit certain development in order to protect the public health, safety and general welfare. Therefore, the Planning Commission recommends that the City Council find that it can be seen with certainty that the Code Amendments do not have the possibility to have a significant effect on the environment, and are therefore exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations.
Section 9. The records related to this determination are on file with the City’s Community Development Department, 455 N. Rexford Drive, Beverly Hills, California 90210. The Planning Commission hereby recommends that the City Council adopt an Ordinance which will add Article 47, Cannabis Prohibitions and Regulations, to Chapter 3 of Title 10 of the City’s zoning code substantially as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.
Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his/her Certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Adopted: June 22, 2017

Farshid Joe Shooshani
Chair of the Planning Commission of the City of Beverly Hills

Attest:

Ryan Gohlich, AICP
Secretary of the Planning Commission

Approved as to form:

David M. Snow
Assistant City Attorney

Approved as to content:

Ryan Gohlich, AICP
Assistant Director / City Planner
Community Development Department
AN ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL) EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS, MAKING RELATED MUNICIPAL CODE AMENDMENTS, AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
PROHIBITING ALL COMMERCIAL CANNABIS
ACTIVITY (BOTH MEDICAL AND NON-MEDICAL)
EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS,
MAKING RELATED MUNICIPAL CODE AMENDMENTS,
AND FINDING THE ORDINANCE EXEMPT FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEVERLY
HILLS DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purpose.

A. The City of Beverly Hills, California (the “City”) is a municipal corporation, duly
organized under the constitution and laws of the State of California.

B. On November 8, 2016, California voters approved the Control, Regulate and Tax
Adult Use of Marijuana Act (“AUMA”). The AUMA added Division 10 to the California
Business and Professions Code, sections 26000, et seq., which grants State agencies the authority
to create, issue, renew, discipline, suspend, or revoke licenses for cannabis businesses. The
AUMA provides that the State shall begin issuing licenses to cannabis businesses under Division
10 of the California Business and Professions Code by January 1, 2018. California Business and
Professions Code section 26055(e) provides that a State licensing authority shall not approve an
application for a State license for commercial non-medical cannabis activity if approval of the
State license will violate the provisions of any local ordinance.

C. On October 9, 2015, Governor Brown signed Assembly Bill No. 243, Assembly
Bill No. 266, and Senate Bill 643 into law, which collectively are now known as the Medical
Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA establishes a State
licensing scheme for commercial medical cannabis 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. It is anticipated that on January 1, 2018, the State will beginning issuing licenses
to medical cannabis businesses. The MCRSA allows the City to completely prohibit commercial
medical cannabis activities.

D. On June 22, 2017, the Planning Commission of the City of Beverly Hills held a
public hearing on this proposed Ordinance, at which time all persons interested in the proposed
Ordinance had the opportunity and did address the Planning Commission on these matters.
Following the receipt of public testimony the Planning Commission closed the public hearing.

E. At the conclusion of the Planning Commission hearing and after due
consideration of the testimony, the Planning Commission adopted Resolution No. ________
recommending that the City Council adopt the proposed Ordinance, to prohibit all commercial
cannabis activity except for the delivery of medical cannabis.
F. On July __, 2017, the City Council of the City of Beverly Hills held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

G. All legal prerequisites to the adoption of this Ordinance have occurred.

SECTION 2. The definition of “Person” contained in Section 1-2-1 (Application of Definitions) of Chapter 2 (Definitions) of Title 1 (General Provisions) is hereby amended to read as follows:

“PERSON: A natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, cooperative, and collective, and any manager, lessee, agent, servant, officer or employee thereof.”

SECTION 3. The definition of Marijuana Dispensary, Store, Co-Op, or Cultivation Operation from Section 10-3-100 (Words Defined) of Article I (Definitions) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning) is hereby deleted, with all other definitions remaining in effect without amendment.

SECTION 4. The City Council of the City of Beverly Hills hereby deletes Section 10-3-2761 (Marijuana Dispensary, Store, Co-Op, or Cultivation Operation Prohibited) from Article 27 (Other Uses and Building Restrictions) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning).

SECTION 5. The City Council of the City of Beverly Hills hereby adds Article 47 (Cannabis Prohibitions and Regulations) to Chapter 3 (Zoning) of Title 10 (Planning and Zoning) to read as follows:

“ARTICLE 47 CANNABIS PROHIBITIONS AND REGULATIONS

Section 10-3-4700: Purpose.
Section 10-3-4701: Definitions.
Section 10-3-4702: Prohibited uses and activities.
Section 10-3-4703: Exceptions.
Section 10-3-4704: Violation, penalty.

10-3-4700 Purpose.

A. The purpose of this article is to expressly prohibit the establishment of commercial cannabis uses in the city.

B. The city council finds that prohibitions on commercial cannabis activity are necessary for the preservation and protection of the public health, safety, and welfare of the city. The prohibition of such uses is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public health, safety and welfare of the city.
10-3-4701 Definitions.

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

A. "AUMA" means the Control, Regulate and Tax Adult Use of Marijuana Act approved by the voters on November 8, 2016, as the same may be amended from time to time.

B. "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 California Health and Safety Code section 11018, as it is amended from time to time. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes.

"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. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

C. "Cannabis accessories" means any equipment, products or materials of any kind which is 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 cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

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

E. "Commercial cannabis activity" means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, non-medical, or any other purpose and includes the activities of any business licensed by the State or other government entity under Chapter 3.5 of Division 8 or Division 10 of the California Business and Professions Code, or any provision of State law that permits the licensing of cannabis businesses.

F. "Concentrated cannabis" means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate.

G. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
H. "Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law that enables customers to arrange for or facilitate the commercial transfer by a State licensed retailer of cannabis or cannabis products.

I. "Distribution" means the procurement, sale, and transport of cannabis and cannabis products between entities licensed under Chapter 3.5 of Division 8 or Division 10 of the California Business and Professions Code, as they may be amended from time to time.

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

K. "MCRSA" means the Medical Cannabis Regulation and Safety Act as contained, codified, enacted, and signed into law on October 9, 2015, as Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643, as the same may be amended from time to time.

L. "Private residence" means a house, an apartment unit, condominium, or other similar dwelling that is lawfully used as a residence.

10-3-4702 Prohibited uses and activities.

A. Commercial cannabis activity, whether or not for profit, is prohibited in all zones, specific plan areas, and overlay zones of the city. No person shall establish, operate, maintain, conduct, allow, or engage in commercial cannabis activity anywhere within the city. To the extent that this prohibition conflicts with any other provision of this Municipal Code, this prohibition will control.

B. A property owner shall not rent, lease or otherwise permit any person or business that engages in commercial cannabis activity to occupy real property in the city. A property owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in commercial cannabis activity on any real property owned or controlled by that property owner that is located in the city.

C. Subsection A above shall prohibit all activities for which a State license is required pursuant to the MCRSA or the AUMA, as the same may be amended from time to time. Accordingly, the city shall not issue any permit, license or other entitlement for any activity for which a State license is required under the MCRSA or the AUMA, as the same may be amended from time to time. The city shall also not issue any local license to a non-profit entity pursuant to California Business and Professions Code section 26070.5.

D. To the extent not already prohibited by subsection A above, all deliveries of cannabis or cannabis products for non-medical purposes, to or from any location are expressly prohibited. No person shall conduct or perform any delivery of any cannabis or cannabis products for a non-medical purpose, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city,
where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

10-3-4703 Exceptions.

A. Notwithstanding Subsection 10-3-4702 above, the delivery of medical cannabis from a business located outside the city and licensed under the MCRSA, or any other provision of law that permits State licenses for medical cannabis businesses, shall be permitted into the city.

B. To the extent that the following activities are permitted by State law, nothing in this article shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis;

3. Smoking or ingesting cannabis or cannabis products except as prohibited by California Health and Safety Code section 11362.3;

4. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons 21 years of age or older without compensation whatsoever; or

5. Engaging in the cultivation of six or fewer live cannabis plants within a single private residence, inside an accessory structure located upon the grounds of a private residence, or if grown outdoors within a locked space that is not visible by normal, unaided vision from a public place.

10-3-4705 Violation, penalty.

In addition to any other enforcement permitted by this Section 10-3-205 of the Beverly Hills Municipal Code, the city attorney or city prosecutor may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this article, a court of competent jurisdiction may award reasonable attorneys’ fees and costs to the prevailing party. Notwithstanding the penalties set forth in Section 10-3-205 of the Beverly Hills Municipal Code, no provision of Section 10-3-205 or this Article 47 authorizes a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code section 11362.71, et seq. or section 11362.1, et seq., as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Section 10-3-205 of the Beverly Hills Municipal Code and any penalties set forth in State law, the maximum penalties allowable under State law shall govern.”
SECTION 6. Planning Division Staff has determined that the proposed Project is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed Project to prohibit commercial cannabis activity except for the delivery of medical cannabis will have a significant effect on the environment. The proposed Project will not result in a permanent alteration of property nor the construction of any new or expanded structures. The City Council has reviewed Planning Division Staff's determination of exemption, and based on its own independent judgment, concurs with Staff's determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 7. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 8. Restatement of Existing Law. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 9. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

SECTION 10. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:
Effective:

LILI BOSSE
Mayor of the City of Beverly Hills

ATTEST:

_____________________ (SEAL)

BYRON POPE
City Clerk
APPROVED AS TO FORM:

LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

MAHDI ALUZRI
City Manager
Attachment 6
Beverly Hills Municipal Code §10-3-2761 – Current City Regulation

The City’s Municipal Code currently prohibits marijuana dispensaries, stores, cooperatives, and cultivation operations. Although the current zoning ordinance expressly prohibits marijuana dispensaries, stores, cooperatives, and cultivation operations, it does not directly prohibit other commercial cannabis industries such as laboratory testing facilities, nurseries, and distribution centers. There is a de facto prohibition of the establishment of any cannabis-based businesses, as they are not listed as a permitted use in any zone in the City, and therefore are currently considered prohibited.

Due to the passage of SB 94, the City is now required to provide the newly created Bureau of Cannabis Control (“the Bureau”) with a copy of any ordinance related to commercial cannabis activity and the contact information for the person designated by the City to serve as the contact person regarding commercial cannabis activity within the jurisdiction.

SB 94 also requires the Bureau to first notify the contact person for the City that it has received an application from a prospective cannabis business. The City must then notify the Bureau if the applicant is compliant with local ordinances. If the City does not respond within 60 business days of this notification, the result is a rebuttable presumption that the applicant is compliant with local ordinances.

Based upon City Council direction, staff recommends the City strengthen and clarify the current ordinance to be more specific to expressly prohibit all forms of cannabis-related businesses, with the exception of the delivery of medical marijuana, as beginning on January 1, 2018, cannabis businesses can lawfully sell cannabis and cannabis products if they have a state license. This clarity will also assist the contact person in the City in determining if an applicant is complaint with local law.

Beverly Hills Municipal Code §10-3-100 – Current City Regulation

The definition of a marijuana dispensary, store, cooperative, or cultivation operation is defined in the current City Municipal Code 10-3-100. This definition includes an exception that only allows for the personal cultivation of medical marijuana. To date, the City has received no complaints on any excessive indoor or outdoor cultivation of marijuana. Under the AUMA, the recreational cultivation of up to six plants is allowed at a residence. This can be done either indoor or outdoor. The resident must keep the harvest and is not allowed to sell the harvest. They are allowed to give the harvest away to persons over the age of 21.

The AUMA does allow a local jurisdiction to reasonably regulate the cultivation of up to six plants per residence. It is important to note that under state law marijuana plants must either be kept inside a person’s private residence or, if it they are grown outdoors, they must be in a locked space that is not visible by normal, unaided vision from a public place. Staff is investigating whether any additional regulations for residential cultivation would be necessary or feasible for this community. As such, residential cultivation regulations may be revisited as part of a future ordinance if necessary.
Attachment 7
MEMORANDUM FOR ALL UNITED STATES ATTORNEYS

FROM: James M. Cole
Deputy Attorney General

SUBJECT: Guidance Regarding Marijuana Enforcement

In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
Preventing marijuana possession or use on federal property.

These priorities will continue to guide the Department's enforcement of the CSA against marijuana-related conduct. Thus, this memorandum serves as guidance to Department attorneys and law enforcement to focus their enforcement resources and efforts, including prosecution, on persons or organizations whose conduct interferes with any one or more of these priorities, regardless of state law.¹

Outside of these enforcement priorities, the federal government has traditionally relied on states and local law enforcement agencies to address marijuana activity through enforcement of their own narcotics laws. For example, the Department of Justice has not historically devoted resources to prosecuting individuals whose conduct is limited to possession of small amounts of marijuana for personal use on private property. Instead, the Department has left such lower-level or localized activity to state and local authorities and has stepped in to enforce the CSA only when the use, possession, cultivation, or distribution of marijuana has threatened to cause one of the harms identified above.

The enactment of state laws that endeavor to authorize marijuana production, distribution, and possession by establishing a regulatory scheme for these purposes affects this traditional joint federal-state approach to narcotics enforcement. The Department’s guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests. A system adequate to that task must not only contain robust controls and procedures on paper; it must also be effective in practice. Jurisdictions that have implemented systems that provide for regulation of marijuana activity

¹ These enforcement priorities are listed in general terms; each encompasses a variety of conduct that may merit civil or criminal enforcement of the CSA. By way of example only, the Department’s interest in preventing the distribution of marijuana to minors would call for enforcement not just when an individual or entity sells or transfers marijuana to a minor, but also when marijuana trafficking takes place near an area associated with minors; when marijuana or marijuana-infused products are marketed in a manner to appeal to minors; or when marijuana is being diverted, directly or indirectly, and purposefully or otherwise, to minors.
must provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine federal enforcement priorities.

In jurisdictions that have enacted laws legalizing marijuana in some form and that have also implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, conduct in compliance with those laws and regulations is less likely to threaten the federal priorities set forth above. Indeed, a robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market in which revenues are tracked and accounted for. In those circumstances, consistent with the traditional allocation of federal-state efforts in this area, enforcement of state law by state and local law enforcement and regulatory bodies should remain the primary means of addressing marijuana-related activity. If state enforcement efforts are not sufficiently robust to protect against the harms set forth above, the federal government may seek to challenge the regulatory structure itself in addition to continuing to bring individual enforcement actions, including criminal prosecutions, focused on those harms.

The Department’s previous memoranda specifically addressed the exercise of prosecutorial discretion in states with laws authorizing marijuana cultivation and distribution for medical use. In those contexts, the Department advised that it likely was not an efficient use of federal resources to focus enforcement efforts on seriously ill individuals, or on their individual caregivers. In doing so, the previous guidance drew a distinction between the seriously ill and their caregivers, on the one hand, and large-scale, for-profit commercial enterprises, on the other, and advised that the latter continued to be appropriate targets for federal enforcement and prosecution. In drawing this distinction, the Department relied on the common-sense judgment that the size of a marijuana operation was a reasonable proxy for assessing whether marijuana trafficking implicates the federal enforcement priorities set forth above.

As explained above, however, both the existence of a strong and effective state regulatory system, and an operation’s compliance with such a system, may allay the threat that an operation’s size poses to federal enforcement interests. Accordingly, in exercising prosecutorial discretion, prosecutors should not consider the size or commercial nature of a marijuana operation alone as a proxy for assessing whether marijuana trafficking implicates the Department’s enforcement priorities listed above. Rather, prosecutors should continue to review marijuana cases on a case-by-case basis and weigh all available information and evidence, including, but not limited to, whether the operation is demonstrably in compliance with a strong and effective state regulatory system. A marijuana operation’s large scale or for-profit nature may be a relevant consideration for assessing the extent to which it undermines a particular federal enforcement priority. The primary question in all cases— and in all jurisdictions— should be whether the conduct at issue implicates one or more of the enforcement priorities listed above.
As with the Department’s previous statements on this subject, this memorandum is intended solely as a guide to the exercise of investigative and prosecutorial discretion. This memorandum does not alter in any way the Department’s authority to enforce federal law, including federal laws relating to marijuana, regardless of state law. Neither the guidance herein nor any state or local law provides a legal defense to a violation of federal law, including any civil or criminal violation of the CSA. Even in jurisdictions with strong and effective regulatory systems, evidence that particular conduct threatens federal priorities will subject that person or entity to federal enforcement action, based on the circumstances. This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal. It applies prospectively to the exercise of prosecutorial discretion in future cases and does not provide defendants or subjects of enforcement action with a basis for reconsideration of any pending civil action or criminal prosecution. Finally, nothing herein precludes investigation or prosecution, even in the absence of any one of the factors listed above, in particular circumstances where investigation and prosecution otherwise serves an important federal interest.

cc: Mythili Raman
Acting Assistant Attorney General, Criminal Division

Loretta E. Lynch
United States Attorney
Eastern District of New York
Chair, Attorney General’s Advisory Committee

Michele M. Leonhart
Administrator
Drug Enforcement Administration

H. Marshall Jarrett
Director
Executive Office for United States Attorneys

Ronald T. Hosko
Assistant Director
Criminal Investigative Division
Federal Bureau of Investigation
Attachment 8
(a) (1) This division shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(2) This division shall not be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local license, permit, or other authorization requirements.

(b) This division shall not be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing, permitting, or other authorization requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial cannabis activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 60 days of being so informed by the bureau, the relevant licensing authorities shall begin the process to determine whether a license issued to the licensee should be suspended or revoked pursuant to Chapter 3 (commencing with Section 26030).

(d) For facilities issued a state license that are located within the incorporated area of a city, the city shall have full power and authority to enforce this division and the regulations promulgated by the bureau or any licensing authority, if delegated by the state. Notwithstanding Sections 101375, 101400, and 101405 of the Health and Safety Code or any contract entered into pursuant thereto, or any other law, the city shall assume complete responsibility for any regulatory function pursuant to this division within the city limits that would otherwise be performed by the county or any county officer or employee, including a county health officer, without liability, cost, or expense to the county.

(e) This division does not prohibit the issuance of a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair or district agricultural association event, provided that the activities, at a minimum, comply with the requirements of paragraphs (1) to (3), inclusive, of subdivision (g), that all participants are licensed under this division, and that the activities are otherwise consistent with regulations promulgated and adopted by the bureau governing state temporary event licenses. These temporary event licenses shall only be issued in local jurisdictions that authorize such events.

(f) This division, or any regulations promulgated thereunder, shall not be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

(g) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under this division if all of the following are met:

(1) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older.

(2) Cannabis consumption is not visible from any public place or nonage-restricted area.

(3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

(Amended by Stats. 2017, Ch. 27, Sec. 102. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by Initiative Prop. 64.)
26201. Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

(Added November 8, 2016, by initiative Proposition 64, Sec. 6.1.)

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by any licensing authority if delegated the power to do so by the licensing authority.

(b) A licensing authority shall implement the delegation of enforcement authority in subdivision (a) through an agreement between the licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

(Amended by Stats. 2017, Ch. 27, Sec. 103. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)
Attachment 9
Health & Safety
Code Article 2
HEALTH AND SAFETY CODE - HSC

DIVISION 10. UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651] (Division 10 repealed and added by Stats. 1972, Ch. 1407.)

CHAPTER 6. Offenses and Penalties [11350 - 11392] (Chapter 6 added by Stats, 1972, Ch. 1407.)

ARTICLE 2. Cannabis [11357 - 11362.9] (Heading of Article 2 amended by Stats. 2017, Ch. 27, Sec. 121.)

11357. (a) Except as authorized by law, possession of not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, or both, shall be punished or adjudicated as follows:

(1) Persons under the age of 18 are guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.

(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.

(2) Persons at least 18 years of age but less than 21 years of age are guilty of an infraction and punishable by a fine of not more than one hundred dollars ($100).

(b) Except as authorized by law, possession of more than 28.5 grams of cannabis, or more than four grams of concentrated cannabis, shall be punished as follows:

(1) Persons under the age of 18 who possess more than 28.5 grams of cannabis or more than four grams of concentrated cannabis, or both, are guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

(2) Persons 18 years of age or over who possess more than 28.5 grams of cannabis, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both that fine and imprisonment.

(c) Except as authorized by law, a person 18 years of age or over who possesses not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished as follows:

(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars ($500), or by imprisonment in a county jail for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

(d) Except as authorized by law, a person under the age of 18 who possesses not more than 28.5 grams of cannabis, or not more than four grams of concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs is guilty of an infraction and shall be punished in the same manner provided in paragraph (1) of subdivision (b).

(Amended by Stats. 2017, Ch. 27, Sec. 122. Effective June 27, 2017. Note: This section was amended on Nov. 4, 2014, by initiative Prop. 47.)

11357.5. (a) Every person who sells, dispenses, distributes, furnishes, administers, or gives, or offers to sell, dispense, distribute, furnish, administer, or give, or possesses for sale any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, to any person, is guilty of a misdemeanor, punishable by imprisonment in a county
jail not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment.

(b) Every person who uses or possesses any synthetic cannabinoid compound, or any synthetic cannabinoid derivative, is guilty of a public offense, punishable as follows:

(1) A first offense is an infraction punishable by a fine not exceeding two hundred fifty dollars ($250).

(2) A second offense is an infraction punishable by a fine not exceeding two hundred fifty dollars ($250) or a misdemeanor punishable by imprisonment in a county jail not exceeding six months, a fine not exceeding five hundred dollars ($500), or by both that fine and imprisonment.

(3) A third or subsequent offense is a misdemeanor punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

(c) As used in this section, the term “synthetic cannabinoid compound” refers to any of the following substances or an analog of any of the following substances:

(1) Adamantoylindoles or adamantoylindazoles, which includes adamantyl carboxamide indoles and adamantyl carboxamide indazoles, or any compound structurally derived from 3-(1-adamantyl)indole, 3-(1-adamantyl) indazole, 3-(2-adamantyl)indole, N-(1-adamantyl)-1H-indole-3-carboxamide, or N-(1-adamantyl)-1H-indazole-3-carboxamide by substitution at the nitrogen atom of the indole or indazole ring with alkyl, haloalkyl, alkenyl, cyanoalkyl, hydroxalkyl, cycloalkylcarbonyl, 1-(N-methyl-2-piperidinyl)alkyl, 2-(4-morpholynyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)alkyl, 1-(N-methyl-3-morpholynyl)alkyl, or (tetrahydropryan-4-yl)alkyl group, whether or not further substituted in the indole or indazole ring to any extent and whether or not substituted in the adamantyl ring to any extent, including, but not limited to, 2NE1, 5F-AKB-48, AB-001, AKB-48, AM-1248, JWH-018 adamantyl carboxamide, STS-135.

(2) Benzoylindoles, which includes any compound structurally derived from a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxalkyl, alkenyl, cycloalkylalkyl, cycloalkylcarbonyl, 1-(N-methyl-2-piperidinyl)alkyl, 2-(4-morpholynyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)alkyl, 1-(N-methyl-3-morpholynyl)alkyl, or (tetrahydropryan-4-yl)alkyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenol ring to any extent, including, but not limited to, AM-630, AM-661, AM-679, AM-694, AM-1241, AM-2233, RCS-4, WIN 48,098 (Pravadalone).

(3) Cyclohexylphenols, which includes any compound structurally derived from 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position of the phenolic ring by alkyl, haloalkyl, cyanoalkyl, hydroxalkyl, alkenyl, cycloalkylalkyl, cycloalkylcarbonyl, 1-(N-methyl-2-piperidinyl)alkyl, 2-(4-morpholynyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)alkyl, 1-(N-methyl-3-morpholynyl)alkyl, or (tetrahydropryan-4-yl)alkyl group, whether or not further substituted in the cyclohexyl ring to any extent, including, but not limited to, CP 47,497, CP 55,490, CP 55,940, CP 56,667, cannabicyclohexanol.

(4) Cyclopropanoylindoles, which includes any compound structurally derived from 3-(cyclopropyl)methanone)indole, 3-(cyclopropylcarbonyl)indole, 3-(cyclobutylmethyl)indole or 3-(cyclopentylmethyl)indole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxalkyl, alkenyl, cycloalkylalkyl, cycloalkylcarbonyl, 1-(N-methyl-2-piperidinyl)alkyl, 2-(4-morpholynyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)alkyl, 1-(N-methyl-3-morpholynyl)alkyl, or (tetrahydropryan-4-yl)alkyl group, whether or not further substituted in the cyclopropyl, cyclobutyl, or cyclopentyl rings to any extent.


(6) Naphthylcyclohexenones, which includes any compound structurally derived from naphthalene-1-yl-(1-naphthyl-1-yl) methanone with substitutions on either of the naphthalene rings to any extent, including, but not limited to, CB-13.

(7) Naphthylpyrroles, which includes any compound structurally derived from 3-(1-naphthyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring by alkyl, haloalkyl, cyanoalkyl, hydroxalkyl, alkenyl, cycloalkylalkyl, cycloalkylcarbonyl, 1-(N-methyl-2-piperidinyl)alkyl, 2-(4-morpholynyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)alkyl, 1-(N-methyl-3-morpholynyl)alkyl, or (tetrahydropryan-4-yl)alkyl group, whether or not not substituted on the cyclopropyl, cyclobutyl, or cyclopentyl rings to any extent.

(8) Naphthylmethylindenes, which includes any compound containing a naphthylideneindene structure or which is structurally derived from 1-(1-naphthylmethy1)indene with substitution at the 3-position of the indene ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropropyan-4-y1)methyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent, including, but not limited to, JWH-171, JWH-176, JWH-220.

(9) Naphthylmethylindoles, which includes any compound structurally derived from an H-indol-3-yl-(1-naphthyl)methane by substitution at the nitrogen atom of the indole ring by alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropropyan-4-y1)methyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including, but not limited to, JWH-175, JWH-184, JWH-185, JWH-192, JWH-194, JWH-195, JWH-196, JWH-197, JWH-199.

(10) Phenylacetylindoles, which includes any compound structurally derived from 3-phenylacetylindole by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, cyanoalkyl, hydroxalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, or 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropropyan-4-y1)methyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including, but not limited to, cannabipiperidiethanone, JWH-167, JWH-170, JWH-201, JWH-202, JWH-203, JWH-204, JWH-205, JWH-206, JWH-207, JWH-208, JWH-209, JWH-237, JWH-248, JWH-249, JWH-250, JWH-251, JWH-253, JWH-302, JWH-303, JWH-304, JWH-305, JWH-306, JWH-311, JWH-312, JWH-313, JWH-314, JWH-315, JWH-316, RCS-8.

(11) Quinolinylindolecarboxylates, which includes any compound structurally derived from quinolin-8-yl-1H-indole-3-carboxylate by substitution at the nitrogen atom of the indole ring with alkyl, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the indole ring to any extent, whether or not substituted in the quinoline ring to any extent, including, but not limited to, BB-22, 5-Fluorop- PB-22, PB-22.

(12) Tetramethylcyclopropanoylindoles, which includes any compound structurally derived from 3-tetramethylcyclopropanoylindole, 3-(1-tetramethylcyclopropyl)indole, 3-(2,2,3,3-tetramethylcyclopropyl)indole or 3-(2,2,3,3-tetramethylcyclopropylcarbonyl)indole with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, hydroxyalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or (tetrahydropropyan-4-y1)methyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the tetramethylcyclopropanoyl ring to any extent, including, but not limited to, 5-bromo-UR-144, 5-fluoro-UR-144, A-796,260, A-834,735, AB-034, UR-144, XLR11.

(13) Tetramethylcyclopropane-thiazole carboxamides, which includes any compound structurally derived from 2,2,3,3-tetramethyl-N-(thiazol-2-ylidene)cyclopropanecarboxamide by substitution at the nitrogen atom of the thiazole ring by alkyl, haloalkyl, benzyl, halobenzyl, alkenyl, haloalkenyl, alkoxy, cyanoalkyl, hydroxyalkyl, cycloalkylmethyl, cycloalkylethyl, (N-methylpiperidin-2-yl)alkyl, (4-tetrahydropyran)alkyl, or 2-(4-morpholinyl)alkyl, whether or not further substituted in the thiazole ring to any extent, whether or not substituted in the tetramethylcyclopropanoyl ring to any extent, including, but not limited to, A-836,339.

(14) Unclassified synthetic cannabinoids, which includes all of the following:

(A) AM-087, (6aR,10aR)-3-{(2-methyl-6-bromohex-2-yl)-6,6,9-t rimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

(B) AM-356, methanandamide, including (5Z,8Z,11Z,14Z) --[(1R)-2-hydroxy-1-methyllethyl]cossa-5,8,11,14-tetraenamide and arachidonyl-1'-hydroxy-2'-propylamide.

(C) AM-411, (6aR,10aR)-3-{(1-adamantyl)-6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

(D) AM-855, (4aR,12bR)-8-hexyl-2,5,5-trimethyl-1 ,4a,4a,8,9,10,11,12b-octahydrobenzoph[3,2-c]isochromen-12-ol.

(E) AM-905, (6aR,9R,10aR)-3-{(E)-hept-1-enyl}-9-(hydroxyethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol.

(F) AM-906, (6aR,9R,10aR)-3-{(Z)-hept-1-enyl}-9-(hydroxyethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol.
(G) AM-2389, (6aR,9R,10aR)-3-(1-hexyl-cyclobut-1-yl)-6 a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d] pyran-1,9 diol.

(H) BAY 38-7271, (-)-(R)-3-(2-Hydroxymethylindanyl-4-xy)phenyl-4,4,4-trifluorobutyl-1-sulfonate.

(I) CP 50,556-1, Levanonatradol, including 9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrobenzen hridin-1-yl]acetate; [(6aR,9R,10aR)-9-hydroxy-6-methyl-3-[ (2R)-5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrobenzan thridin-1-yl]acetate; and [9-hydroxy-6-methyl-3-[5-phenylpentan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrobenzan thridin-1-yl]acetate.

(J) HU-210, including (5aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol; [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol and 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol.

(K) HU-211, Dexanabinol, including (6aS,10aS)-9-(hydroxy methyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

(L) HU-243, 3-dimethylheptyl-11-hydroxyhexahydrocannabinol.

(M) HU-308, [(9R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol.

(N) HU-331, 3-hydroxy-2-[[(1R,6R)-3-methyl-6-1-(m ethylethenyl)]-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione.

(O) HU-336, (6aR,10aR)-6,6,9-trimethyl-3-pentyl-6a,7,10,10a-t etrahydro-1H-benzo[c]chromene-1,4(6H)-dione.

(P) JTE-907, N-(benzol[1,3]dioxol-5-ylmethyl)-7-methoxy-2-oxo-8-pentyloxy-1,2-dihydroquinoline-3-carboxamide.

(Q) JWH-051, [(6aR,10aR)-6,6-dimethyl-3-(2-methyloctan-2-yl)]-6a,7,10,10a-tetrahydrobenzo[c]chromen-9-yl methanol.

(R) JWH-057 (6aR,10aR)-3-(1,1-dimethylheptyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-Dibenzo[b,d]pyran.

(S) JWH-133 (6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-Dibenzo[b,d]pyran.

(T) JWH-359, (6aR,10aR)-1-methoxy-6,6,9-trimethyl-3-[(2R)-1,1,2-trimethylbutyl]-6a,7,10,10a-tetrahydrobenzo[c]chromene.

(U) URB-597 [3-(3-carbamoylphenyl)phenyl]-N-cyclohexylcarbamate.

(V) URB-602 [1,1'Biphenvyl]-3-yl-carbamic acid, cyclohexyl ester; OR cyclohexyl [1,1'-biphenvyl]-3-ylcarbamate.

(W) URB-754 6-methyl-2-[[(4-methoxyphenyl)amin]-4H-3,1-b enzoazin-4-one.

(X) URB-937 3'-carbomoyl-6-hydroxy-[1,1'-biphenvyl]-3-yl cyclohexylcarbamate.

(Y) WIN 55,212-2, including (R)-(+)-[2,3-di hydro-5-methyl-3 -(4-morpholinyl)methyl]pyrrolo[1,2,3-de] -1,4-benzoxazin-6-yl]-1-naphthalenylmethanone and [2,3-Dihydro-5-methyl-3-(4-morp holinylmethyl)pyrrolo [1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone.

(d) The substances or analogs of substances identified in subdivision (c) may be lawfully obtained and used for bona fide research, instruction, or analysis if that possession and use does not violate federal law.

(e) As used in this section, "synthetic cannabinoid compound" does not include either of the following:

(1) Any substance for which there is an approved new drug application, as defined in Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355) or which is generally recognized as safe and effective for use pursuant to Section 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act and Title 21 of the Code of Federal Regulations.

(2) With respect to a particular person, any substance for which an exemption is in effect for investigational use for that person pursuant to Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355), to the extent that the conduct with respect to that substance is pursuant to the exemption.

(Amended by Stats. 2016, Ch. 624, Sec. 2. Effective September 25, 2016.)

11368. Each person who plants, cultivates, harvests, dries, or processes cannabis plants, or any part thereof, except as otherwise provided by law, shall be punished as follows:

(a) Each person under the age of 18 who plants, cultivates, harvests, dries, or processes any cannabis plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Each person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living cannabis plants shall be guilty of an infraction and a fine of not more than one hundred dollars ($100).

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=1... 7/7/2017
(c) Each person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both that fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living cannabis plants, or any part thereof, except as otherwise provided by law, may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if any of the following conditions exist:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

(2) The person has two or more prior convictions under subdivision (c).

(3) The offense resulted in any of the following:

(A) Violation of Section 1052 of the Water Code relating to illegal diversion of water.

(B) Violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of water.

(C) Violation of Section 5650 or 5652 of the Fish and Game Code relating to waters of the state.

(D) Violation of Section 1602 of the Fish and Game Code relating to rivers, streams, and lakes.

(E) Violation of Section 374.8 of the Penal Code relating to hazardous substances or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste.

(F) Violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act, or Section 2000 of the Fish and Game Code relating to the unlawful taking of fish and wildlife.

(G) Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

(Amended by Stats. 2017, Ch. 27, Sec. 123. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

11359. Every person who possesses for sale any cannabis, except as otherwise provided by law, shall be punished as follows:

(a) Every person under the age of 18 who possesses cannabis for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person 18 years of age or over who possesses cannabis for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if:

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (b); or

(3) The offense occurred in connection with the knowing sale or attempted sale of cannabis to a person under the age of 18 years.

(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses cannabis for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any cannabis.

(Amended by Stats. 2017, Ch. 27, Sec. 124. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

11360. (a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any cannabis shall be punished as follows:

(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.
(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three, or four years if:

(A) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(B) The person has two or more prior convictions under paragraph (2);

(C) The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer, or give away cannabis to a person under the age of 18 years; or

(D) The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of cannabis or more than four grams of concentrated cannabis.

(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of cannabis, other than concentrated cannabis, is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, that person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, "transport" means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

(Amended by Stats. 2017, Ch. 27, Sec. 125. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

11361. (a) A person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any cannabis, who unlawfully sells, or offers to sell, any cannabis to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any cannabis to a minor under 14 years of age, or who induces a minor to use cannabis in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

(b) A person 18 years of age or over who furnishes, administers, or gives, or offers to furnish, administer, or give, any cannabis to a minor 14 years of age or older in violation of law shall be punished by imprisonment in the state prison for a period of three, four, or five years.

(Amended by Stats. 2017, Ch. 27, Sec. 126. Effective June 27, 2017.)

11361.1. (a) The drug education and counseling requirements under Sections 11357, 11358, 11359, and 11360 shall be:

(1) Mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

(2) Free to participants, and shall consist of at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of cannabis and other controlled substances.

(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under Sections 11357, 11358, 11359, and 11360.

(Amended by Stats. 2017, Ch. 27, Sec. 127. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

11361.5. (a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of Section 11357 or subdivision (b) of Section 11360, or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (d) of Section 11357, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 to 12, inclusive, during hours the school is open for classes or school-related programs, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this
section. Any court or agency having custody of the records, including the statewide criminal databases, shall provide for the timely destruction of the records in accordance with subdivision (c), and those records shall also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether the defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall commence from the date the person is released from custody. The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

1. Any violation of Section 11357 or a statutory predecessor thereof.
2. Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking cannabis, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.
3. Unlawful visitation or presence in a room or place in which cannabis is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.
4. Unlawfully using or being under the influence of cannabis, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents ($37.50). The application form may be made available at every local police or sheriff’s department and may be made available from the Department of Motor Vehicles, of the application. The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department’s request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars ($10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c), and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall
be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

(Amended by Stats. 2017, Ch. 27, Sec. 128. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

11361.7. (a) Any record subject to destruction or permanent obliteration pursuant to Section 11361.5, or more than two years of age, or a record of a conviction for an offense specified in subdivision (a) or (b) of Section 11361.5 which became final more than two years previously, shall not be considered to be accurate, relevant, timely, or complete for any purposes by any agency or person. The provisions of this subdivision shall be applicable for purposes of the Privacy Act of 1974 (5 U.S.C. Section 552a) to the fullest extent permissible by law, whenever any information or record subject to destruction or permanent obliteration under Section 11361.5 was obtained by any state agency, local public agency, or any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, and is thereafter shared with or disseminated to any agency of the federal government.

(b) No public agency shall alter, amend, assess, condition, deny, limit, postpone, qualify, revoke, surcharge, or suspend any certificate, franchise, incident, interest, license, opportunity, permit, privilege, right, or title of any person because of an arrest or conviction for an offense specified in subdivision (a) or (b) of Section 11361.5, or because of the facts or events leading to such an arrest or conviction, on or after the date the records of such arrest or conviction are required to be destroyed by subdivision (a) of Section 11361.5, or two years from the date of such conviction or arrest without conviction with respect to arrests and convictions occurring prior to January 1, 1976. As used in this subdivision, "public agency" includes, but is not limited to, any state, county, city and county, city, public or constitutional corporation or entity, district, local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency thereof.

(c) Any person arrested or convicted for an offense specified in subdivision (a) or (b) of Section 11361.5 may, two years from the date of such a conviction, or from the date of the arrest if there was no conviction, indicate in response to any question concerning his prior criminal record that he was not arrested or convicted for such offense.

(d) The provisions of this section shall be applicable without regard to whether destruction or obliteration of records has actually been implemented pursuant to Section 11361.5.

(Added by Stats. 1976, Ch. 952.)

11361.8. (a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.

(2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.

(c) A person who is serving a sentence and is resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Section 3000.08 of the Penal Code or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.

(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(e) A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would
have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.

(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).

(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.

(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under the Control, Regulate and Tax Adult Use of Marijuana Act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).

(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.

(n) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

(Added November 8, 2016, by initiative Proposition 64, Sec. 8.7.)

11362. As used in this article “felony offense,” and offense “punishable as a felony” refer to an offense prior to July 1, 2011, for which the law prescribes imprisonment in the state prison, or for an offense on or after July 1, 2011, imprisonment in either the state prison or pursuant to subdivision (h) of Section 1170 of the Penal Code, as either an alternative or the sole penalty, regardless of the sentence the particular defendant received.

(Amended by Stats. 2011, Ch. 15, Sec. 163. Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 66.)

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

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

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

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

(4) Smoke or ingest cannabis or cannabis products; and

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

(b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. Sec. 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute cannabis accessories.
(c) Cannabis and cannabis products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

(Amended by Stats. 2017, Ch. 27, Sec. 129. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

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

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

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

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

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

(2) Notwithstanding paragraph (1), a city, county, or city and county shall not completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

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

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

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

(Amended by Stats. 2017, Ch. 27, Sec. 130. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

11362.3. (a) Section 11362.1 does not permit any person to:

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

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

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

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

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

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Division 10 (commencing with Section 26000) of the Business and Professions Code.

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

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

(b) For purposes of this section, the following definitions apply:
(1) "Day care center" has the same meaning as in Section 1596.76.

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

(3) "Volatile solvent" means a solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures.

(4) "Youth center" has the same meaning as in Section 11353.1.

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

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

(b) A person who engages in the conduct described in paragraphs (2), (3), or (4) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar ($250) fine, unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

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

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

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

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

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

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

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

(Amended by Stats. 2017, Ch. 27, Sec. 132. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

11362.45 Section 11362.1 does not amend, repeal, affect, restrict, or preempt:

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

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

(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.
(d) Laws pertaining to smoking or ingesting cannabis or cannabis products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

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

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

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

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

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

(Amended by Stats. 2017, Ch. 27, Sec. 133. Effective June 27, 2017. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)

11362.5. (a) This section shall be known and may be cited as the Compassionate Use Act of 1996.

(b) (1) The people of the State of California hereby find and declare that the purposes of the Compassionate Use Act of 1996 are as follows:

(A) To ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief.

(B) To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction.

(C) To encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.

(2) Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for nonmedical purposes.

(c) Notwithstanding any other provision of law, no physician in this state shall be punished, or denied any right or privilege, for having recommended marijuana to a patient for medical purposes.

(d) Section 11357, relating to the possession of marijuana, and Section 11358, relating to the cultivation of marijuana, shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician.

(e) For the purposes of this section, "primary caregiver" means the individual designated by the person exempted under this section who has consistently assumed responsibility for the housing, health, or safety of that person.

(Added November 5, 1996, by initiative Proposition 215, Sec. 1.)

11362.9. (a) (1) It is the intent of the Legislature that the state commission objective scientific research by the premier research institute of the world, the University of California, regarding the efficacy and safety of administering cannabis as part of medical treatment. If the Regents of the University of California, by appropriate resolution, accept this responsibility, the University of California shall create a program, to be known as the California Cannabis Research Program. Whenever "California Marijuana Research Program" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the California Cannabis Research Program.

(2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of cannabis and, if found valuable, shall develop medical guidelines for the appropriate administration and use of cannabis. The studies may include studies to ascertain the effect of cannabis on motor skills.

(b) The program may immediately solicit proposals for research projects to be included in the cannabis studies. Program requirements to be used when evaluating responses to its solicitation for proposals, shall include, but not be limited to, all of the following:
(1) Proposals shall demonstrate the use of key personnel, including clinicians or scientists and support personnel, who are prepared to develop a program of research regarding cannabis' general medical efficacy and safety.

(2) Proposals shall contain procedures for outreach to patients with various medical conditions who may be suitable participants in research on cannabis.

(3) Proposals shall contain provisions for a patient registry.

(4) Proposals shall contain provisions for an information system that is designed to record information about possible study participants, investigators, and clinicians, and deposit and analyze data that accrues as part of clinical trials.

(5) Proposals shall contain protocols suitable for research on cannabis, addressing patients diagnosed with acquired immunodeficiency syndrome (AIDS) or human immunodeficiency virus (HIV), cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The proposal may also include research on other serious illnesses, provided that resources are available and medical information justifies the research.

(6) Proposals shall demonstrate the use of a specimen laboratory capable of housing plasma, urine, and other specimens necessary to study the concentration of cannabinoids in various tissues, as well as housing specimens for studies of toxic effects of cannabis.

(7) Proposals shall demonstrate the use of a laboratory capable of analyzing cannabis, provided to the program under this section, for purity and cannabinoid content and the capacity to detect contaminants.

(c) In order to ensure objectivity in evaluating proposals, the program shall use a peer review process that is modeled on the process used by the National Institutes of Health, and that guards against funding research that is biased in favor of or against particular outcomes. Peer reviewers shall be selected for their expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the applicants or the topic of an approach taken in the proposed research. Peer reviewers shall judge research proposals on several criteria, foremost among which shall be both of the following:

(1) The scientific merit of the research plan, including whether the research design and experimental procedures are potentially biased for or against a particular outcome.

(2) Researchers' expertise in the scientific substance and methods of the proposed research, and their lack of bias or conflict of interest regarding the topic of, and the approach taken in, the proposed research.

(d) If the program is administered by the Regents of the University of California, any grant research proposals approved by the program shall also require review and approval by the research advisory panel.

(e) It is the intent of the Legislature that the program be established as follows:

(1) The program shall be located at one or more University of California campuses that have a core of faculty experienced in organizing multidisciplinary scientific endeavors and, in particular, strong experience in clinical trials involving psychopharmacologic agents. The campuses at which research under the auspices of the program is to take place shall accommodate the administrative offices, including the director of the program, as well as a data management unit, and facilities for storage of specimens.

(2) When awarding grants under this section, the program shall utilize principles and parameters of the other well-tested statewide research programs administered by the University of California, modeled after programs administered by the National Institutes of Health, including peer review evaluation of the scientific merit of applications.

(3) The scientific and clinical operations of the program shall occur, partly at University of California campuses, and partly at other postsecondary institutions, that have clinicians or scientists with expertise to conduct the required studies. Criteria for selection of research locations shall include the elements listed in subdivision (b) and, additionally, shall give particular weight to the organizational plan, leadership qualities of the program director, and plans to involve investigators and patient populations from multiple sites.

(4) The funds received by the program shall be allocated to various research studies in accordance with a scientific plan developed by the Scientific Advisory Council. As the first wave of studies is completed, it is anticipated that the program will receive requests for funding of additional studies. These requests shall be reviewed by the Scientific Advisory Council.

(5) The size, scope, and number of studies funded shall be commensurate with the amount of appropriated and available program funding.

(f) All personnel involved in implementing approved proposals shall be authorized as required by Section 11604.

(g) Studies conducted pursuant to this section shall include the greatest amount of new scientific research possible on the medical uses of, and medical hazards associated with, cannabis. The program shall consult with the Research Advisory Panel analogous agencies in other states, and appropriate federal agencies in an attempt to avoid duplicative research and the wasting of research dollars.
(h) The program shall make every effort to recruit qualified patients and qualified physicians from throughout the state.

(i) The cannabis studies shall employ state-of-the-art research methodologies.

(j) The program shall ensure that all cannabis used in the studies is of the appropriate medical quality and shall be obtained from the National Institute on Drug Abuse or any other federal agency designated to supply cannabis for authorized research. If these federal agencies fail to provide a supply of adequate quality and quantity within six months of the effective date of this section, the Attorney General shall provide an adequate supply pursuant to Section 11478.

(k) The program may review, approve, or incorporate studies and research by independent groups presenting scientifically valid protocols for medical research, regardless of whether the areas of study are being researched by the committee.

(l) (1) To enhance understanding of the efficacy and adverse effects of cannabis as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of cannabis in patients diagnosed with AIDS or HIV, cancer, glaucoma, or seizures or muscle spasms associated with a chronic, debilitating condition. The program may add research on other serious illnesses, provided that resources are available and medical information justifies the research. The studies shall focus on comparisons of both the efficacy and safety of methods of administering the drug to patients, including inhalational, tinctural, and oral, evaluate possible uses of cannabis as a primary or adjunctive treatment, and develop further information on optimal dosage, timing, mode of administration, and variations in the effects of different cannabinoids and varieties of cannabis.

(2) The program shall examine the safety of cannabis in patients with various medical disorders, including cannabis’s interaction with other drugs, relative safety of inhalation versus oral forms, and the effects on mental function in medically ill persons.

(3) The program shall be limited to providing for objective scientific research to ascertain the efficacy and safety of cannabis as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of cannabis.

(m) (1) Subject to paragraph (2), the program shall, prior to any approving proposals, seek to obtain research protocol guidelines from the National Institutes of Health and shall, if the National Institutes of Health issues research protocol guidelines, comply with those guidelines.

(2) If, after a reasonable period of time of not less than six months and not more than a year has elapsed from the date the program seeks to obtain guidelines pursuant to paragraph (1), no guidelines have been approved, the program may proceed using the research protocol guidelines it develops.

(n) In order to maximize the scope and size of the cannabis studies, the program may do any of the following:

(1) Solicit, apply for, and accept funds from foundations, private individuals, and all other funding sources that can be used to expand the scope or timeframe of the cannabis studies that are authorized under this section. The program shall not expend more than 5 percent of its General Fund allocation in efforts to obtain money from outside sources.

(2) Include within the scope of the cannabis studies other cannabis research projects that are independently funded and that meet the requirements set forth in subdivisions (a) to (c), inclusive. In no case shall the program accept any funds that are offered with any conditions other than that the funds be used to study the efficacy and safety of cannabis as part of medical treatment. Any donor shall be advised that funds given for purposes of this section will be used to study both the possible benefits and detriments of cannabis and that he or she will have no control over the use of these funds.

(o) (1) Within six months of the effective date of this section, the program shall report to the Legislature, the Governor, and the Attorney General on the progress of the cannabis studies.

(2) Thereafter, the program shall issue a report to the Legislature every six months detailing the progress of the studies. The interim reports required under this paragraph shall include, but not be limited to, data on all of the following:

(A) The names and number of diseases or conditions under study.

(B) The number of patients enrolled in each study by disease.

(C) Any scientifically valid preliminary findings.

(p) If the Regents of the University of California implement this section, the President of the University of California shall appoint a multidisciplinary Scientific Advisory Council, not to exceed 15 members, to provide policy guidance in the creation and implementation of the program. Members shall be chosen on the basis of scientific expertise. Members of the council shall serve on a voluntary basis, with reimbursement for expenses incurred in the course of the council's activities.
their participation. The members shall be reimbursed for travel and other necessary expenses incurred in their
performance of the duties of the council.

(q) No more than 10 percent of the total funds appropriated may be used for all aspects of the administration of this
section.

(r) This section shall be implemented only to the extent that funding for its purposes is appropriated by the
Legislature in the annual Budget Act.

(Amended by Stats. 2017, Ch. 27, Sec. 150. Effective June 27, 2017. Note: Sections 11362.7 to 11362.85 are in Article 2.5,
which follows this section.)
Health & Safety
Code Article 2.5
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DIVISION 10. UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651] (Division 10 repealed and added by Stats. 1972, Ch. 1407.)

CHAPTER 6. Offenses and Penalties [11350 - 11392] (Chapter 6 added by Stats. 1972, Ch. 1407.)

ARTICLE 2.5. Medical Marijuana Program [11362.7 - 11362.85] (Article 2.5 added by Stats. 2003, Ch. 875, Sec. 2.)

11362.7. For purposes of this article, the following definitions shall apply:

(a) "Attending physician" means an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of cannabis is appropriate.

(b) "Department" means the State Department of Public Health.

(c) "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 this article.

(d) "Primary caregiver" means the individual, designated by a qualified patient, who has consistently assumed responsibility for the housing, health, or safety of that patient, and may include any of the following:

1. In a 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 Chapter 1 (commencing with Section 1200) of Division 2, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1230) of Division 2, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2, 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.

(e) A primary caregiver shall be at least 18 years of age, 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 Section 6922, 7002, 7050, or 7120 of the Family Code.

(f) "Qualified patient" means a person who is entitled to the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.

(g) "Identification card" means a document issued by the department that identifies a person authorized to engage in the medical use of cannabis and the person's designated primary caregiver, if any.

(h) "Serious medical condition" means all of the following medical conditions:

1. Acquired immune deficiency syndrome (AIDS).
2. Anorexia.
(3) Arthritis.
(4) Cachexia.
(5) Cancer.
(6) Chronic pain.
(7) Glaucoma.
(8) Migraine.
(9) Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis.
(10) Seizures, including, but not limited to, seizures associated with epilepsy.
(11) Severe nausea.
(12) Any other chronic or persistent medical symptom that either:
(A) Substantially limits the ability of the person to conduct one or more major life activities as defined in the federal Americans with Disabilities Act of 1990 (Public Law 101-336).
(B) If not alleviated, may cause serious harm to the patient's safety or physical or mental health.
(i) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of Section 11362.715, and that the patient may submit as part of an application for an identification card.

11362.71. (a) (1) The department shall establish and maintain a voluntary program for the issuance of identification cards to qualified patients who satisfy the requirements of this article and voluntarily apply to the identification card program.
(2) The department shall establish and maintain a 24-hour, toll-free telephone number that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of an identification card issued by the department, until a cost-effective Internet Web-based system can be developed for this purpose.
(b) Every county health department, or the county's designee, shall do all of the following:
(1) Provide applications upon request to individuals seeking to join the identification card program.
(2) Receive and process completed applications in accordance with Section 11362.72.
(3) Maintain records of identification card programs.
(4) Utilize protocols developed by the department pursuant to paragraph (1) of subdivision (d).
(5) Issue identification cards developed by the department to approved applicants and designated primary caregivers.
(c) The county board of supervisors may designate another health-related governmental or nongovernmental entity or organization to perform the functions described in subdivision (b), except for an entity or organization that cultivates or distributes cannabis.
(d) The department shall develop all of the following:
(1) Protocols that shall be used by a county health department or the county's designee to implement the responsibilities described in subdivision (b), including, but not limited to, protocols to confirm the accuracy of information contained in an application and to protect the confidentiality of program records.
(2) Application forms that shall be issued to requesting applicants.
(3) An identification card that identifies a person authorized to engage in the medical use of cannabis and an identification card that identifies the person's designated primary caregiver, if any. The two identification cards developed pursuant to this paragraph shall be easily distinguishable from each other.
(e) No person or designated primary caregiver in possession of a valid identification card shall be subject to arrest for possession, transportation, delivery, or cultivation of medicinal cannabis in an amount established pursuant to this article, unless there is probable cause to believe that the information contained in the card is false or falsified, the card has been obtained by means of fraud, or the person is otherwise in violation of the provisions of this article.
(f) It shall not be necessary for a person to obtain an identification card in order to claim the protections of Section 11362.5.

11362.712. (Amended by Stats. 2017, Ch. 27, Sec. 134. Effective June 27, 2017.)

http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=1... 7/7/2017
(a) Commencing on January 1, 2018, a qualified patient must possess a physician’s recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.

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

(Added November 8, 2016, by initiative Proposition 64, Sec. 5.1.)

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

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

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

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

(Added November 8, 2016, by initiative Proposition 64, Sec. 5.2.)

11362.715. (a) A person who seeks an identification card shall pay the fee, as provided in Section 11362.755, and provide all of the following to the county health department or the county’s designee on a form developed and provided by the department:

(1) The name of the person and proof of his or her residency within the county.

(2) Written documentation by the attending physician in the person’s medical records stating that the person has been diagnosed with a serious medical condition and that the medicinal use of cannabis is appropriate.

(3) The name, office address, office telephone number, and California medical license number of the person’s attending physician.

(4) The name and the duties of the primary caregiver.

(5) A government-issued photo identification card of the person and of the designated primary caregiver, if any. If the applicant is a person under 18 years of age, a certified copy of a birth certificate shall be deemed sufficient proof of identity.

(b) If the person applying for an identification card lacks the capacity to make medical decisions, the application may be made by the person’s legal representative, including, but not limited to, any of the following:

(1) A conservator with authority to make medical decisions.

(2) An attorney-in-fact under a durable power of attorney for health care or surrogate decisionmaker authorized under another advanced health care directive.

(3) Any other individual authorized by statutory or decisional law to make medical decisions for the person.

(c) The legal representative described in subdivision (b) may also designate in the application an individual, including himself or herself, to serve as a primary caregiver for the person, provided that the individual meets the definition of a primary caregiver.
(d) The person or legal representative submitting the written information and documentation described in subdivision (a) shall retain a copy thereof.

(Amended by Stats. 2017, Ch. 27, Sec. 136. Effective June 27, 2017.)

11362.72. (a) Within 30 days of receipt of an application for an identification card, a county health department or the county's designee shall do all of the following:

(1) For purposes of processing the application, verify that the information contained in the application is accurate. If the person is less than 18 years of age, the county health department or its designee shall also contact the parent with legal authority to make medical decisions, legal guardian, or other person or entity with legal authority to make medical decisions, to verify the information.

(2) Verify with the Medical Board of California or the Osteopathic Medical Board of California that the attending physician has a license in good standing to practice medicine or osteopathy in the state.

(3) Contact the attending physician by facsimile, telephone, or mail to confirm that the medical records submitted by the patient are a true and correct copy of those contained in the physician's office records. When contacted by a county health department or the county's designee, the attending physician shall confirm or deny that the contents of the medical records are accurate.

(4) Take a photograph or otherwise obtain an electronically transmissible image of the applicant and of the designated primary caregiver, if any.

(5) Approve or deny the application. If an applicant who meets the requirements of Section 11362.715 can establish that an identification card is needed on an emergency basis, the county or its designee shall issue a temporary identification card that shall be valid for 30 days from the date of issuance. The county, or its designee, may extend the temporary identification card for no more than 30 days at a time, so long as the applicant continues to meet the requirements of this paragraph.

(b) If the county health department or the county's designee approves the application, it shall, within 24 hours, or by the end of the next working day of approving the application, electronically transmit the following information to the department:

(1) A unique user identification number of the applicant.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(c) The county health department or the county's designee shall issue an identification card to the applicant and to his or her designated primary caregiver, if any, within five working days of approving the application.

(d) In any case involving an incomplete application, the applicant shall assume responsibility for rectifying the deficiency. The county shall have 14 days from the receipt of information from the applicant pursuant to this subdivision to approve or deny the application.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.735. (a) An identification card issued by the county health department shall be serially numbered and shall contain all of the following:

(1) A unique user identification number of the cardholder.

(2) The date of expiration of the identification card.

(3) The name and telephone number of the county health department or the county's designee that has approved the application.

(4) A 24-hour, toll-free telephone number, to be maintained by the department, that will enable state and local law enforcement officers to have immediate access to information necessary to verify the validity of the card.

(5) Photo identification of the cardholder.

(b) A separate identification card shall be issued to the person's designated primary caregiver, if any, and shall include a photo identification of the caregiver.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.74. (a) The county health department or the county's designee may deny an application only for any of the following reasons:

(1) The applicant did not provide the information required by Section 11362.715, and upon notice of the deficiency pursuant to subdivision (d) of Section 11362.72, did not provide the information within 30 days.
(2) The county health department or the county’s designee determines that the information provided was false.

(3) The applicant does not meet the criteria set forth in this article.

(b) Any person whose application has been denied pursuant to subdivision (a) may not reapply for six months from the date of denial unless otherwise authorized by the county health department or the county’s designee or by a court of competent jurisdiction.

(c) Any person whose application has been denied pursuant to subdivision (a) may appeal that decision to the department. The county health department or the county’s designee shall make available a telephone number or address to which the denied applicant can direct an appeal.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.745. (a) An identification card shall be valid for a period of one year.

(b) Upon annual renewal of an identification card, the county health department or its designee shall verify all new information and may verify any other information that has not changed.

(c) The county health department or the county’s designee shall transmit its determination of approval or denial of a renewal to the department.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.755. (a) Each county health department or the county’s designee may charge a fee for all costs incurred by the county or the county’s designee for administering the program pursuant to this article.

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

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

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

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

(Amended November 8, 2016, by initiative Proposition 64, Sec. 5.3.)

11362.76. (a) A person who possesses an identification card shall:

(1) Within seven days, notify the county health department or the county’s designee of any change in the person’s attending physician or designated primary caregiver, if any.

(2) Annually submit to the county health department or the county’s designee the following:

(A) Updated written documentation of the person’s serious medical condition.

(B) The name and duties of the person’s designated primary caregiver, if any, for the forthcoming year.

(b) If a person who possesses an identification card fails to comply with this section, the card shall be deemed expired. If an identification card expires, the identification card of any designated primary caregiver of the person shall also expire.

(c) If the designated primary caregiver has been changed, the previous primary caregiver shall return his or her identification card to the department or to the county health department or the county’s designee.

(d) If the owner or operator or an employee of the owner or operator of a provider has been designated as a primary caregiver pursuant to paragraph (1) of subdivision (d) of Section 11362.7, of the qualified patient or person with an identification card, the owner or operator shall notify the county health department or the county’s designee, pursuant to Section 11362.715, if a change in the designated primary caregiver has occurred.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.765. (a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. This section does not authorize the individual to smoke or otherwise consume cannabis unless otherwise
authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute

cannabis for profit.

(b) Subdivision (a) shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes cannabis for his or her

own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away cannabis for

medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the

qualified patient of the primary caregiver, or to the person with an identification card who has designated the

individual as a primary caregiver.

(3) An individual who provides assistance to a qualified patient or a person with an identification card, or his or her
designated primary caregiver, in administering medicinal cannabis to the qualified patient or person or acquiring the

skills necessary to cultivate or administer cannabis for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred

for services provided to an eligible qualified patient or person with an identification card to enable that person to use

cannabis under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both,

shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360.

(Amended by Stats. 2017, Ch. 27, Sec. 137. Effective June 27, 2017.)

11362.768. (a) This section shall apply to individuals specified in subdivision (b) of Section 11362.765.

(b) No medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider who possesses,
cultivates, or distributes medicinal cannabis pursuant to this article shall be located within a 600-foot radius of a

school.

(c) The distance specified in this section shall be the horizontal distance measured in a straight line from the

property line of the school to the closest property line of the lot on which the medicinal cannabis cooperative,
collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures.

(d) This section shall not apply to a medicinal cannabis cooperative, collective, dispensary, operator, establishment,
or provider that is also a licensed residential medical or elder care facility.

(e) This section shall apply only to a medicinal cannabis cooperative, collective, dispensary, operator, establishment,
or provider that is authorized by law to possess, cultivate, or distribute medicinal cannabis and that has a storefront
or mobile retail outlet which ordinarily requires a local business license.

(f) Nothing in this section shall prohibit a city, county, or city and county from adopting ordinances or policies that

further restrict the location or establishment of a medicinal cannabis cooperative, collective, dispensary, operator,
establishment, or provider.

(g) This section does not preempt local ordinances, adopted prior to January 1, 2011, that regulate the location or

establishment of a medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider.

(h) For the purposes of this section, "school" means any public or private school providing instruction in

kindergarten or any of grades 1 to 12, inclusive, but does not include any private school in which education is
primarily conducted in private homes.

(Amended by Stats. 2017, Ch. 27, Sec. 138. Effective June 27, 2017.)

11362.769. Indoor and outdoor medical cannabis cultivation shall be conducted in accordance with state and local

laws. State agencies, including, but not limited to, the Department of Food and Agriculture, the State Board of
Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the
California regional water quality control boards, and traditional state law enforcement agencies shall address
environmental impacts of medical cannabis cultivation and shall coordinate, when appropriate, with cities and

counties and their law enforcement agencies in enforcement efforts.

(Amended by Stats. 2016, Ch. 32, Sec. 66. Effective June 27, 2016.)

11362.77. (a) A qualified patient or primary caregiver may possess no more than eight ounces of dried cannabis per

qualified patient. In addition, a qualified patient or primary caregiver may also maintain no more than six mature or
12 immature cannabis plants per qualified patient.

(b) If a qualified patient or primary caregiver has a physician’s recommendation that this quantity does not meet the

qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of cannabis
consistent with the patient's needs.
(c) Counties and cities may retain or enact medicinal cannabis guidelines allowing qualified patients or primary caregivers to exceed the state limits set forth in subdivision (a).

(d) Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of cannabis under this section.

(e) A qualified patient or a person holding a valid identification card, or the designated primary caregiver of that qualified patient or person, may possess amounts of cannabis consistent with this article.

(Amended by Stats. 2017, Ch. 27, Sec. 139. Effective June 27, 2017.)

11362.775. (a) Subject to subdivision (d), qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate cannabis for medicinal purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570.

(b) A collective or cooperative that operates pursuant to this section and manufactures medicinal cannabis products shall not, solely on the basis of that fact, be subject to state criminal sanctions under Section 11379.6 if the collective or cooperative abides by all of the following requirements:

(1) The collective or cooperative does either or both of the following:

(A) Utilizes only manufacturing processes that are either solventless or that employ only nonflammable, nontoxic solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(B) Utilizes only manufacturing processes that use solvents exclusively within a closed-loop system that meets all of the following requirements:

(i) The system uses only solvents that are generally recognized as safe pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.).

(ii) The system is designed to recapture and contain solvents during the manufacturing process, and otherwise prevent the off-gassing of solvents into the ambient atmosphere to mitigate the risks of ignition and explosion during the manufacturing process.

(iii) A licensed engineer certifies that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, including, but not limited to, the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), or OSHA Nationally Recognized Testing Laboratories (NRTLs).

(iv) The system has a certification document that contains the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

(2) The collective or cooperative receives and maintains approval from the local fire official for the closed-loop system, other equipment, the extraction operation, and the facility.

(3) The collective or cooperative meets required fire, safety, and building code requirements in one or more of the following:

(A) The California Fire Code.

(B) The National Fire Protection Association (NFPA) standards.

(C) International Building Code (IBC).

(D) The International Fire Code (IFC).

(E) Other applicable standards, including complying with all applicable fire, safety, and building codes in processing, handling, and storage of solvents or gasses.

(4) The collective or cooperative is in possession of a valid seller's permit issued by the State Board of Equalization.

(5) The collective or cooperative is in possession of a valid local license, permit, or other authorization specific to the manufacturing of medicinal cannabis products, and in compliance with any additional conditions imposed by the city or county issuing the local license, permit, or other authorization.

(c) For purposes of this section, "manufacturing" means compounding, converting, producing, deriving, processing, or preparing, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, medicinal cannabis products.

(d) This section shall remain in effect only until one year after the Bureau of Cannabis Control posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medicinal and
Adult-Use Cannabis Regulation and Safety Act (Division 10 (commencing with Section 26000) of the Business and Professions Code).

(e) This section is repealed one year after the date upon which the notice is posted pursuant to subdivision (d).

(Amended byStats. 2017, Ch. 27, Sec. 140. Effective June 27, 2017. Inoperative and repealed on date prescribed by its own provisions.)

11362.78. A state or local law enforcement agency or officer shall not refuse to accept an identification card issued pursuant to this article unless the state or local law enforcement agency or officer has probable cause to believe that the information contained in the card is false or fraudulent, or the card is being used fraudulently.

(Amended by Stats. 2017, Ch. 27, Sec. 142. Effective June 27, 2017.)

11362.785. (a) Nothing in this article shall require any accommodation of medicinal use of cannabis on the property or premises of a place of employment or during the hours of employment or on the property or premises of a jail, correctional facility, or other type of penal institution in which prisoners reside or persons under arrest are detained.

(b) Notwithstanding subdivision (a), a person shall not be prohibited or prevented from obtaining and submitting the written information and documentation necessary to apply for an identification card on the basis that the person is incarcerated in a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained.

(c) This article does not prohibit a jail, correctional facility, or other penal institution in which prisoners reside or persons under arrest are detained, from permitting a prisoner or a person under arrest who has an identification card, to use cannabis for medicinal purposes under circumstances that will not endanger the health or safety of other prisoners or the security of the facility.

(d) This article does not require a governmental, private, or any other health insurance provider or health care service plan to be liable for a claim for reimbursement for the medicinal use of cannabis.

(Amended by Stats. 2017, Ch. 27, Sec. 143. Effective June 27, 2017.)

11362.79. This article does not authorize a qualified patient or person with an identification card to engage in the smoking of medicinal cannabis under any of the following circumstances:

(a) In a place where smoking is prohibited by law.

(b) In or within 1,000 feet of the grounds of a school, recreation center, or youth center, unless the medicinal use occurs within a residence.

(c) On a schoolbus.

(d) While in a motor vehicle that is being operated.

(e) While operating a boat.

(Amended by Stats. 2017, Ch. 27, Sec. 144. Effective June 27, 2017.)

11362.795. (a) (1) Any criminal defendant who is eligible to use cannabis pursuant to Section 11362.5 may request that the court confirm that he or she is allowed to use medicinal cannabis while he or she is on probation or released on bail.

(2) The court's decision and the reasons for the decision shall be stated on the record and an entry stating those reasons shall be made in the minutes of the court.

(3) During the period of probation or release on bail, if a physician recommends that the probationer or defendant use medicinal cannabis, the probationer or defendant may request a modification of the conditions of probation or bail to authorize the use of medicinal cannabis.

(4) The court's consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(b) (1) Any person who is to be released on parole from a jail, state prison, school, road camp, or other state or local institution of confinement and who is eligible to use medicinal cannabis pursuant to Section 11362.5 may request that he or she be allowed to use medicinal cannabis during the period he or she is released on parole. A parolee's written conditions of parole shall reflect whether or not a request for a modification of the conditions of his or her parole to use medicinal cannabis was made, and whether the request was granted or denied.

(2) During the period of the parole, where a physician recommends that the parolee use medicinal cannabis, the parolee may request a modification of the conditions of the parole to authorize the use of medicinal cannabis.
(3) Any parolee whose request to use medicinal cannabis while on parole was denied may pursue an administrative appeal of the decision. Any decision on the appeal shall be in writing and shall reflect the reasons for the decision.

(4) The administrative consideration of the modification request authorized by this subdivision shall comply with the requirements of this section.

(Amended by Stats. 2017, Ch. 27, Sec. 145. Effective June 27, 2017.)

11362.8. A professional licensing board shall not impose a civil penalty or take other disciplinary action against a licensee based solely on the fact that the licensee has performed acts that are necessary or appropriate to carry out the licensee's role as a designated primary caregiver to a person who is a qualified patient or who possesses a lawful identification card issued pursuant to Section 11362.72. However, this section shall not apply to acts performed by a physician relating to the discussion or recommendation of the medical use of cannabis to a patient. These discussions or recommendations, or both, shall be governed by Section 11362.5.

(Amended by Stats. 2017, Ch. 27, Sec. 146. Effective June 27, 2017.)

11362.81. (a) A person specified in subdivision (b) shall be subject to the following penalties:

(1) For the first offense, imprisonment in the county jail for no more than six months or a fine not to exceed one thousand dollars ($1,000), or both.

(2) For a second or subsequent offense, imprisonment in the county jail for no more than one year, or a fine not to exceed one thousand dollars ($1,000), or both.

(b) Subdivision (a) applies to any of the following:

(1) A person who fraudulently represents a medical condition or fraudulently provides any material misinformation to a physician, county health department or the county's designee, or state or local law enforcement agency or officer, for the purpose of falsely obtaining an identification card.

(2) A person who steals or fraudulently uses any person's identification card in order to acquire, possess, cultivate, transport, use, produce, or distribute cannabis.

(3) A person who counterfeits, tampers with, or fraudulently produces an identification card.

(4) A person who breaches the confidentiality requirements of this article to information provided to, or contained in the records of, the department or of a county health department or the county's designee pertaining to an identification card program.

(c) In addition to the penalties prescribed in subdivision (a), a person described in subdivision (b) may be precluded from attempting to obtain, or obtaining or using, an identification card for a period of up to six months at the discretion of the court.

(d) In addition to the requirements of this article, the Attorney General shall develop and adopt appropriate guidelines to ensure the security and nondiversion of cannabis grown for medicinal use by patients qualified under the Compassionate Use Act of 1996.

(Amended by Stats. 2017, Ch. 27, Sec. 147. Effective June 27, 2017.)

11362.82. If any section, subdivision, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion thereof.

(Added by Stats. 2003, Ch. 875, Sec. 2. Effective January 1, 2004.)

11362.83. Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following:

(a) Adopting local ordinances that regulate the location, operation, or establishment of a medicinal cannabis cooperative or collective.

(b) The civil and criminal enforcement of local ordinances described in subdivision (a).

(c) Enacting other laws consistent with this article.

(Amended by Stats. 2017, Ch. 27, Sec. 148. Effective June 27, 2017.)

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

(Added November 8, 2016, by initiative Proposition 64, Sec. 5.4.)
11362.85. Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify cannabis, the Legislature may amend or repeal the provisions of this code, as necessary, to conform state law to such changes in federal law.

(Amended by Stats. 2017, Ch. 27, Sec. 149. Effective June 27, 2017. Note: Section 11362.9 is in Article 2, following Section 11362.5. Note: This section was amended on Nov. 8, 2016, by initiative Prop. 64.)
Attachment 10
BUSINESS AND PROFESSIONS CODE - BPC
DIVISION 10. Cannabis [26000 - 26231.2] (Heading of Division 10 amended by Stats. 2017, Ch. 27, Sec. 3.)

CHAPTER 5. Licensing [26050 - 26059] (Chapter 5 added November 8, 2016, by initiative Proposition 64, Sec. 61.)

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

1. Type 1—Cultivation; Specialty outdoor; Small.
2. Type 1A—Cultivation; Specialty indoor; Small.
3. Type 1B—Cultivation; Specialty mixed-light; Small.
4. Type 1C—Cultivation; Specialty cottage; Small.
5. Type 2—Cultivation; Outdoor; Small.
6. Type 2A—Cultivation; Indoor; Small.
7. Type 2B—Cultivation; Mixed-light; Small.
8. Type 3—Cultivation; Outdoor; Medium.
9. Type 3A—Cultivation; Indoor; Medium.
10. Type 3B—Cultivation; Mixed-light; Medium.
11. Type 4—Cultivation; Nursery.
12. Type 5—Cultivation; Outdoor; Large.
13. Type 5A—Cultivation; Indoor; Large.
14. Type 5B—Cultivation; Mixed-light; Large.
15. Type 6—Manufacturer 1.
16. Type 7—Manufacturer 2.
17. Type 8—Testing laboratory.
18. Type 10—Retailer.
19. Type 11—Distributor.
20. Type 12—Microbusiness.

(b) With the exception of testing laboratory licenses, which may be used to test cannabis and cannabis products regardless of whether they are intended for use by individuals who possess a physician’s recommendation, all licenses issued under this division shall bear a clear designation indicating whether the license is for commercial adult-use cannabis activity as distinct from commercial medicinal cannabis activity by prominently affixing an “A” or “M,” respectively. Examples of such a designation include, but are not limited to, “A-Type 1” or “M-Type 1.” Except as specifically specified in this division, the requirements for A-licenses and M-licenses shall be the same. For testing laboratories, the bureau shall create a license that indicates a testing laboratory may test both adult-use and medicinal cannabis.

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

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

(Added by Stats. 2017, Ch. 27, Sec. 31. Effective June 27, 2017. Note: This section was added on Nov. 8, 2016, by initiative Prop. 64.)
Attachment 11
There is concern for public health and safety with the legalization of the recreational use of marijuana. Numerous articles and reports on public health and safety, including those specifically mentioned below, can be found at www.beverlyhills.org/marijuana. Of concern is that Colorado has experienced an increase in traffic fatalities involving marijuana and the number of hospitalizations related to marijuana has also increased.

Public Health

In the “Monitoring Health Concerns Related to Marijuana in Colorado: 2016” report by Colorado’s Department of Health and Environment, they reviewed scientific literature on potential health effects of marijuana use. Some of those studies have moderate to substantial evidence that marijuana does have some detrimental health effects which are listed below:

- Weekly marijuana use by adolescents is associated with impaired learning, memory, math and reading, even 28 days after last use.
- Strong evidence shows that marijuana smoke contains many of the same cancer-causing chemicals found in tobacco smoke.
- It can take up to four hours after consuming an edible marijuana product to reach the peak THC (tetrahydrocannabinol, the main psychoactive component of marijuana) blood concentration and feel the full effects.
- The risk of a motor vehicle crash increases among drivers with recent marijuana use and, the higher the blood THC level the higher the motor vehicle crash risk.
- Strong evidence shows that daily or near daily marijuana users are more likely to have impaired memory lasting a week or more after quitting.
- Biological evidence shows that THC passes through the placenta to the fetus, so that the unborn child is exposed to THC. THC also has been shown to pass through breast milk to a breastfeeding child. There is moderate evidence that suggests if a child’s mother used marijuana while pregnant there could be impaired cognitive function and attention.

Additionally, the use of marijuana by both youths and adults has increased since the legalization of marijuana in Colorado. The national average for youth (ages 12-17 years old) marijuana use is 7.20%. Colorado is at 11.13%, the highest in the nation. The national average for adult use is 19.70%, while in Colorado it is at 31.75%.

Hospitalizations

Per the Colorado Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics released in “Marijuana Legalization in Colorado: Early Findings”, hospitalizations have increased since the legalization of marijuana. Prior to the legalization of medical marijuana, the rate of hospitalizations due to marijuana was 575 per 100,000. During the medical marijuana era, this increased to 803 hospitalizations per 100,000. When retail commercialization of marijuana occurred, there was a significant increase to 2,413 hospitalizations per 100,000. This data excludes Emergency Department visits.

In the “SUPPLEMENT to: “The Legalization of Marijuana in Colorado: The Impact, Volume 4, September 2016”, Emergency Department visits have increased by 35% since the legalization of recreational marijuana going from 660 per 100,000 to 889 per 100,000.
Traffic Accidents

Marijuana-related traffic deaths increased 48% in the three-year average (2013-2015) since Colorado legalized recreational marijuana compared to the three-year average (2010-2012) prior to legalization. During the same time period, all traffic deaths increased 11%. Also of note, the number of driving under the influence of drugs (DUIDs) involving marijuana has increased from 674 per year in 2014 to over 760 in 2016.

In 2009, Colorado marijuana-related traffic deaths involving operators testing positive for marijuana represented 10% of all traffic fatalities. By 2015, that number doubled to 21%.

Additionally, since Washington State legalized recreational marijuana use, marijuana-related DUIDs accidents have also doubled. The Washington State Traffic Safety Commission also reports that drivers with active THC in their blood involved in a fatal driving accident have increased by 122% from 2010 (16) to 2014 (23).

Crimes at or near Marijuana Businesses

Marijuana-industry-related crime is where licensed marijuana businesses were either the victim or perpetrator of a crime. In Denver, burglary or attempted burglary accounted for 64% of marijuana-industry-related crime while theft accounted for another 11% of marijuana-industry-related crime in 2014. Overall, marijuana businesses make up less than 1% of all businesses in Denver but account for approximately 11% of all reported business burglaries from 2012-2015. However, marijuana industry-related crime represents less than ½ of 1% of overall crime in Denver. In 2015, of the 192 marijuana industry-related crimes, 117 were burglaries and 21 were for theft.

A 2016 study, “A Micro-Temporal Geospatial Analysis of Medical Marijuana Dispensaries and Crime in Long Beach California” found that an increase of one dispensary per square mile related to a 0.4% to 2.6% increase in property crime. Additionally, greater densities of medical marijuana dispensaries were related to higher rates of violent crimes in areas adjacent to the dispensary locations. The 2016 study found that a citywide decline in dispensaries from the March 2012 peak of 37 dispensaries to the August/September 2013 low of 5 dispensaries, was associated with a decline of 182.5 violent crimes per year and 219.3 property crimes per year.

Comparatively, an equivalent drop of alcohol outlets was associated with a decline of only 26.2 violent crimes and 113.9 property crimes per year. These results suggest that local agencies that enact and enforce bans on dispensaries will reduce crime in neighborhoods next to where the dispensaries are located.

While advocates for cannabis-based businesses will state that overall arrests for marijuana have declined significantly since the legalization of marijuana in places like Colorado and Washington, this is most likely due to the fact that possession and being under the influence in public (but not driving) is now legal.
Attachment 12
ORDINANCE NO. ______

AN ORDINANCE OF THE CITY OF BEVERLY HILLS
PROHIBITING ALL COMMERCIAL CANNABIS
ACTIVITY (BOTH MEDICAL AND NON-MEDICAL)
EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS,
MAKING RELATED MUNICIPAL CODE AMENDMENTS,
AND FINDING THE ORDINANCE EXEMPT FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BEVERLY
HILLS DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings and Purpose.

A. The City of Beverly Hills, California (the “City”) is a municipal corporation, duly organized under the constitution and laws of the State of California.

B. On November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). The AUMA added Division 10 to the California Business and Professions Code, sections 26000, et seq., which grants State agencies the authority to create, issue, renew, discipline, suspend, or revoke licenses for cannabis businesses. The AUMA provides that the State shall begin issuing licenses to cannabis businesses under Division 10 of the California Business and Professions Code by January 1, 2018. California Business and Professions Code section 26055(e) provides that a State licensing authority shall not approve an application for a State license for commercial non-medical cannabis activity if approval of the State license will violate the provisions of any local ordinance.

C. On October 9, 2015, Governor Brown signed Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643 into law, which were collectively known as the Medical Cannabis Regulation and Safety Act (hereinafter “MCRSA”). The MCRSA established a State licensing scheme for commercial medical cannabis 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. It is anticipated that on January 1, 2018, the State will begin issuing licenses to medical cannabis businesses. The MCRSA allowed the City to completely prohibit commercial medical cannabis activities.

D. On June 22, 2017, the Planning Commission of the City of Beverly Hills held a public hearing on this proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the Planning Commission on these matters. Following the receipt of public testimony the Planning Commission closed the public hearing.

E. At the conclusion of the Planning Commission hearing and after due consideration of the testimony, the Planning Commission adopted Resolution No. 1813 recommending that the City Council adopt the proposed Ordinance, to prohibit all commercial cannabis activity except for the delivery of medical cannabis.
F. On June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"). The MAUCRSA retains the provisions in the MCRSA and the AUMA that granted local jurisdictions control over whether commercial cannabis activity could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses licensed under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a business to engage in commercial cannabis activity if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority begin issuing licenses to marijuana businesses beginning January 1, 2018.

F-G. On July 18, 2017, the City Council of the City of Beverly Hills held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following the receipt of public testimony the City Council closed the public hearing.

G-H. All legal prerequisites to the adoption of this Ordinance have occurred.

SECTION 2. The definition of "Person" contained in Section 1-2-1 (Application of Definitions) of Chapter 2 (Definitions) of Title 1 (General Provisions) is hereby amended to read as follows:

“PERSON: A natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, cooperative, and collective, and any manager, lessee, agent, servant, officer or employee thereof.”

SECTION 3. The definition of Marijuana Dispensary, Store, Co-Op, or Cultivation Operation from Section 10-3-100 (Words Defined) of Article 1 (Definitions) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning) is hereby deleted, with all other definitions remaining in effect without amendment.

SECTION 4. The City Council of the City of Beverly Hills hereby deletes Section 10-3-2761 (Marijuana Dispensary, Store, Co-Op, or Cultivation Operation Prohibited) from Article 27 (Other Uses and Building Restrictions) of Chapter 3 (Zoning) of Title 10 (Planning and Zoning).

SECTION 5. The City Council of the City of Beverly Hills hereby adds Article 47 (Cannabis Prohibitions and Regulations) to Chapter 3 (Zoning) of Title 10 (Planning and Zoning) to read as follows:

“ARTICLE 47 CANNABIS PROHIBITIONS AND REGULATIONS

Section 10-3-4700: Purpose.
10-3-4700  Purpose.

A. The purpose of this article is to expressly prohibit the establishment of commercial cannabis uses in the city.

B. The city council finds that prohibitions on commercial cannabis activity are necessary for the preservation and protection of the public health, safety, and welfare of the city. The prohibition of such uses is within the authority conferred upon the city council by State law and is an exercise of its police powers to enact and enforce regulations for the public health, safety and welfare of the city.

10-3-4701  Definitions.

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

A. "AUMA" means the Control, Regulate and Tax Adult Use of Marijuana Act approved by the voters on November 8, 2016, as the same may be amended from time to time.

B. "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 California Health and Safety Code section 11018, as it is amended from time to time. "Cannabis" includes cannabis that is used for medical, non-medical, or other purposes.

"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. "Cannabis" also does not include industrial hemp, as defined in California Health and Safety Code section 11018.5.

C. "Cannabis accessories" means any equipment, products or materials of any kind which is 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 cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body.

D. "Cannabis product" means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
“Commercial cannabis activity” means the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, non-medical, or any other purpose and includes the activities of any business licensed by the State or other government entity under Chapter 3.5 of Division 3 or Division 10 of the California Business and Professions Code, or any provision of State law that permits regulates the licensing of cannabis businesses.

“Concentrated cannabis” means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product’s potency. Resin from granular trichomes from a cannabis plant is a concentrate.

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

“Delivery” means the commercial transfer of cannabis or cannabis products to a customer. “Delivery” also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under California law that enables customers to arrange for or facilitate the commercial transfer by a State licensed retailer of cannabis or cannabis products.

“Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed under Chapter 3.5 of Division 8 or Division 10 of the California Business and Professions Code, as they may be amended from time to time.

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“MAUCRSA” means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the Business and Professions Code, as the same may be amended from time to time.

“MCRSA” means the Medical Cannabis Regulation and Safety Act as contained, codified, enacted, and signed into law on October 9, 2015, as Assembly Bill No. 243, Assembly Bill No. 266, and Senate Bill 643, as the same may be amended from time to time.

“Private residence” means a house, an apartment unit, condominium, or other similar dwelling that is lawfully used as a residence.

10-3-4702 Prohibited uses and activities.

A. Commercial cannabis activity, whether or not for profit, is prohibited in all zones, specific plan areas, and overlay zones of the city. No person shall establish, operate, maintain, conduct, allow, or engage in commercial cannabis activity anywhere within the city. To the extent that this prohibition conflicts with any other provision of this Municipal Code, this prohibition will control.

B. A property owner shall not rent, lease or otherwise permit any person or business that engages in commercial cannabis activity to occupy real property in the city. A property
owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in commercial cannabis activity on any real property owned or controlled by that property owner that is located in the city.

C. Subsection A above shall prohibit all activities for which a State license is required pursuant to the MCRSA or the AUMAMAUCRSA, as the same may be amended from time to time. Accordingly, the city shall not issue any permit, license or other entitlement for any activity for which a State license is required under the MCRSA or the AUMAMAUCRSA, as the same may be amended from time to time. The city shall also not issue any local license to a non-profit entity pursuant to California Business and Professions Code section 26070.5.

D. To the extent not already prohibited by subsection A above, all deliveries of cannabis or cannabis products for non-medical purposes, to or from any location are expressly prohibited. No person shall conduct or perform any delivery of any cannabis or cannabis products for a non-medical purpose, which delivery either originates or terminates within the city. This subsection shall not prohibit any person from transporting cannabis through the jurisdictional limits of the city for delivery or distribution to a person located outside the city, where such transport does not involve delivery or distribution within the jurisdictional limits of the city.

10-3-4703 Exceptions.

A. Notwithstanding Subsection 10-3-4702 above, the delivery of medical cannabis from a business located outside the city and licensed under the MCRSA, or any other provision of law that permits State licenses for medical cannabis businesses, shall be permitted into the city.

B. To the extent that the following activities are permitted by State law, nothing in this article shall prohibit a person 21 years of age or older from:

1. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;

2. Possessing, processing, purchasing, transporting, obtaining or giving away to persons 21 years of age or older, without compensation whatsoever, up to eight grams of cannabis in the form of concentrated cannabis;

3. Smoking or ingesting cannabis or cannabis products except as prohibited by California Health and Safety Code section 11362.3;

4. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons 21 years of age or older without compensation whatsoever; or

5. Engaging in the cultivation of six or fewer live cannabis plants within a single private residence, inside an accessory structure located upon the grounds of a private residence, or if grown outdoors within a locked space that is not visible by normal, unaided
vision from a public place.

C. This article shall also not prohibit any commercial cannabis activity that the city is required by State law to permit within its jurisdiction pursuant to the MAUCRSA.

10-3-4705 Violation, penalty.

In addition to any other enforcement permitted by this Section 10-3-205 of the Beverly Hills Municipal Code, the city attorney or city prosecutor may bring a civil action for injunctive relief and civil penalties against any person or entity that violates this chapter. In any civil action brought pursuant to this article, a court of competent jurisdiction may award reasonable attorneys’ fees and costs to the prevailing party. Notwithstanding the penalties set forth in Section 10-3-205 of the Beverly Hills Municipal Code, no provision of Section 10-3-205 or this Article 47 authorizes a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code section 11362.71, et seq. or section 11362.1, et seq., as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under Section 10-3-205 of the Beverly Hills Municipal Code and any penalties set forth in State law, the maximum penalties allowable under State law shall govern.”

SECTION 6. The Ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines, and the environmental regulations of the City. Planning Division staff has determined that the adoption and implementation of the Ordinance is eligible for a class 5 categorical exemption for minor changes in land use limitations and will not have a significant environmental impact. The Ordinance is exempt from the environmental review requirements of CEQA pursuant to Section 15305 of Title 14 of the California Code of Regulations. Planning Division Staff has also determined that the proposed ProjectOrdinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) and the City’s CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the adoption and implementation of the Ordinance to the proposed Project to prohibit commercial cannabis activity except for the delivery of medical cannabis will have a significant effect on the environment. The proposed Project adoption and implementation of the Ordinance will not result in a permanent alteration of property nor the construction of any new or expanded structures. The City Council has reviewed Planning Division Staff’s determination of exemption, and based on its own independent judgment, concurs with Staff’s determination of exemption. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Los Angeles in accordance with CEQA Guidelines.

SECTION 7. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or
portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 8. Restatement of Existing Law. Neither the adoption of this Ordinance nor the repeal of any other Ordinance of this City shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 9. Publication. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the city within fifteen (15) days after its passage in accordance with Section 36933 of the Government Code, shall certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this city.

SECTION 10. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:  
Effective:  

______________________________
LILI BOSSE  
Mayor of the City of Beverly Hills

ATTEST:  

______________________________ (SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:   
APPROVED AS TO CONTENT:  

______________________________  
LAURENCE S. WIENER  
City Attorney  

______________________________  
MAHDI ALUZRI  
City Manager
Attachment 13
NOTICE OF PUBLIC HEARING

The Beverly Hills City Council, at its regular meeting to be held on **Tuesday, July 18, 2017, at 7:00 p.m.**, in the City Hall Council Chamber, 455 N. Rexford Drive, Beverly Hills, CA, will hold a public hearing to consider adoption of:

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING ALL COMMERCIAL CANNABIS ACTIVITY (BOTH MEDICAL AND NON-MEDICAL) EXCEPT FOR DELIVERIES OF MEDICAL CANNABIS, AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The proposed Ordinance would amend the definition of “person” contained in Section 1-2-1 of Chapter 2 of Title 1 of the Beverly Hills Municipal Code to include the words cooperative and collective as part of the definition.

The proposed Ordinance would add Article 47 to Chapter 3 of Title 10 of the Beverly Hills Municipal Code to prohibit all commercial cannabis activity in the City. “Commercial cannabis activity” is defined to include the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, delivery or sale of cannabis and cannabis products. The term “commercial cannabis activity” also means and includes the activities of any business licensed by the State or other government entity under Division 10 of the Business and Professions Code, as it may be amended from time to time. The prohibition on commercial cannabis activity would apply to cannabis used for medical, non-medical, or any other purpose.

The proposed Ordinance contains an exception that allows for the delivery of medical cannabis into the city. Additionally, consistent with State law, the prohibitions adopted under the proposed Ordinance will not prohibit a person twenty-one (21) years of age or older from: (1) possessing, processing, purchasing, transporting, obtaining or giving away to persons twenty-one (21) years of age or older, without compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis or up to eight (8) grams in the form of concentrated cannabis; (2) smoking or ingesting marijuana or marijuana products; or (3) possessing, transporting, purchasing, obtaining, using, manufacturing or giving away marijuana accessories to persons twenty-one (21) years of age or older without compensation whatsoever, to the extent that such activities are
authorized by Health and Safety Code Sections 11362.1 and 11362.2, as the same may be amended from time to time.

The Planning Commission, at a duly noted public hearing conducted on June 22, 2017, approved a resolution recommending that the City Council adopt an Ordinance which will add Article 47, Cannabis Prohibitions and Regulations, to Chapter 3 of Title 10 of the City's zoning code, and recommending that the City Council find that the Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") and the City's CEQA Guidelines pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment. The proposed Ordinance will not result in a permanent alteration of property nor the construction of any new or expanded structures.

After the Planning Commission considered and made a recommendation on the proposed Ordinance, the Governor signed SB 94 into law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act. The ordinance presented to the City Council will take into account revisions prompted by SB 94.

Any interested person may attend the meeting and be heard or present written comments to the City Council.

According to Government Code Section 65009, if you challenge the City Council's action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City, either at or prior to the public hearing.

If there are any questions regarding this notice, please contact Cynthia Owens, Senior Management Analyst in the City Manager's Office at 310.285.1026, or by email at cowens@beverlyhills.org. The case file, including associated documents are on file in the City Manager's Office, and can be reviewed by any interested person at 455 North Rexford Drive, Beverly Hills, CA 90210.

BYRON POPE, MMC
City Clerk

In accordance with the Americans with Disabilities Act, the Council Chamber is wheelchair accessible and is equipped with audio equipment for the hearing impaired. If you need special assistance to attend this meeting, please call the City Clerk's Office at (310) 285-2400 or TTY (310) 285-6881. Please notify the City Clerk's Office at least forty-eight (48) hours prior to the meeting if you require captioning service so that reasonable arrangements can be made.
Cannabis Regulation & Summary Deck

For over two decades California has been the leader in not only the Cannabis Culture but, the industry and now the revolutionized solutions to the oversight, policy and regulations. Due to the recent legalization and regulations via State bill “Medical Cannabis Regulation and Safety Act” (MCRSA) and citizen enacted “Adult Use Of Marijuana Act” (AUMA), Municipal cities and counties have until January 2nd, 2018 to conclude whether or not they would like to allow Recreational Cannabis Activity to occur in their city or waive right to collect tax and regulate such businesses. As some authorities have not weighed in or even speculated on decisions to make on the issue before, right now is essentially crunch time when it comes to making such resolutions or allowances. Some have already made bans in anticipation to the coming influx of this newly legalized and rapidly growing industry. With little time and many areas of the industry to cover and address as well as implement a proper and reasonable strategy to set forth bi-partisan regulation, here are the essential tools to prepare staff and council with the knowledge on not only the Industry overall and businesses within but, the ways Policy can be scripted to address each of the businesses accordingly with proper understanding.

Summary:

- **Federal:**

  The Trump Administrations Attorney General Jeff Sessions, whom of which recognizes those who have a need it Medically but, is in still in strong opposition to states legalizing Recreational and even Medical to an extent use of it and therefore would presumably push for a "Federal Crackdown," particularly states like California. To waiver off a Federal Imposition of State Sovereignty, the State of California in February hired The Obama Administration's Former Attorney General Eric Holder to preserve and uphold the recent State's emancipations and citizen amendments. In addition to a "push back" ready California which since hiring Eric Holder has passed AB 1578, an assembly bill that made California The First Sanctuary State of Cannabis, Republican Lawmakers in Virginia created and written a Bill to be submitted into Congress; a bill that would effectively and immediately eliminate The Schedule 1 ruling on Marijuana. Unlike what Vermont Senator Bernie Sanders had presented in 2014, this Bill is more concurrent, progressive and heavily supported by a reasonable number of Co-Sponsors, mainly of
GOP States; Senator Sanders received no Co-Sponsors or legitimate support on the floor or outside of Congress. In time since taking the aggressive and inhumane stance against states legalizing both Medical and Recreational Cannabis, Mr. Sessions was granted $0 by Congress for a federal crackdown on Medical Cannabis and is facing strong opposition from even his constituents which has since prolonged him from taking any actions to either market.

- **State:**

As the year has gone by to this point, state legislators have prepared and submitted into the assembly 72 Bills concerning the regulations of Medical and Recreational Cannabis. These bills include the procedure, rules and standards that all businesses and operations in the industry Statewide must abide by including, the policies of compliance instructed by Municipal Authorities, implementation of Track and Trace system for "Seed to Sale" records, use of licensed third party distributors and transportation companies to carry and ship product from Cultivators, Manufacturers and Testing sites to Micro-businesses and Retailers also licensed, restrictions on the milligram level of Tetrahydrocannabinol made by Manufacturers and sold by Micro-businesses and Retailers, prepackaged and labeled products that are appropriate, reasonable with no resemblance to candy and artistic depictions that could be considered catering to minors or children under 12. As most of these bills only require a two-third majority vote from the Fiscal Committees in Assembly via Proposition 64, once the final amendments have been submitted and marked into legislature the State Assembly will be looking to make their decisions and votes before Recess in August.

- **Medical and Recreational Regulation:**

The CalCanCultivation Licensing Assembly Hearings have held public testimony from Advocates and other participants in the industry in order to further the progress of the final regulations and help legislatures finish the Proposed Provisions for Assembly Leaders and Committees to vote on. In this period of time it is the local jurisdictions responsibility to make a decision, in which the allowance of the businesses is granted, as the local permit and proof of compliance will be the determining factor for businesses eligible for a State License. Upon a Resolution to adopt the State Law(S) there must be a ballot measure for taxes to be collected from recreational operations. Medical procedures will be permitted through C.U.P.s just as Alcohol related businesses whereas Council and Staff have the option to schedule Regulatory or Conditional Use permits for commercial activity of any kind. A local business license procedure would be optimal to have as a first step of procedure in applying for a Permit of any kind.
Principal Points:

As I have heard many times in my career from consumers and patients themselves, the older and higher end patients in particular, is that they appreciate the safe access they have in order to obtain their medicine. With too many dangers and risk on the black market and the severity of some of their conditions, the ability to have their needs tended to by trusted and reasonable means is greatly valued. A more specific example is one night I was at a local social lounge in Los Angeles and a man remarked to me how he appreciates having a retailer in which the product is tested, properly labeled with a staff knowledgeable on the medicine and what can be used for each ailment. He also made mention that he appreciates having a place where he can receive his prescription and go to the back yard to "burn a joint." "If I didn't have this place I'd be pounding whiskey at the bar for hours on end; here I am in a much healthier environment and around nicer, more productive people."

Of course, we go to Recreational and ask, "what is the benefit in having a bunch of stoners getting high just for taxes." Well we could say the same what's the point of having a bars on every block and a Starbucks every quarter of a mile, whether it is a storefront or kiosk. To evaluate this fairly, alcohol is a part of modern day culture as well as coffee so it is not going away or trending off in the least; not to mention some of these “stoners” are genuine consumers and qualified patients who just so happen to indulge in something outside the norm and more than less likely are residents of the local community itself. There is no need to say everyone should feel accounted for including those who do not partake however, those who do consume and partake in the activity should not be marginalized and also fairly and reasonable addressed.

The Cannabis Culture of California is widely known, glamorized and popular for years now. This is what people know to be a part of the "Cali-Lifestyle," and is something on many tourist from within the country as well as outside the country's to do list when experiencing this lifestyle; I am not suggesting to feed expectations however, bearing those mindsets as well as the general safe and easy access for consumers and/or patients, would prove as a very lucrative source of revenue and funding for the City.

Another aspect in the realm of Recreational Cannabis is the fact that regardless of the jurisdiction itself, should a neighbor of the city have permitted such activities and this one has not, in addition to not having the privilege of state funds to regulate this activity, especially public infractions and D.U.I related activity, these are Tax Monies of which the city cannot collect to put toward their public projects.

The state laws for Medical Cannabis are very clear, and for the local level to proceed there aren't much steps except deciding, yay or nay, volume and rules to be outlined and revised to put through into action. When it comes to Recreational Cannabis it can become more perplexing. Given those of the age can receive Cannabis from other of the legal age and even businesses, there may be if not immediately, eventually an interest from restaurants, hotels or even local coffee shops may arise to partake in such "gifting." Of course I site this being possible
concern grifting the line as an entrepreneur myself; if I charged seven dollars for a refillable coffee but, offered a complimentary joint with the coffee, it can't be considered a direct sale because there was only compensation towards the coffee. This is not necessarily a problem but, in order to restrict and trace practice, record taxes as well as maintain proper record for the state bureau it should be addressed as well. If these type of activities are to be allowed and ventures are successful, there must be a way in which taxes can be collected and iterated in literature for legislative processes to ensue.

Given the nature of the situation, the best thing is to prepare for as much as possible and create a long term and preemptive strategy to minimize adverse impacts, support the citizens response for allowance, create regulations and rules that will promote a positive yet, discreet and professional environment for these businesses to survive and comprehensive measures to balance this new wave of industry from both the Medical and Recreational businesses arising. Keep in mind that there will also be regular and more or less likely corporate businesses and franchises that may want to partake in the Industry as well by means of traditional retail or of the “gifting” process. For example, it may not be legal to sell an Item of this nature without permits, licensure or being taxed for the sell however, I can have the designated price of a Soy Latte at $7.50 and "gift" my customer two joints to enjoy with it.

Credible Examples:

States Legalizing Medical and Recreational:

- Arizona in 2010 passed Proposition 203 and since has grown to have 122 Registered Medical Dispensaries. Despite the failure of Proposition 205 the state still looks to support the effort of local advocates and Cannabis business owners. They have essentially the same process the passage of Proposition 215 here had, where a Caregiver system was implemented and patients must receive a Recommendation from a Physician to see the Caregiver. There is only however Medical Marijuana no Legal Marijuana for Adult Use.

- Colorado since legalizing Medical in the 90's and Recreational as of the later years, has had ups and downs as well as pivotal swings in what many other states have looked at essential do's and don't's. One of the main assortment of complications came from the immense amount of product to track. As of late, they have solved this with the infamous "Track and Trace" system that even California will be adopting and soon using for the State industry here. Some of the other issues to obviously occur was the Committees or Administrations overseeing, regulating and collecting the taxes. Once the operations within compliance took in the cash, which is literally what they take in, there was such an influx as to what was expected in 2015, they had to give a large portion of the tax money back. In more recent times the state has cleared up the storm and settled to become the nation’s leader in the industry with even the first Marijuana Hotel/Resort as well as other productive changes in the industry of which other states and
business leaders take their model approach. The State Lawmakers as well as residents have merged and accepted the Cannabis culture greatly and allowed the benefits of legalization and taxation to help communities and social projects tremendously for years now. While there is still a relatively moderate amount of crime in Colorado even since that time, studies and reports have been published on behalf of local groups, enforcement agencies and credible sources have proven that none of these crimes have correlation to Cannabis of any kind. In fact studies show that crimes involving Cannabis for both the Medical and Recreational Industry have gone down by 62% since legalization.

- **Oregon** although, like California is more recent in the Cannabis game, has already implemented a Statewide Tracking system, similar to Colorado but, given the density of the state, more simple to follow through and keep up with every line of activity including transaction through the State. They have a similar tax base to California allowing taxation on the Municipal, County and State Level. While they have about the same running as far as policy, regulation and tax basis are concerned, they are actually showing to be quite ahead of California, even requiring, caregivers and anyone involved with the product, including owners, a Marijuana Workers Permit.

- **Washington** following suit with Colorado Legalized Marijuana for Adult and Medical Use and since having a number of Dispensaries violate laws of selling to minors, the licensing and oversight of the industry went to the State Liquor and Tax Board in 2015. Since that time they have had no problems and even before the switch of Administrative Oversight, the state was doing well in taxes collected from sales as well as benefits for the health of the state and its citizens.

**Local Municipalities Moving Permissively:**

- Adelanto
- Adelanto
- Carson
- Cathedral City
- Coachella
- Coalinga
- Costa Mesa
- Dixon
- Fillmore
- Gonzalez
- Greenfield Fee
- Grover Beach
- Hayward
- King City
- Long Beach
Intent and Purpose:

The overall intent and purpose of Framework drafted by planning must be to offer a regulated, safe and accessible market for consumers of legal age and qualified patients with regards to the whole community and residents thereof, in order to preserve and protect the cities values as well as integrity of public. While the goal is creating a plan to permit and regulate this industry with city limits allowing consumers and patients to migrate from the black market, there must be action through provisional legislature to eliminate any and all illicit black market dealings, as well as hold businesses of this nature, the operators, owners and employees of such, accountable within such written and Council approved standards of conduct. To ensure community safety the following is a breakdown of how the Policy must address each and every one of these individual business operations by License Type as well as examples of the application fee, permit basis, cost and recovery fees for administrative services involved per license type.

Brief Description and State License Types:

In order to take the appropriate steps forward let us look at the Types of Operations that take place in the Industry:

License Types:

Type 1 = Cultivation; Specialty outdoor; Small.
Type 1A = Cultivation; Specialty indoor; Small.
Type 1B = Cultivation; Specialty mixed-light; Small.
Type 2 = Cultivation; Outdoor; Small.
Type 2A = Cultivation; Indoor; Small.
Type 2B = Cultivation; Mixed-light; Small.
Type 3 = Cultivation; Outdoor; Medium.
Type 3A = Cultivation; Indoor; Medium.
Type 3B = Cultivation; Mixed-light; Medium.
Type 4 = Cultivation; Nursery.
Type 5 = Cultivation; Outdoor; Large.
Type 5A = Cultivation; Indoor; Large.
Type 5B = Cultivation; Mixed-light; Large.
Type 6 = Manufacturer 1.
Type 7 = Manufacturer 2.
Type 8 = Testing.
Type 10 = Retailer.
Type 11 = Distributor.
Type 12 = Microbusiness

Description:

"Cultivation"

- Cultivation covers not only the more traditional side of agriculture in the Cannabis business whether it be Outdoor Closed Loop or Greenhouse but, also the modern use of industrial lights, CO2 vents for circulation and a more controlled environment. When this topic comes to mind most believe it is purely their neighbor or a plot on the commercial side of town trying to "pop Seeds and grow" so to speak. This is not necessarily the case as many people are becoming acute to the Indoor grow operations and considering the standards of discretion they can meet more attractive than Outdoor growing.

"Delivery"

- Although now changing, Delivery is the use of vehicle to transfer particular quantities of Raw-Cannabis and/or Cannabis Extract from point A to B. They have a special courier license that permits them to deliver in cities that have not banned dispensaries or use.

"Distribution"
- The activity by which the Primary Cultivator, Manufacturer, Nursery, Retailer or Testing Site use a vehicle in order to send product from Point A to B. This may also occur through Third Party Intervention.

"Manufacturing"

- The Use of Raw-Cannabis in order to mass produce THC or CBD infused or graded products. Some methods of manufacturing include flammable, solvent and sometimes volatile substances, whereas food products such as the medicated Brownies, Animal Treats, Drinks and so forth require no such process.

"Nursery"

- Facilities where premature Plants are stored and await use or Distribution.

"Testing"

- The Act of insure quality, additive-free, clean and proper curated product. Traditionally done off site by a third party to insure the appropriate procedure and adequate procedure is undergone. All sites have fully suited certified Med Technicians handling the product and procedures and onsite administration.

"Retail/Retailer"

- Medical and Recreational retail have two different ways of operating although run the same platform of business. Both serve as the outlets of Cannabis for either reason and are known for carrying edibles, Tinctures, extracted THC products among other things. In the Medical outlet you'll find more of a clinic environment; a waiting room, staff to evaluate and log your Medical Evaluation and of course the product room where the Patient is tended to based on the ailment and prescribed the appropriate Flower and/or vaporizer. A Recreational outlet you must be an adult and must obey all State Laws set forth toward Recreational Purchase, Use or Gifling.

"Micro-Business"

- These are a new emerging form of business that revolve around having a duel system; meaning they may be a Retail and Onsite Cultivator as well as any other combination of business with License Types. While they may use only so much space and have so much activity for either side of their business, it still is significantly unique to that of the other ones within the industry.

Location by License Type and/or Requirements:

For protection of the community and to provide a reasonably regulated and safely accessible Market to citizens and qualified patients of the city of Lake Elsinore and to Control, Regulate and Tax Cannabis businesses based on the state License Type.
**Development Standards:**

A. All Cannabis Business Sites

(I) 1. Shall not operate within the distance restrictions of the uses as described in Business and Professions Code Section 19322 or;

(II) 2. Are not to be located within 600 feet of any property zoned R.E, R.I, R.U, R.M, R.M.H or R.H and/or 300 feet within property area zoned for child daycares, schools parks or areas where children or minors are known to heavily frequent.

(Only Industrial and Manufacturing Parks, Mixed Use Buildings, Stand Alone Buildings, Commercial M-1, M-2, C-1 and C-2 properties and/or areas and properties rezoned specifically as such may be used.)

(I) **1. All Cannabis Businesses:**

- Must maintain Physical Appearance in accordance to surround and neighboring businesses and properties (Internally and Externally)
- Must keep Appropriate and/or Reasonable Hours of Operation
- Must employ proper management staff meeting the criterial age requirements.
- Must employ qualified Managerial and Supervising Staff
- Must perform frequent Upkeep and Maintenance of premises
- Must post proper Signage including clear prohibition of Minors
- Must use appropriate means of security or use of security team and/or agency
- Must use safe or Maximally Secured Vault for all Cash kept on Premises
- Must use proper means of transportation for cash and all forms of cannabis and its derivatives, going to and from designated site and vice versa (i.e use of security, vehicle etc.).
- Must practice permanent waste management and proper disposal techniques including trash receptacles and dumpsters to be locked and restricted from access by the public.
- Odor Control and appropriate ventilation.
- Windows, doors and openings to have opaque cover restricting sight from exterior of the building.
- Partitioned entrances and exit ways.
- Exterior Signage conforming to surrounding establishments
- Exclusion of words on the outside that contain the words, wording and/or referencing of or to "marijuana," "cannabis," and/or derivatives thereof, with no bearable of pictures,
mural graphics or depictions referencing and/or relating to "Marijuana," "Cannabis" and/or any derivatives thereof the substance.
- No residential conversion or living quarters on the premise.
- Shall not use Portable or Temporary Structures.
- Must have required business permits and licenses current and clearly displayed at entrance inside the building.
- Must permanently installed, operational video surveillance, monitors and recording devices both externally and internal, which have full view of all areas except employee bathrooms, with minimal and minimum parameters; capturing full view of the public right-of-way and any parking lot under control of business; adequate quality, color, rendition and resolution to allow the ready identification of any potential individual committing a crime on the interior or exterior of the property; recording capability to fourteen (14) days of logged history; 24/7 running system.
- Must use professionally Installed burglar and fire systems with third party vendor that has 24/7 year round staffing.
- Must have security staff in place and on site during hours of Operation.
- No controlled substance including any Cannabis product that violates applicable state law.
- Must maintain properly ventilated premise to prevent permeation outside the premises.
- Will allow on site consumption as regulated by City.
- Shall allow delivery reserved to outlet as legally permitted by State.
- Are to be taxed monthly through gross receipts, separated, to be collected and directed to the City if the nature is Non-Medical (NM). Medical businesses will pay a fee based on the operation itself and a fee based on canopy or square footage of the premise in use. This fee is paid upon being granted a permit and upon renewal.

(II) 2. Cannabis, Dispensaries, Micro-businesses and Retailers:

- Shall not operate between hours of 11 a.m and 6 a.m.
- Must install safe, vault or both for storage of cash and processed cannabis; for any cannabis infused products that require refrigeration or are to be kept frozen, the refrigerator and/or cold storage container is to be locked when closed.
- Shall not allow person or persons other than of legal age consumers, qualified patients, permittee, licensee, employee, contractor or individual authorized by the State, shall be allowed on the premise.
- Shall not allow consultations by medical professionals to take place on the premises.
- Shall maintain an enclosed environment on the premise in order to block visibility of the outside public at all times.
- Shall maintain a zero tolerance to smoking cannabis and tobacco on the premises, unless a qualified patient has an immediate medical need or the "Adult Use" Retailer or business is permitted for on-site consumption. In the case of urgent medical need, the patient may be prescribed a cannabis infused edible for consumption and/or cannabis tincture or device used for smoking and vaporization.
Permit Application and renewal - review and approval:

Upon an Application being submitted for review or renewal towards permit, the applicant(s) shall pay an application fee of $1,000, and pay the required fee associated with permit to be issued upon approval. This fee includes cost of Administrative Services used in the Approval process including and not limited to; Inspection by the Fire Department, review from Community Development and Planning, review by Board and Health and Safety Commission and any other Staff Departments that this issue pertains to; the total amount of square feet or canopy space registered for use on the premise in the application to be charged; and fee specific to License Type of Business. These collected fees would be allocated to the general fund where Council would consider the uses such as, enforcement of such provisions allowing and regulating practices; prevention of minor use; education; infrastructure within city limits; funding of city employee pensions.

In the review for process toward issuance toward a permit, things to be expected in an application vary but, for the most part include;

- Name and Address of Applicant(s) and/or each corporate officer of LLC, Joint Venture or Partnership
- Evidence that the applicant: (A) Is the owner of the property where business is to be established(?) ; (B) Has approval and written consent and notarized documentation of owners’ acceptance to use of property for establishment of business.
- The Legal Description of the property, primarily address (Assessors’ Parcel Number may be submitted as well).
- Detailed Site Plan at a minimum identifying the proposed location of the building and structures including landscaped areas, parking areas, driveways and means of ingress and regress
- Statement detailing plans for use of each building and structure as displayed in site plan
- Professional Floor with three (3) submittal color photo copies included with application submittal
- Map showing mandated distance from Residencies, Schools and Daycares
- Three (3) color photo copies of complete site plan and three (3) hard copies of Executive Summary, Business Plan and Mission Statement.
- Two (2) photo copies of government issue I.D (i.e DMV License, Driver’s License, Social Security Identification Card, Passport) from each owner and/or corporate officer.
- A signed and notarized statement by the applicant(s) that he/she/they certifies under the penalty of perjury that all information contained in application is accurate, correct and true.
- Check or Money order for Application Fee.
- Insurance Bond.
**Permit Classifications and Fees:**

Upon approval or renewal, the permittee shall remit a permit fee in the amount declared and designated by the following State Licensing Type:

(I) Distribution – Annual Fee of $150 per transportation and distribution vehicle used and $20 per square foot of the premises used for office space and cannabis storage. (1)

(II) Transportation - Annual Fee of $150 per transportation and distribution vehicle used and $20 per square foot of the premises used for office space and cannabis storage. (1)

(III) Dispensaries and Retailers – Annual Fee of $10 per square foot of the premises occupied if it is a Medical Business and $5 per square foot of the premises occupied if it is a non-medical retailer. (2-3)

(IV) Nurseries – Annual fee of $2 per square foot of canopy for the premise in use. (1)

(V) Micro-Businesses – Annual fee of $5 per square foot of the premise in use. (1-2)

*These scheduled fees are for both Medical and Non-Medical Businesses applying for a permit with the city.*

**Denials, Revocations and Suspensions:**

*Grounds for denial, revocation and/or suspension will be erroneous and falsified information, failure to pass the background check or inability to provide substantial records required with submitted permit. A Permitted operation incurring three suspensions will have its License and/or Permit automatically revoked and barred from applying for another.*

**Considerations in Developing Tax:**

*The Most important thing to consider in setting taxes for Non-Medical operations and even the square foot charge associated with the premise of a Medical Business consider;*

- The Control, Regulate and Tax Adult Use of Marijuana Act Statewide Excise Tax of 15%, $9.25 on every ounce of dried manicured flowers cultivated and $2.75 on every ounce of dried trim.
- The Distributor and Processing Tax in between 15% and 30%
- The Municipal Permits, Square Foot Charge and/Taxes to be imposed
- The State Licensing Cost
- The Track and Trace System Installation
- Employee Pensions
- Development Cost
- Maintenance Cost
- Cost for Bond or Liability Insurance

As well as other natural business expenses the operation will incur when looking to impose these operation and regulatory fees and set the rate of Taxation.

**Statewide Tax Overview:**

**Adelanto** 5% Tax on Gross Revenue.

**Carson** Fee of $25 per square foot of Cultivation Sites and 18% on all businesses.

**Cathedral City** Fee of $25 per square foot of Cultivation Sites and $1 per item tax.

**Coachella** Fee of $15 per square foot of Cultivation and/or Manufacturing Site with a 6% tax on Recreational and Medical receipts (Measure II).

**Coalinga** Annual Commercial Tax, $25 per square foot for the first 3,000 feet and an additional $10 for every foot after (Measure E) 10% tax on 1 Dispensary.

**Costa Mesa Annual 6% Gross Tax**

**Dixon** 15% tax on Gross Receipts of all businesses.

**Fillmore** 15% Tax on all Commercial and Medical Sales (Measure I) Fee of $30 per square foot for the first $3,000 feet and an additional $15 for every foot after (Measure H).

**Gonzalez** Fee of $15 per square foot for Cultivation and Manufacturing (subject to CPI adjustments after 3 years up to $25) 5% tax on Gross Receipts (subject to CPI adjustments after 3 years up to 15%).

**Greenfield** Fee of $15 per canopy of premise used for Profit and Non-Profit operations.

**Grover Beach** 5% tax on Medical Gross Receipts, 10% tax on Recreational Gross Receipts, Cultivation Sites pay a fee of $25 per square foot for the first 5,000 feet and an addition $10 for every foot after (Subject to CPI adjustments).

**Hayward** General Tax of 15% for all Medical and Recreational businesses.

**King City** Fee of $25 per square foot for the first 5,000 feet and an additional $10 for every foot after for Cultivation, Fee of $5 per square foot for Nurseries, $30,000 for Manufacturing and Testing (CPI of $5 for the first 5,000 square feet and an additional $2.50 for every square foot after.

**Long Beach** 8% on Medical Gross Receipts, 12% on Recreational sales (If approved).

**Marysville** 15% tax on all Gross Receipts.

**Mendocino** 10% tax on Gross Receipts and Cultivation, $2,500 annually on all businesses.
Mother Lode Fee of $2 per square foot of outdoor or greenhouse Cultivation for Commercial and Medical Cannabis.

Pittsburg 10% tax on Gross Receipts for Commercial and Medical businesses.

Point Arena Maximum Tax in between $0.10 and $1.00.

Salinas General Tax of $15 per square foot of Medical and Commercial businesses (CPI increase up to $25), 5% of Gross Receipts (CPI increase up to 10%).

San Diego 5 - 15% Gross Receipts tax on recreational sales.

Santa Barbara 20% tax on Commercial and Medical Gross Receipts.

San Bernardino Up to $10 a square foot of the premises in use for all Medical and Non-Medical Businesses

Santa Cruz 7% tax on all sales Receipts (CPI adjustment up to 10%).

San Jacinto 15% General Tax, Fee up to $50 per square foot of Cultivation and Manufacturing Sites.

San Leandro 10% tax on Gross Receipts from Profit and Non-Profit businesses.

Stockton 3.5 - 5% Tax on four Commercial Cultivation sites and four commercial storefronts.

Watsonville Fee of $20 per square foot of the canopy in use annually, 2.5% tax on manufacturing and processing, 10% tax on retail sales.

- 7.6 - 8% for the Statewide Average on Taxes

Options for collection of Fees and Taxes:

- Gross Receipts Tax on Non-Medical Sales by Retailers and Microbusinesses
- Retail Tax Per Item Sold by any business for Non-Medical Use at $.15 - $1 (CPI adjustment after three years).
- Specialized commercial tax on Cultivation, Manufacturing 1 and 2, Processing and Testing Sites subject to CPI adjustment after three years.
- Regulatory Tax on all Commercial Businesses.
- Fee associated with the total square footage in use for Medical Businesses.
**Local Tax Breakdown:**

- 7.250% State
- 1.500% County
- 2.5% Beverly Hills City Special Tax
- 8.750 – 11.25% Total Sales Tax

**Suggested Fees and Tax Basis:**

- Non-Medical Businesses of all Types to be subject to a tax of 6.5%, a specialized commercial tax which will be subject to a CPI increase up to 9.5% by 2020. The tax would be generated through monthly Gross Receipts. Micro-businesses will pay an annual regulatory tax of 3.75% as well as the regular commercial tax of 6.5% on Gross Receipts. The regulatory tax subject to CPI change up to 6.5%, declared by Council, in 2020.

- Any Businesses registered as Medical will pay their regular annual fees for the premises in use and exempt from paying any taxes. However, Medical Cultivation Sites, Manufacturing Sites and Micro-Businesses must pay a flat annual fee of $25,000 subject to adjustment through CPI increase up to $50,000 by 2020; Nurseries and Testing Sites must pay a flat annual fee of $10,000 subject to CPI adjustment up to $15,000 by 2020; Distributors, Transporters and Medical Storefronts must pay a flat annual fee of $25,000 subject to CPI adjustment up to $50,000 in 2020. This is a fee on land use, not a tax.
Medical Marijuana Dispensaries and Their Effect on Crime

Opponents of medical marijuana sometimes speculate that medical marijuana dispensaries will lead to increased crime rates in surrounding areas. These dispensaries, they claim, will attract thieves and robbers to the facilities and breed secondary crimes in surrounding areas. Such claims have prompted empirical and statistical analyses by researchers and law enforcement agencies. In what should not come as a surprise, given the robust security at most medical marijuana facilities, these studies have routinely shown that, contrary to these concerns, dispensaries are not magnets for crime. Instead, these studies suggest that dispensaries are no more likely to attract crime than any other business, and in many cases, by bringing new business and economic activity to previously abandoned or run-down retail spaces, dispensaries actually contribute to a reduction in crime.

While the data is reassuring, one public safety challenge for dispensaries and adult use marijuana stores has been that many have been forced to operate as cash-only businesses because of banks’ concern about federal legal issues. However, with new guidance that was issued by the federal government in February 2014, it is expected that more small banks and credit unions will open accounts for marijuana businesses.

What follows is a brief summary of anecdotal and scientific evidence, including law enforcement data analyses and academic research on medical marijuana dispensaries and their effect on crime. For more information on dispensaries, medical use of marijuana, state laws, and other issues related to medical marijuana, please visit mpp.org/medical.

2009 Los Angeles Police Department survey — In response to debate over medical marijuana regulations by the Los Angeles City Council, and claims from medical marijuana opponents that dispensaries were magnets for crime, Los Angeles Police Chief Charlie Beck asked his department to produce a report comparing the robbery rates of L.A. banks and medical marijuana dispensaries. The report indicated that there were 71 robbery reports filed with the LAPD at the city’s 350 banks. Despite there being far more medical marijuana dispensaries — more than 800 at the time according to Beck — there were fewer robbery reports filed at dispensaries: just 47.

When asked about the report, and claims that dispensaries are crime magnets, Beck said, “I have tried to verify that because, of course, that is the mantra. It really doesn’t bear out. … Banks are more likely to get robbed than medical marijuana dispensaries.”

2009 Denver Police Department survey — An analysis of robbery and burglary rates at medical marijuana dispensaries conducted by the Denver Police Department at the request of the Denver City Council found that the robbery and burglary rates at dispensaries were lower than

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1 “Across the state, we're seeing an increase in crime related to dispensaries,' said Ernie Martinez, a Denver police detective who is president of the Colorado Drug Investigators Association.” “Medical marijuana dispensaries’ effect on crime unclear,” The Denver Post, January 24, 2011. http://www.denverpost.com/news/marijuana/ci_17178820#ixzz1ngbVM0lf.

area banks and liquor stores and on par with those of pharmacies. Specifically, the report found a 16.8 percent burglary and robbery rate for dispensaries, equal to that of pharmacies. That’s lower than the 19.7 percent rate for liquor stores and the 33.7 percent rate for banks, the analysis found.³

**2010 Denver Police Department analysis** — In late 2010, the Denver Police Department looked at crime rates in areas in and around dispensaries. The analysis showed that through the first nine months of 2010, crime was down 8.2% relative to the same period in 2009. The decrease was comparable to the city’s overall drop in crime of 8.8%.⁴ The Denver Post completed a similar analysis and found that crime rates in some areas with the highest concentration of dispensaries saw bigger decreases in crime than neighborhoods with no dispensaries.⁵

**2010 Colorado Springs Police Department analysis** — An analysis by the Colorado Springs Police Department found that robbery and burglary rates at area dispensaries were on par with those of other businesses. Specifically, the department’s data indicated that there were 41 criminal incidents reported at the city’s 175 medical marijuana businesses in the 18-month period ending August 31, 2010. Meanwhile, over that same period, there were 797 robberies and 4,825 burglaries at other city businesses. These findings led the department’s spokesman, Sgt. Darrin Abbink, to comment, “I don’t think the data really supports [dispensaries] are more likely to be targeted at this point.”⁶

**October 2011 UCLA study, “Exploring the Ecological Link Between Crime and Medical Marijuana Dispensaries,”** — Researchers from UCLA, funded by the National Institute on Drug Abuse, used data from 95 census tracts in Sacramento to analyze two types of crime (violent and property) in areas with varying concentrations of dispensaries. What they found was that while factors traditionally understood to lead to increased crime — for example, large percentages of land zoned for commercial rather than residential use, a high percentage of one-person households, the presence of highway ramps, and a higher percentage of the population being ages 15-24 — were positively associated with crime in those areas, “the density of medical marijuana dispensaries was not associated with violent or property crime rates.” In their conclusion, the researchers said, “[t]hese results suggest that the density of [medical marijuana dispensaries] may not be associated with increased crime rates or that measures dispensaries take to reduce crime (i.e., doormen, video cameras) may increase guardianship, such that it deters possible motivated offenders.”⁷

Specifically, the study applied the “routine activity theory” of crime, which suggests that crime is more likely when three criteria are met: (1) a motivated offender, (2) a suitable target, as defined by factors like value, visibility, and access, and (3) a lack of guardianship such as low residency or poor security. The authors hypothesized that the lack of a relationship between dispensaries and crime could be attributable to either of two possible conclusions: either medical marijuana dispensaries were no more valuable a target than other businesses in the area — a possibility supported by the law enforcement surveys in L.A. and Denver discussed above — or heightened security at dispensaries was sufficient to deter criminal activity in the area.

⁴ See note 1, supra.
⁵ Id.
June 2011 Regent University study — Researcher Maura Scherrer of Regent University looked at the perception of crime, and medical marijuana dispensaries’ impact on crime, among residents of Denver neighborhoods with varying socio-economic profiles. In so doing, she found that most crimes, including robbery, vandalism, and disorderly conduct increased in Denver from 2008 to 2009. However, in areas within 1,000 feet of a dispensary, rates were down for most types of crime, including burglary, larceny, and a 37.5% reduction in disorderly conduct citations. In her conclusion the author notes, “it appears that crime around the medical marijuana centers is considerably lower than citywide crime rates; a much different depiction than originally perceived.”

February 2014 Urban Geography — Researchers from the University of South Florida, the University of Colorado, and the New York City Criminal Justice Agency set out to determine whether medical marijuana dispensaries in Denver could be considered locally undesirable land uses (LULUs), land uses that people do not want to live close to, but which provide services to the community. The researchers studied 275 medical marijuana centers in 75 Denver neighborhoods and concluded that:

“[w]hile public officials, and especially law enforcement, clearly warn residents about the negative effects of these centers on the communities in which they are situated, there is little evidence that residents are listening, as these centers do not appear to have any impact on the urban landscape — and therefore on the health of the communities in which they are located.”

The study did find that medical marijuana centers are more likely to be opened in areas that have higher crime rates, but that is not unusual because crime follows retail concentrations. “In short, medical marijuana facilities appear to … be more similar to drugstores and coffee houses than they are to LULUs.”

Los Angeles crime trends — Los Angeles has frequently been cited as the city with the most dispensaries and the least regulation of those dispensaries. It is also the most populous city in the state that has the oldest and the broadest medical marijuana law, where any medical condition qualifies. While L.A. voters do prefer some regulation and control — and they approved a ballot measure to create a regulatory system in May 2013 — the city that has been cited as having more dispensaries than Starbucks certainly has not suffered a crime epidemic as a result of its permissive policies. On the contrary, overall crime in Los Angeles has dropped dramatically since dispensing collectives became legal in 2004. Crime rates have plummeted in the past 11 years, with decreases each of those 11 years. They are now the lowest they have been since 1949.


10 Id. at p. 15
11 Id. at p.16
analyzed the association between the enactment of a medical marijuana law and state crime rates for all Part I offenses — homicide, rape, robbery, assault, burglary, larceny, and auto theft — as collected by the FBI. The purpose was to help inform the debate on whether passage of medical marijuana laws leads to increased crime rates. The researchers used fixed-effects panel design to identify what, if any, effect passage of a medical marijuana law has on crime rates. This design analyzes changes individual states see in their respective crime rates over time and compares the changes to the crime rate trends among states that enacted medical marijuana laws and those that did not.

While all states experienced a reduction in Part I offenses during the period studied, those that had passed a medical marijuana law experienced greater reductions in those offenses than those states that had not. The researchers conclude that enactment of a medical marijuana law "is not predictive of higher crime rates and may be related to reductions in rates of homicide and assault." They note that the most "important finding . . . is the lack of evidence of any increase in robbery or burglary, which are the type of crimes one might expect to gradually increase over time if the [medical marijuana laws lead to increased crime] theory was correct."
Dear Planning Commission

I, Ryan Bacchas would like to have this document read into public record, as letter serving purpose for education, explanation and exploration toward welcoming a newly and continually regulated Cannabis Retail Market to the city of Beverly Hills. As you are aware with the passage of Proposition 64, "The Regulate and Tax Adult Use of Marijuana Act" (AUMA), Municipal Authorities have the option to come to Resolutions adopting State Law and Ordinances further regulating the Commercial Activity chosen to occur or, ban and prohibit activity outside of individual personal use. I implore the city to explore the potential and possibilities toward allowing a small Regulated Market in order to not only prevent a surge of Black Market and Illicit Dealers but, provide domestic, nearby and visiting consumers with a way to obtain their products from high end, professional and reputable outlets with quality lab tested state approved products. With California being well known for its role in the Cannabis Culture, Industry and Movement, there will be a plethora of locals, tourist, even residents who would imagine and even seek a more luxurious or high end boutique style of their indulgence. This is something that Beverly Hills would be ideal and prime in offering given the long standing history and overall exclusive nature of the city; efforts in providing such a market as an option to consumers is something that can benefit all parties even the local businesses.

Providing a regulated market to adult consumers is a door for many opportunities, not only profitable for the city but, publicly and socially responsible for the protection of its citizens, to provide a regulated market for consumers to migrate from the Black Market. In addition to being able to effectively eliminate the black market, it gives the City privilege to necessary state funds, equipment and tools towards things like Cannabis impaired drivers, public education for adult consumption and discouragement of use by minors, and enforcement activity toward upholding local law. Of course just as the other historical, prestige’s and respectable businesses in the area, these operations would be owned and comprised of professionals within the industry with and not limited to;

- Accredited business backgrounds
- History of professional conduct
- Statements or proof of Financial Capability required in the process of applying to create and operate a Cannabis retailer, Lounge, Coffee shop, boutique etc. This should include but would not be limited to statements or proof of financial capability to; obtain a $1,000,000 dollar insurance bond; conduct possible or necessary in tenet or commercial remodel or update to building to meet conforming standards; ability to obtain product that is quality insured and lab tested; appropriate plan or planner for creation P.O.S system and record of all proceeds and revenue generated for audits, inspections and insurance of compliance; Executive Summary of how business is to be run with a rough list of operation expenditures, projected revenue and how the business will be run in order to insure success;
- Understanding of the expectations, rules and regulations to be kept within compliance for obligations of excise fees and taxes generated from product,
properly documented through receipts and appropriate records, separated, to be collected and directed to the City.

In exploring the regulated market, an explanation for the regulations and rules that retailers would be held to, in addition to the basic and fundamental practices of any business operating under sensitive uses, include items such but not limited to;

- Physical Appearance in accordance to surround and neighboring businesses and properties (Internally and Externally)
- Appropriate and/or Reasonable Hours of Operation
- Proper management staff meeting criterial age requirements.
- Qualified Managerial and Supervising Staff
- Frequent Upkeep and Maintenance of premises
- Proper Signage including clear prohibition of Minors
- Appropriate means of security or use of security team and/or agency
- Safe or Maximally Secured Vault for all Cash kept on Premises
- Proper means of transportation of cash (i.e use of security, vehicle etc.)
- Permanent waste management and proper disposal techniques including trash receptacles and dumpsters to be locked and restricted from access by the public
- Odor Control and appropriate ventilation
- Windows, doors and openings to have opaque cover restricting sight from exterior of the building
- Operate in distance applicable to Superseding Law (600 Ft of Residential Zones 200 ft. of Schools and Daycares)
- Partitioned entrances and exit ways.
- Exterior Signage conforming to surrounding establishments
- Exclusion of words on the outside that contain the words, wording and/or referencing of or to "marijuana," "cannabis," and/or derivatives thereof, with no bearable of pictures, murals graphics or depictions referencing and/or relating to "Marijuana," "Cannabis" and/or any derivatives thereof the substance.
- No residential conversion or living quarters on the premise
- All required business permits and licenses current and clearly displayed at entrance inside the building
- Permanently installed, operational video surveillance, monitors and recording devices both externally and internal, which have full view of all areas except employee bathrooms, with minimal and minimum parameters; capturing full view of the public right-of-way and any parking lot under control of business; adequate quality, color, rendition and resolution to allow the ready identification of any potential individual committing a crime on the interior or exterior of the property; recording capability to fourteen (14) days of logged history; 24/7 running system
- Professionally Installed burglar and fire systems with third party vendor that has 24/7 year round staffing
- Security staff in place and on site during hours of Operation
- No controlled substance including any Cannabis product that violates applicable state law
- Properly ventilated premise to prevent permeation outside the premises
- On site consumption as regulated by City
- Delivery reserved to outlet as legally permitted by State

In the review for process toward issuance toward a permit, things to be expected in an application vary but, for the most part include;

- Name and Address of Applicant(s) and/or each corporate officer of LLC, Joint Venture or Partnership
- Evidence that the applicant: (A) Is the owner of the property where business is to be established(?) (B) Has approval and written consent and notarized documentation of owners’ acceptance to use of property for establishment of business.
- The Legal Description of the property, primarily address (Accessors’ Parcel Number may be submitted as well).
- Detailed Site Plan at a minimum identifying the proposed location of the building and structures including landscaped areas, parking areas, driveways and means of ingress and regress
- Statement detailing plans for use of each building and structure as displayed in site plan
- Professional Floor with three (3) submittal color photo copies included with application submittal
- Map showing mandated distance from Residencies, Schools and Daycares
- Three (3) color photo copies of complete site plan and three (3) hard copies of Executive Summary, Business Plan and Mission Statement.
- Two (2) photo copies of government issue I.D (i.e DMV License, Driver’s License, Social Security Identification Card, Passport) from each owner and/or corporate officer.
- A signed and notarized statement by the applicant(s) that he/she/they certifies under the penalty of perjury that all information contained in application is accurate, correct and true.
- Check or Money order for Application Fee

Grounds for denial would be things like erroneous and falsified information, failure of background check, inability to provide substantial evidence that applicants can be financially and professionally responsible for conduct and operation of proposed the business. The fees to be associated with the cost and issuance of permit as well as oversight by departments and task force conducted, would include but not be limited to;

- Agencies involved in review, renewal and/or issuance of permit including Planning, Health and Safety, City Manager, Code Enforcement, Fire Department, Police Department and Task Force; square feet of premise being used in operation; fee specific to each activity occurring on the premise (i.e on site
consumption, culinary practices). They could generated to the general fund where Council would consider the uses such as, enforcement of such provisions allowing and regulating practices; prevention of minor use; education; infrastructure within city limits; funding of city employee pensions.

The concepts that could be explored by that of retailer, include the classic Amsterdam coffee shop model, a lounge with pool tables and media centers, restaurant serving food infused with THC and other Cannabis derivatives, with other rooms for commingling (V.I.P rooms), Social Clubs and many other creative takes. Not only do these example and potential models provide the safe easy access for consumers that they need, it would serve as an innovative yet conservative platform towards a “high-end quality boutique,” style of the Commercial Business for which the reputation of Beverly Hills would guarantee; especially attractive and reasonable for the more exclusive consumers in or nearby this area. I encourage and urge Planning, whilst making their findings and proclamations heard, to consider these facts and reasons towards allowing a regulated and taxed commercial Cannabis Market in order to mutually benefit consumers and residents as well as to finally eliminate and quall the black market through balanced and effective policy. There is a way to implement these measures and insure their success as well as success to any adopted mechanism regarding this, I will assist you.
June 21, 2017

Dear Elected Official,

The two most important responsibilities of elected officials at any level of government are first and foremost to protect the people, and secondly, to manage tax dollars. Making marijuana, a very dangerous drug, readily available threatens your ability to do either.

Young people aged 12-25 have the highest consumption rate of marijuana. This group is under the threshold of a mature brain. Marijuana causes physical changes in the developing brain reducing cognitive skills, memory, and motivation. It can cause a permanent loss of IQ by up to 8 points which moves a student a full category — from average to below average. Marijuana users are 5 times more susceptible to suicide, and 7 times more susceptible to mental illness. It is a causal factor in psychotic breaks leading to violent acts, mental illness including schizophrenia, paranoia, bi-polar disorder, addiction, birth defects, and impaired driving. All of this translates to more crime, homelessness, academic failure, traffic deaths, and incalculable damage to our environment.

Obviously there is huge money in illicit drugs. The cartels prove that. Cartels are not concerned with public health and safety or the related social costs. As with alcohol and tobacco, the social costs are 10 times the tax revenues. Increased marijuana use will be no different. Colorado’s experience has shown that actual taxes on marijuana are significantly less than what was projected. And they do not come close to covering the increased costs of law enforcement, ER visits, DUI traffic accidents, regulation and crime. Additionally, the great increase in use by youth leads to very high school drop-out rates.

You only have until January 2018 to establish local ordinances to restrict retail growing and distribution of marijuana for any use. After January, only the State will have the power to grant licenses to grow, distribute, and regulate marijuana regardless of the consequences to your community. You will lose your local control over this issue. Basing the economic future of your community at the expense of the lives and intellect of your constituents is not a good idea.

The enclosed Brochure spells out what you can do now before it is too late to protect your citizens.

ACT NOW!

Citizens Against Legalizing Marijuana
Watch the Marijuana Societal COSTS Soar when you Legalize it

Increased Child Exposures
Increased Addictions
Increased Marijuana Driving Fatalities
Increased Homelessness
Increased Black Market
Increased Teen Use
Increased Emergency Room Visits
Increased Low Birth Weights

Increase Poison Control Calls for Marijuana Poisonings
BHO Building Explosions
Increased Hospitalizations
Increased Environmental Damages
Increased Violence
Increased Marijuana Positive Birth Rates
Increased Crime

"OPENING THE FLOOD GATES"

Just like Tobacco and Alcohol – for every $1 in Marijuana Taxes Received will COST Society $10
**Marijuana is NO Joke**

**Gateway to Other Drugs**
- Marijuana works on the same receptor system in the brain as heroin.
- Marijuana primes the brain to seek stronger drugs.
- Marijuana is a major pathway to opioid addiction.

**Marijuana and the Brain**
- Causes and exacerbates Addiction, Depression, Psychosis, Schizophrenia.
- Psychotic breaks / Violent acts / Anxiety
- Loss of memory, perception, motor skills
- Mental degeneration

**Drugged Driving**
- Driving tests show marijuana impairs reaction times, divided-attention tasks, lane-position variability (weaving), peripheral vision, cognitive function & coordination.
- 1 of every 8 traffic fatalities in Colorado are marijuana related (+32% increase).
- Marijuana driving deaths doubled in one year after legalization in Washington.
- For every 1 marijuana-user death, 7 innocents die (pedestrian, bicyclist, passengers, etc.).
- Combining marijuana with alcohol increases impairment up to 8 times.

**Teen Use/Users**
- Increases dramatically wherever marijuana is legalized.
- Causes irreversible IQ loss up to 8 points and higher likelihood of Amotivational Syndrome.
- 1 in 6 teens who try marijuana will become addicted.
- Heavy Users are less likely to graduate.
- 1 in 6 teens who try marijuana will become addicted.
- 1970's (Today)

**Fetal Risk**
Marijuana use during pregnancy crosses the placental and blood/brain barrier and increases the baby's susceptibility to:
- Lower birth weight
- Addiction later in life
- Birth defects & cancers
- Problem solving and learning difficulties later in life.

**Physical Health Impacts**
- Lungs: Smoke from marijuana contains 4-5x the toxins, irritants & carcinogens as tobacco smoke.
- 20 times more ammonia.
- Increases likelihood of HEART ATTACK
- IMMUNE SYSTEM is weakened
- Negatively impacts REPRODUCTIVE SYSTEM
- DEATH RATE 4x higher than non-users

**Think Marijuana is harmless? You don't know POT!**

<table>
<thead>
<tr>
<th>POTENCY:</th>
<th>Marijuana (a.k.a. Cannabis) today is 10-40x stronger than 40 years ago</th>
</tr>
</thead>
<tbody>
<tr>
<td>THC (the mind-altering chemical in marijuana that gets a user high) is stored in fat tissue and is slowly released back into the blood stream keeping that THC in the body for many days, even weeks after the pot is used. This THC continues to negatively affect memory and emotional processing, organs and bodily systems.</td>
<td></td>
</tr>
</tbody>
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<table>
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<th>TETRAHYDROCANNABINOL (THC Concentration)</th>
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<td>2% Pot (1970's)</td>
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</table>

**Is Marijuana really Medicine?**

The Federal Food and Drug Administration confirms that whole plant marijuana and THC oils are NOT medicine.
- Components may have medicinal value, e.g. CBD (Cannabidiol)
- To protect the public, the FDA testing and approval process determines drug safety, dosing efficacy, side effects, potency duration, interactions, etc
- Pot shop 'bans' who recommend this psychoactive drug make medical conditions worse (e.g. PTSD, pediatric seizures, glaucoma and even pain).

**Butane Hash Oil (BHO)**
- Increases THC potency to 90%.
- As dangerous to make and consume as meth.
- Easily causes explosions and fires in neighborhoods where it is cooked.

**Edibles / Vaping**
- BHO used in "Vaping" devices (a.k.a e-cigarettes) creates a cancer-causing inhalant.
- BHO is used in the manufacture of candy, brownies, soda, gummies, butters, etc.
- Vaping and Edibles are favorite ways for youth to ingest marijuana (THC).
- BHO is not overseen by any regulatory body. There are no quality controls, no limits on potency, or limits on contaminants (pesticides, herbicides).

**Marijuana is Big Money (but not for the community)**
- One plant can bring $2,000 to $4,000 to grower/distributor.
- Black Markets still thrive after legalization.
- Tax revenues from pot sales do NOT cover increased crime, health care or addiction services. Revenues are projected to be less than 0.03% of total CA state tax revenue.
- Cost of law enforcement increases, not decreases with legalization.
- CA already has 50,000 illegal cultivation sites that supply 60% of marijuana to the US.

**Marijuana is NOT Earth-Friendly**
- Increases physical health impacts.
- Increases THC potency to 90% - Butane Hash Oil (BHO)
- Physical impacts include: Cancer, lung problems, respiratory issues, heart disease, mental health issues, addiction.
- Physical health impacts are the same as cigarettes.
- 更危险。生长和消费甲基苯丙胺。
- 生物系统持续受到负面影响。
- THC在使用后几天，甚至几周后，会慢慢释放回血流中，导致THC在体内停留，对记忆力和情绪处理产生负面影响，影响器官和身体系统。

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HOW YOU CAN HELP

1. Get involved in the political process in your community, and ask your friends to join YOU
2. SEND A CHECK to Citizens Against Legalizing Marijuana at the address below. Even $5.00 helps support our local communities.
3. Credit card donations are accepted through the website www.CALM.org

All funds will be used to help reduce the availability and use of marijuana in our communities.

CALM is all-volunteer and non-profit; campaign ID 1326759

Go to http://www.CALM4.org for:
1. Under these brochures are send to friends and colleagues.
2. Under CALM educational flyers: marijuana - Engilsh and Spanish.
3. Learn more ways to protect the marijuana industry's career in your community.

Groups against further commercialization of marijuana:
(Contacts you add your group letters)

Senator Diane Feinstein, California Police Chiefs Association, Teamsters, Los Angeles Police Protective League, Association of Los Angeles Deputy Sheriffs, California Hospitals Association International Faith Based Coalition, Take Back America, California Narcotic Officers Association, California Sheriff's Association, CADFY, Smart Approaches to Marijuana (SAM), National Families in Action, CDCF, America Cares, Courage to Speak, Moms Strong

Everyone in Colorado
Told California to vote NO on Legal Weed (Prop 64)
(*Educators, Superintendents, The Governor, Past Governors, Mayors, the DA, Moms, High School students)

Colorado's "Regulate and Control" policies have increased underage and adult use, poisennings, addiction, homelessness and drugged driving.

Californians MUST understand these results, so we know what to expect in California and can try to mitigate these grave consequences:

Colorado

- Colorado uses more marijuana than any other state in America since legalizing in 2014. Up among 18-25 year-olds in Colorado is 76% higher than the national average, use among ages 12-17 is 62%, higher, and use among 26+ year-olds, is 10x higher.
- Drug crimes rose 13% in 2013 in Denver Homicides were up over 74%.
- Marijuana poisonings are up 148%, up 153%; among children 0 to 5 year old.
- A marijuana business for every 47 residents is found among Denver's communities.
- Illegal drug traffic, theft, and arrest; hide among 1% States, flourish legal marijuana industry.

Washington

- One-third (33%) of all DUI cases now test positive for THC, up from 19% in 2012.
- Fatal accidents, involving THC have increased over 120% from 2010 to 2014.
- 49% of 18-25 year-olds who used marijuana in the past month had driven a car within three hours of getting high.
- 16% of those young adults do this 6 or more times a month.
- Marijuana driving fatalities nearly match alcohol drivers' fatalities (2.8% and 2.9% respectively).
- Kids ages 12-17 accumulated for 74% of all state marijuana drug busts in 2014 (up from 28.9% in 2010).
- There are 200 more recreational marijuana businesses than Starbucks outlets. These marijuana businesses are fueling massive increases in marijuana use.

If your city/county does not restrict marijuana activity by the end of 2017, the State can grant licenses to conduct marijuana business in your community.

Act immediately to prevent this.
It only takes one person to get started.

1. Your city/country may have ordinances that deal with "medical" marijuana businesses, but recreational use allowed in Prop 64 will require a new ordinance. This can provide protection for the community if it's done right. **

2. Encourage your city/country to ban everything Prop 64 allows them to ban. They can always "un-ban" later once everyone has real experience living with recreational marijuana. Also, if a city/country decides to ban later, any license the State has already granted cannot be revoked, i.e. pot shops cannot be closed if a community decides later it doesn't want marijuana in its commercial districts.

Prop 64 allows a city/country to ban the following commercial marijuana licenses and operating procedures:
- Outdoor cultivation small, medium & large
- Indoor cultivation small, medium & large
- Manufacturing small & large
- Testing
- Retailer storefront
- On-premise consumption
- Mobile Delivery
- Distributor (wholesaler)
- Marijuana business/cultivator, manufacturer, retailer, d, distributor under 10k sf.
- Outdoor home cultivation

Start educating friends and neighbors about the dangers of pot Form community alliances to ensure broad community support. Note: Pot businesses are very aggressive in these efforts.

5. Because these ordinances can be passed by majority-vote of a County or Board (water approval a not required) it is important to: set up individual meetings with your city council members and county supervisors to impress on your preference for a complete ban in your community.

it's up to every individual to contact local, state, and Federal representatives on the right to have a ban by this measure.

6. If your city/country has an regulating recreational marijuana businesses instead of banning them, a small degree of public health protection may be achieved by increasing the distance of all marijuana businesses to schools, banning indoor delivery, banning the promiscuous and testing street hours of operation and by any controls.

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Citizens Against Legalizing Marijuana (CALM)

Marijuana continues to be illegal under Federal Law.

To the detriment of our Children and California's future, Proposition 64 passed.

What's legal/allowed today for recreational pot use:
- Adults can grow 6 pot plants in their home or apartment
- (untaxed, unregulated, unlicensed)
- They can be advertised in any media
- Pot can be preimized in any form - merchandise, swag, free subscriptions, etc.
- Transport of pot on all streets
- Indoor cultivation small, medium, large
- Manufacturing small & large
- Testing
- Retailer storefront & mobile delivery
- Distributor wholesaler
- Microbusiness (cultivator, manufacturer, retailer, distributor - under 10k sf)
- There are no restrictions on the number of licenses the State can grant in your city/country
- Convicted felons can acquire a license to run any kind of marijuana business in your city/country
- What's not legal/not allowed today:
- Smoking in public...however, it only carries a $500 fine
- Driving under the influence of marijuana...however, the incidence of this has doubled in other rec-legal states.
- Conducting recreational marijuana related business without a license from the State
- Using marijuana under 21.

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- Microbusiness (cultivator, manufacturer, retailer, distributor - under 10k sf)
- There are no restrictions on the number of licenses the State can grant in your city/country
- Convicted felons can acquire a license to run any kind of marijuana business in your city/country
- What's not legal/not allowed today:
- Smoking in public...however, it only carries a $500 fine
- Driving under the influence of marijuana...however, the incidence of this has doubled in other rec-legal states.
- Conducting recreational marijuana related business without a license from the State
- Using marijuana under 21.

Citizens Against Legalizing
Marijuana (CALM)

Marijuana continues to be illegal under Federal Law.

To the detriment of our Children and California's future, Proposition 64 passed.

What's legal/allowed today for recreational pot use:
- Adults can grow 6 pot plants in their home or apartment
- (untaxed, unregulated, unlicensed)
- They can be advertised in any media
- Pot can be preimized in any form - merchandise, swag, free subscriptions, etc.
- Transport of pot on all streets
- Indoor cultivation small, medium, large
- Manufacturing small & large
- Testing
- Retailer storefront & mobile delivery
- Distributor wholesaler
- Microbusiness (cultivator, manufacturer, retailer, distributor - under 10k sf)
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