AGENDA

SPECIAL CONCURRENT CITY COUNCIL MEETING /
PUBLIC FINANCING AUTHORITY AND EMPLOYEE PENSION BOARD MEETING
Tuesday, June 14, 2016 – 7:00 p.m.
City Council Chambers

Rescheduled from June 7, 2016 to June 14, 2016

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges
Councilmember Mark Friedman
Councilmember Gabriel Quinto

ROLL CALL

7:00 p.m. **CONVENE SPECIAL CONCURRENT CITY COUNCIL / PUBLIC FINANCING AUTHORITY AND EMPLOYEE PENSION BOARD MEETING**

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – *Councilmember Gabriel Quinto.*

2. COUNCIL / STAFF COMMUNICATIONS *(Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.)*

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. PRESENTATIONS

Citizens' Street Oversight Committee Annual Report – *Presentation by Matt Kelly, Chair, Citizens' Street Oversight Committee.*

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5H

CITY COUNCIL ITEMS

A. Minutes for Approval

Approve the May 17, 2016 Regular City Council meeting minutes.

B. Proclamation Recognizing June 2016 as LGBT Pride Month

Approve a proclamation declaring the month of June 2016 as LGBT Pride Month in the City of El Cerrito and inviting everyone to reflect on way we all can live and work together with a commitment toward mutual respect and understanding, and further recognizing Pride Month by flying the rainbow flag at City Hall during the month of June.

C. Proclamation Designating June 2016 as Immigrant Heritage Month

Approve a proclamation proclaiming June 2016 as Immigrant Heritage Month.

D. November 8, 2016 General Municipal Election

Adopt a Resolution: 1) Ordering and calling for a general municipal election to be held in the City of El Cerrito on Tuesday, November 8, 2016, for the purpose of electing three members of the City Council for full terms of four years each; 2) Requesting and consenting to consolidation of the municipal election with the general election to be held on November 8, 2016; 3) Requesting the services of the Contra Costa County Registrar of Voters; 4) Providing for Notice of the election; and 5) Setting specifications of the Election Order to include limiting candidate statements to 250 words, requiring candidates to pay for the costs of their candidate statement, establishing the estimated cost of each candidate statement to be $225 payable at the time of filing; and determining that, in the event of a tie vote, the winner shall be determined by lot at a time and place designated by the City Council.

E. Amendments to City Classification Plan

Adopt a resolution amending the City's Classification Plan to establish the classifications and salaries for the position of Childcare Aide and Van Driver.

F. Authorize Expenditure with SSP Data Products

Adopt a resolution authorizing the expenditure of $23,350 with SSP Data Products to procure Cisco Data Switches, Cisco SmartNet support and security software annual subscriptions for the City's Network Security Appliances.

G. Authorize Expenditure with SunGard Public Sector

Adopt a resolution authorizing the expenditure of $20,800 with SunGard Public Sector to procure additional TRAKiT land management licenses and specialized business automation software.

H. Summer 2016 City Council Meeting Schedule

Approve a reduced City Council summer meeting schedule consisting of the third Tuesday in July, August and September 2016. City Council meeting dates in July, August and September 2016 would be held on July 19, August 16 and September 20, 2016 with an additional request to keep the first Tuesday in July, August and September reserved for additional meetings as needed.

6. PUBLIC HEARINGS – *None*

7. POLICY MATTERS

CITY COUNCIL ITEMS

A. Proposed Timeline and Budget for Development of an Ordinance Regulating Marijuana-Related Businesses

Continue discussion on the current prohibition on marijuana-related businesses and provide direction to staff on developing an ordinance regulating marijuana-related businesses and development of a permit process

B. City Council Wall of Fame Nomination Subcommittee Recommendation

Approve the City Council Wall of Fame Nomination Subcommittee's recommendation to induct David Weinstein into the El Cerrito Wall of Fame and direct the City Clerk to return to the City Council with a resolution confirming the appointment and schedule the formal induction ceremony in either July or August 2016 pending availability of all parties involved.

CONCURRENT CITY COUNCIL / PUBLIC FINANCING AUTHORITY / EMPLOYEE PENSION BOARD ITEM

C. Proposed Fiscal Year 2016-17 and 2017-18 Biennial Budget Presentation

Presentation and discussion of the City's Fiscal Year 2016-17 and 2017-18 budgets including strategic plan goals, Fiscal Year 2015-2016 accomplishments, and challenges and objectives for Fiscal Years 2016-17 and 2017-18. Adoption of the budget is scheduled for the City Council's consideration on June 21, 2016.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

Mayoral and City Council communications regarding local and regional liaison assignments and committee reports.

9. ADJOURN SPECIAL CONCURRENT CITY COUNCIL / PUBLIC FINANCING AUTHORITY / EMPLOYEE PENSION BOARD MEETING

The next regular City Council meeting is Tuesday, June 21, 2016 at 7:00 p.m. at City Hall, 10890 San Pablo Avenue, El Cerrito, California.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT-Channel 28 and AT&T Uverse Channel 99. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website http://www.el-cerrito.org/ind-ex.aspx?NID=114. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the meeting.
- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215–4305 Fax: 215–4379, email cmorse@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.

Agenda Item No. 4

THE CITY OF EL CERRITO

Date: June 14, 2016

To: El Cerrito City Council

From: Citizens Street Oversight Committee

Subject: Annual Report to City Council and Citizens of El Cerrito

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In May 2016, the Citizens Street Oversight Committee met to review expenditures of revenue collected pursuant to Chapter 4.60 of the El Cerrito Municipal Code to determine whether such funds were expended for the purposes specified in the current Street Repair and Maintenance Expenditure Plan as approved by the City of El Cerrito City Council. The expenditures reviewed were reported for Fiscal Year 2014-15, and were summarized in the City's Comprehensive Annual Financial Report. Further, the Committee reviewed the Agreed Upon Procedures Report issued by the City's independent auditors, Maze and Associates, which indicated that nothing came to their attention that caused them to believe that the City had failed to comply with the terms, covenants and conditions of the Master Installment Sale Agreement related to the bond issue. The Committee also reviewed a detailed list of vendors to whom the expenditures were made.

By a unanimous vote as indicated below, the Committee found that the expenditures were an appropriate use of the Pothole and Local Street Improvement and Maintenance Transactions and Use Tax as approved by the City of El Cerrito City Council. The Committee is hereby reporting their findings to the City Council and the citizens of the City of El Cerrito pursuant to Section 2.04.320 C of the El Cerrito Municipal Code.

Additionally, the Committee acknowledges and fully supports that City Council, in their resolutions authorizing expenditures of these funds as budget amendments, are confirming that the expenditures are an appropriate use of the Pothole Repair and Local Street Improvement and Maintenance Transactions and Use Tax.

AYES: Chair Kelly, Vice Chair Keller, and Committee Members Miller, Kessler, and Ma
NOES: None
ABSENT: None

EL CERRITO CITY COUNCIL

MINUTES

REGULAR CITY COUNCIL MEETING
Tuesday, May 17, 2016 – 7:00 p.m.
City Council Chambers

Meeting Location
El Cerrito City Hall
10890 San Pablo Avenue, El Cerrito

Greg Lyman – Mayor

Mayor Pro Tem Janet Abelson
Councilmember Jan Bridges
Councilmember Mark Friedman
Councilmember Gabriel Quinto

ROLL CALL

Present: Councilmembers Abelson, Friedman, Quinto and Mayor Lyman

Absent: Councilmember Bridges

7:00 p.m. CONVENE REGULAR CITY COUNCIL MEETING

Mayor Lyman convened the regular City Council meeting at 7:02 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Mayor Lyman.

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Lyman reported on his attendance at the May 15, 2016 Hillside Festival and thanked the Trail Trekkers for all of their work organizing and hosting this nice event. Mayor Lyman also noted that the Sunday Chronicle featured an article "UC architecture students reimagine the El Cerrito of tomorrow." The architecture students featured in the article will be giving a presentation to staff. On May 19, the East Bay Economic Development Alliance will be hosting a presentation in Oakland on the current and future status of the East Bay economy. The American Cancer Society, El Cerrito Relay for Life, is currently building teams for its annual fundraiser on July 16 and 17 at Cerrito Vista Park. More information is posted at www.relayforlife. An official County Ballot box is now located at City Hall. Any Contra Costa County Vote-by-Mail ballot can be placed in the ballot box during regular business hours. Mayor Lyman encouraged all to vote in the June 7 primary and study their election materials. Measure AA – a measure for a Clean and Healthy Bay will be on the June ballot. The City has printed 1000 "Stop Hate, Together – Not in Our Town" signs for community members to place in their windows. The free signs were created in response to the hate crime that occurred in El Cerrito in February, 2016. The signs are free for all community

members. Mayor Lyman also invited all to attend the Loving Day event on June 12 at City Hall and reminded all as previously reported, that upon conclusion of the May 3, 2016 closed session, the City Council gave direction to the City Council Subcommittee negotiators.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Cordell Hindler, Richmond, invited the City Council to register for the 2016 West County Youth Summit. Mr. Hindler expressed concerns about vacant properties near City Hall on San Pablo Avenue, noted that the rent is about $3,000 per month and that he also supports the minimum wage.

Rochelle Pardue-Okimoto, El Cerrito, spoke about the "Not in Our Town" signs that have been created to deal with hatred in El Cerrito and stated that there will be an on-going effort to deal with hatred and discrimination in not only El Cerrito but in every town. Ms. Pardue-Okimoto also invited all to attend the City's June 12 family friendly Loving Day event. Loving Day recognizes inter-racial marriages and is a multi-cultural celebration. Last year Loving Day was also used as precedent to recognize Gay marriage.

4. PRESENTATIONS – *None*

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5J

Moved, seconded (Friedman/Quinto; Ayes – Councilmembers Abelson, Friedman, Quinto and Mayor Lyman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to approve Consent Calendar Item Nos. 5A through 5J in one motion as indicated below.

A. Approval of Minutes

Approve the May 3, 2016 Special City Council, Regular City Council and City Council Closed Session meeting minutes.

Action: Approved minutes.

B. Garden Club 60th Anniversary Proclamation

Approve a proclamation commending the El Cerrito Garden Club for its important work throughout the community and recognizing the many contributions the Club makes toward civic beautification and in making El Cerrito a more beautiful place to live and work. The City Council congratulates the El Cerrito Garden Club on the occasion of its sixtieth anniversary to be celebrated on June 2, 2016.

Action: Approved proclamation.

C. State Homeland Security Grant Fiscal Year 2015 Award

Adopt a resolution authorizing the acceptance of $180,540.00 in grant funds from the California Office of Emergency Services Fiscal Year 2015 State Homeland Security Grant Program which is managed by the Contra Costa County Office of the Sheriff. These grant funds shall be used to reimburse the El Cerrito Fire Department for training and material for technical rescue classes for all of the West County Urban Search and Rescue Consortium personnel.

Action: Adopted Resolution No. 2016-33.

D. Amend Contract with Michael Baker International

Adopt a resolution authorizing the City Manager to amend the existing professional services agreement with Michael Baker International in the amount of $25,600 bringing the total contract amount to $50,060 to provide on-call planning services for the balance of the calendar year.

Action: Adopted Resolution No. 2016-34.

E. On-Call Planning and/or Environmental Planning Services Professional Services Agreements

Adopt a resolution providing the City Manager with the flexibility to execute professional services agreements as necessary with one or more of the following ten on-call planning and/or environmental planning firms: Circlepoint, David J. Powers & Associates, Grassetti Environmental Consulting, Lamphier-Gregory, Lexington Planning, LSA, M-Group, Michael Baker International, MIG and Opticos Design, Inc. to provide planning services for three years with options to extend for an additional two years in an amount not exceed $75,000 per year for each agreement. *Exempt from CEQA.*

Action: Adopted Resolution No. 2016-35.

F. All-Way Stop at the Intersection of Norvell Street and Donal Avenue

Adopt a resolution authorizing the Public Works Director/City Engineer to install stop signs on the northbound and southbound approaches of Norvell Street at Donal Avenue, creating an all-way stop. *Exempt from CEQA.*

Action: Adopted Resolution No. 2016-36.

G. Borrow Funds from the Municipal Services Corporation

Adopt a resolution authorizing the borrowing of funds from the Municipal Services Corporation.

Action: Adopted Resolution No. 2016-37.

H. CalRecycle Grant Program Application

Adopt a resolution authorizing the City Manager, or his designee, to submit applications for Payment Programs and related authorizations to the California Department of Resources Recycling and Recovery. *Exempt from CEQA.*

Action: Adopted Resolution No. 2016-38.

I. Rescheduling of June 7, 2016 City Council Meeting to June 14, 2016

Approve a recommendation confirming the rescheduling of the June 7, 2016 Regular City Council Meeting to Tuesday, June 14, 2016 to better facilitate the public's ability to participate and vote in the June 7, 2016 Statewide Primary Election. The polls close at 8:00 p.m.

Action: Approved recommendation.

J. Approval by the City Council of Acceptance of the Former Redevelopment Agency Properties in Accordance with the Successor Agency Long Range Property Management Plan

Staff requests that the City Council accept the conveyance of certain former Redevelopment Agency properties from the El Cerrito Municipal Services Corporation in accordance with the Successor Agency to the El Cerrito Redevelopment Agency Long Range Property Management Plan.

Action: Adopted Resolution No. 2016-39.

6. PUBLIC HEARINGS

A. Master Fee Schedule Revision for Fiscal Year 2016-17

Conduct a public hearing and upon conclusion adopt a resolution approving the Fiscal Year 2016-17 Master Fee Schedule.

Presenter: Stacey Johnson, Administrative Analyst.

Mayor Lyman opened the public hearing.

Speaker: Cordell Hindler, Richmond, encouraged the City Council to adopt the Master

Fee Schedule.

Moved, seconded (Friedman/Abelson; Ayes – Councilmembers Abelson, Friedman, Quinto and Mayor Lyman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to close the public hearing.

Action: Moved, seconded (Friedman/Quinto; Ayes – Councilmembers Abelson, Friedman, Quinto and Mayor Lyman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to adopt Resolution No. 2016-40.

B. Confirm the Diagram and Levy the Assessment for Fiscal Year 2016-17 for Landscape and Lighting Assessment District No. 1988-1

Conduct a public hearing and upon conclusion and upon conclusion adopt a resolution setting the annual Landscape and Lighting Assessment for Fiscal Year 2016-17 as $72 per residential parcel and as noted in the Engineer's Report for other classes of properties.

Presenter: Yvetteh Ortiz, Public Works Director.

Mayor Lyman opened the public hearing. No speakers.

Moved, seconded (Friedman/Abelson; Ayes – Councilmembers Abelson, Friedman, Quinto and Mayor Lyman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to close the public hearing.

Action: Moved, seconded (Abelson/Quinto; Ayes – Councilmembers Abelson, Friedman, Quinto and Mayor Lyman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to adopt Resolution No. 2016-41.

C. Storm Drain Annual Report and Method of Collecting Fees

Conduct a public hearing and upon conclusion adopt a resolution approving the Fiscal Year 2016-17 Storm Drain Annual Report and directing that Storm Drain Fees be collected on the property tax rolls.

Presenter: Yvetteh Ortiz, Public Works Director

Mayor Lyman opened the public hearing. No speakers.

Moved, seconded (Friedman/Quinto; Ayes – Councilmembers Abelson, Friedman, Quinto and Mayor Lyman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to close the public hearing.

Action: Moved, seconded (Abelson/Quinto; Ayes – Councilmembers Abelson, Friedman, Quinto and Mayor Lyman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to adopt Resolution No. 2016-42.

7. POLICY MATTERS

A. Proposed Medical Marijuana Facility and Impact on Current Medical Marijuana Moratorium

Councilmembers Quinto and Friedman request that the council discuss the current prohibition on medical marijuana facilities and the potential impact of the likely passage of a ballot initiative in November 2016 to legalize recreational marijuana use. The item is for discussion and direction only. There is a request to permit a new facility to open on San Pablo Avenue at the former Taco Bell site on the north end of town. It is widely expected that the ballot initiative to legalize recreational marijuana use will pass in November. By lifting the prohibition and permitting one medical marijuana facility we are able to exercise control, set conditions, and negotiate a substantial tax on gross receipts of the facility. If the City maintains the prohibition and does nothing and the initiative passes the City could quite likely have less control and would likely earn much less revenue. The purpose of the study

session is to engage the public and City Council in a discussion in the pros and cons of fast tracking the proposed facility which would be called the El Cerrito Wellness Center. Depending on the direction to staff, the current prohibition on medical marijuana facilities would need to be revised and replaced.

Presenters: Councilmember Friedman, Councilmember Quinto, Rose Johnson, CEO El Cerrito Wellness Center, John J. Oram, Ph.D, Davis Street/El Cerrito Wellness Center.

Speakers: Cordell Hindler, Richmond, encouraged the City Council to support a cannabis club because it will generate money for the City.

Tom Panas, El Cerrito, said that the issue before the Council is interesting and quite complex. Mr. Panas submitted written questions for the Council to consider based on information contained in the staff report.

Al Miller, El Cerrito, stated that he has no problem with medical marijuana in the City but is concerned about the draft ordinance attached to the staff report. Mr. Miller expressed concerns about the lack of professionalism and errors in the proposal and ordinance attached to the agenda bill. Mr. Miller asked if the potential applicant was a non-profit organization and whether revenue would be generated in a way that would not generate a profit. Mr. Miller also said he would not want to see a marijuana monopoly in the City and requested that any changes in the City's ordinance be compatible with passage of the proposed state measure.

Rochelle Pardue-Okimoto, El Cerrito, said medical marijuana is about patients. Patients need any and all treatment modalities that are available to them. The pharmaceutical industry has a stranglehold on patients who are in pain. Opiods are very addictive and can be deadly whereas marijuana is not. Patients need a respectable clinic where they can be seen and obtain their medicine and get what they need to be well.

Kip Crosby, El Cerrito, stated that marijuana is a terrific drug for the purposes it serves. Mr. Crosby said he speaks from the experience of a close relative who has used it as a better mood stabilizer than expensive medicines created by Big Pharma and as one who has studied psychopharmacology and is also a better and less habituating pain killer than oxycontin and vicodin. It is also one of the most effective drugs known for promoting sleep. Mr. Crosby said El Cerrito needs a reliable, responsible source of medical marijuana and that he supports the proposition.

Hilary Crosby, El Cerrito, said as a certified public accountant, she has seen how medical marijuana dispensaries have created good revenue streams for cities. The taxes generated on the sale of cannabis is good for the city. Ms. Crosby said she is bothered that the choice of the vendor has been conflated with the discussion of whether or not to have a dispensary.

John Sechser, Walnut Creek, Director of Retail Properties for Trans-Western, said he represents the ownership of the former Taco Bell site. The vacant property attracted crime, blight, rodents, transients and homeless rendering it functionally obsolete. Mr. Sechser urged the Council to permit the medical wellness center and stated that the proposed applicant is fully capable of closing escrow and improving the site. They have been ethical and professional in business dealings.

Adam Peterson, El Cerrito, stated that he is a former real estate broker who works for the group who is proposing the wellness center and stated that they are a professional group. Mr. Peterson urged the City Council to consider the ordinance and proposal and said great things could be done in El Cerrito.

Sean Donahoe, Oakland, stated that he represents the Best Medical Cannabis Operators for the City. The City of Oakland is passing a comprehensive medical cannabis ordinance. Mr. Donahoe said his client will offer advanced retail service, product development, proven community benefits and represents the future of the medical cannabis industry.

Karl Mulligan, El Cerrito, suggested that the city should move forward, open the process to the public and let the residents have some say. Mr. Mulligan expressed concerns with the ordinance that has been written by the proposers of the cannabis dispensary as they have written the ordinance for themselves. The City Council recently passed a zoning ordinance that made it illegal for medical cannabis users to grow marijuana themselves despite state law.

Paul Fadelli, El Cerrito, thanked the City Council for taking this timely and necessary step. Mr. Fadelli said he has friends who use cannabis for relief and stated that only one dispensary is necessary in El Cerrito. Mr. Fadelli expressed concern about the placement of the dispensary at the gateway to the city next to the "Welcome to El Cerrito" sign and stated that there needs to be some sensitivity about how El Cerrito is approached from the North and South. If there is revenue, Mr. Fadelli hopes that the City will make an effort to educate youth not to use cannabis.

Howdy Goudey, El Cerrito, stated that he supports decriminalization and responsible use but has reservations about the sole-source proposal. There needs to be an open forum to find out what will work best for this community. Mr. Goudey said he is also concerned about taxing medicine for people as other medicines are not taxable and the placement of a dispensary at the gateway to the City. Mr. Goudey encouraged the City Council to be thoughtful in its deliberations.

Patricia Durham, El Cerrito, stated that she is very happy to know that El Cerrito is being creative and innovative but hopes that the love of money is not changing the culture of the City.

Action: Discussion held (Absent – Councilmember Bridges). The City Council, by mutual consensus, refrained from providing any direction on the specific proposal before the Council this evening but agreed to move forward with consideration of changes to existing City regulations regarding marijuana-related businesses by directing staff to return to the City Council on June 14, 2016 with a proposed timeline, schedule and budget for development of an ordinance, allowing for adequate due diligence, analysis and public outreach on the topic.

B. Amended and Restated City Manager Employment Agreement

Adopt a resolution amending and restating the employment agreement between the City of El Cerrito and Scott Hanin, City Manager.

Mayor Lyman expressed appreciation for Mr. Hanin's work over the past fifteen years and highlighted changes in Mr. Hanin's employment agreement.

Speakers: Cordell Hindler, Richmond, expressed appreciation for Mr. Hanin.

Action: Moved, seconded (Friedman/Abelson; Ayes – Councilmembers Abelson, Friedman, Quinto and Mayor Lyman; Noes – None; Abstain – None; Absent – Councilmember Bridges) and carried to adopt Resolution No. 2016-43.

8. COUNCIL ASSIGNMENTS/LIAISON REPORTS

Mayor and City Council communications regarding local and regional liaison assignments and committee reports.

Mayor Pro Tem Abelson stated that the Contra Costa Transportation Authority (CCTA) is considering whether to place a half cent sales tax measure on the ballot and may come to a

consensus at a meeting tomorrow. Once approved by the CCTA, it will come to each member City Council and the County for concurrence. It would need to be passed by a majority of the cities and if there is majority approval it will go to the Contra Costa County Board of Supervisors. The CCTA was recently picked as transportation agency of the year in California by the California Transportation Foundation.

Mayor Lyman reported that Randy Iwasaki, Executive Director of CCTA, made a presentation on autonomous vehicles at the Contra Costa Mayors Conference last month. Assemblymember Susan Bonilla also spoke to the Contra Costa Mayors about state legislation that would support autonomous vehicles in California. Assemblymember Bonilla is seeking resolutions or letters in support of the proposed legislation. Congressman DeSaulnier also attended the Mayors Conference and provided a brief presentation in recognition of Port Chicago. The West County Integrated Waste Management Authority Board is working through a new Joint Exercise of Powers Agreement. The Board discussed means for future revenue and provided direction to staff and legal counsel to incorporate new language into the agreement for a multitude of methods to collect revenue including tipping fees, energy sales, etc. The Board also discussed a policy regarding disbursements and participated in a budget workshop.

Councilmember Quinto reported that as the City's delegate to the Association of Bay Area Governments (ABAG), he will be receiving a report on options regarding a ABAG/Metropolitan Transportation Commission merger at an ABAG meeting this week.

9. ADJOURNED REGULAR CITY COUNCIL MEETING at 10:11 p.m.

SUPPLEMENTAL REPORTS AND COMMUNICATIONS

Item No. 7(A) Proposed Medical Marijuana Facility and Impact on Current Medical Marijuana Moratorium

1. Comments in support of medical marijuana and a medical marijuana dispensary in El Cerrito – *Submitted by Molly Hazen, El Cerrito resident and business owner*
2. Comments opposing a proposed medical marijuana dispensary – *Submitted by George McCrae, El Cerrito.*
3. Concerns and questions regarding the proposal submitted by the proposed El Cerrito Wellness Center – *Submitted by Al Miller, El Cerrito.*
4. Questions regarding a proposal for a marijuana dispensary in El Cerrito – *Submitted by Tom Panas, El Cerrito.*
5. Powerpoint and video presentation – *Submitted by El Cerrito Wellness Center*
6. Request to submit proposal to operate a Medical Cannabis Dispensary in the City of El Cerrito – *Submitted by Sean Donahoe, Operative Campaigns LLC*

Other:

7. 2016 West County Youth Summit Flyer – *Submitted by Cordell Hindler, Richmond.*

Agenda Item No. 5(B)

CITY COUNCIL OF THE CITY OF EL CERRITO PROCLAMATION
Recognizing June as LGBT Pride Month in the City of El Cerrito

WHEREAS, the City of El Cerrito has a diverse Lesbian, Gay, Bisexual, Transgender (LGBT) community and is committed to supporting visibility, dignity and equity for all people in the community; and

WHEREAS, many of the residents, students, city employees, and business owners within the City of El Cerrito who contribute to the enrichment of our City are a part of the lesbian, gay, bisexual, transgender, and questioning community; and

WHEREAS, various advancements have been made with respect to equitable treatment of lesbians, gay men, bisexual, transgendered, and questioning persons throughout the nation, but there continues to be some opposition against people from this community and around the world making it important for cities like El Cerrito to stand up and show support for our residents who are affected; and

WHEREAS, several cities across the United States recognize and celebrate June as LGBT Pride Month; and

WHEREAS, June has become a symbolic month in which lesbians, gay men, bisexual people, transgender, and supporters come together in various celebrations of pride; and

WHEREAS, the rainbow flag, also known as the LGBT pride flag or gay pride flag, has been used since the 1970s as a symbol of Lesbian, Gay, Bisexual, Transgender pride and LGBT social movements; and

WHEREAS, flying the rainbow flag at City Hall throughout the month of June further symbolizes the City's celebration of diversity and support for the Lesbian, Gay, Bisexual, Transgender community.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby declare the month of June as LGBT Pride month in the City of El Cerrito, and invites everyone to reflect on ways we all can live and work together with a commitment to mutual respect and understanding, and further, recognizes Pride Month by flying the rainbow flag at City Hall during the month of June.

Dated: June 14, 2016

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Gregory B. Lyman, Mayor

Agenda Item No. 5(C)

EL CERRITO CITY COUNCIL PROCLAMATION

Designating June 2016 as Immigrant Heritage Month

WHEREAS, generations of immigrants from every corner of the globe have built our country's economy and created the unique character of our nation; and

WHEREAS, immigrants continue to grow businesses, innovate, strengthen the national and local economy, and create jobs in El Cerrito; and

WHEREAS, immigrants have provided the United States with unique social and cultural influence, fundamentally enriching the extraordinary character of our nation; and

WHEREAS, immigrants have not only been tireless leaders in securing their own rights and access to equal opportunity, but have also campaigned to create a fairer and more just society for all Americans; and

WHEREAS, despite these countless contributions, the role of immigrants in building and enriching our nation has frequently been overlooked and undervalued throughout our history and continuing to the present day.

NOW THEREFORE, the City Council of the City of El Cerrito does hereby proclaim June 2016 as Immigrant Heritage Month.

Dated: June 14, 2016

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Gregory B. Lyman, Mayor

AGENDA BILL

Agenda Item No. 5(D)

Date: June 14, 2016

To: Honorable Mayor and El Cerrito City Council

From: Cheryl Morse, City Clerk

Subject: November 8, 2016 General Municipal Election

ACTION REQUESTED

Adopt a Resolution: 1) Ordering and calling for a general municipal election to be held in the City of El Cerrito on Tuesday, November 8, 2016, for the purpose of electing three members of the City Council for full terms of four years each; 2) Requesting and consenting to consolidation of the municipal election with the general election to be held on November 8, 2016; 3) Requesting the services of the Contra Costa County Registrar of Voters; 4) Providing for Notice of the election; and 5) Setting specifications of the Election Order to include limiting candidate statements to 250 words, requiring candidates to pay for the costs of their candidate statement, establishing the estimated cost of each candidate statement to be $225 payable at the time of filing; and determining that, in the event of a tie vote, the winner shall be determined by lot at a time and place designated by the City Council.

The Contra Costa County Elections Division has requested that the City Clerk provide this information to the County no later than July 6, 2016.

BACKGROUND

Three seats on the City Council will be open this November. To conduct its municipal election, the City must adopt a resolution calling for the election. In addition, to consolidating the municipal election with the November 2016 general election, the City must adopt a resolution to that effect. State law requires that the resolution calling for a municipal election and requesting consolidation with the statewide election be adopted and filed with the County elections official.

The City may also increase the length of candidate statements from 200 words up to 400 words, and set the amount of the deposit for printing and distributing the statement.

The City customarily authorizes the County to conduct its elections; the County has in fact conducted most aspects of the general election for many years. The staff time, special equipment and skills associated with printing, duplicating, mailing, establishing polling locations, canvassing, counting and certifying ballots and discharging other tasks associated with the election make this arrangement cost-effective.

The City Clerk will continue to act as the local Elections Official and be responsible for processing nomination papers and candidate statements, conducting research and responding to inquiries from candidates and the public regarding candidacy and other election matters and will also function as the Filing Officer for Fair Political Practices Commission campaign disclosure filings.

Candidates will be able to procure nomination documents from the City Clerk during the period of July 18, 2016 to August 12, 2016. Although City Offices are closed on August 12, the City Clerk's Office will remain open on this day to receive the filing of all required candidate nomination papers. If an eligible incumbent does not file for re-election by this deadline, the nomination period is automatically extended by five calendar days per California Elections Code Sections 10225 and 10407 to August 12, 2016 for non-incumbents only.

At the last municipal election, the City Council set the word count for candidate statements at 250 words. For this election, the County has estimated the cost to publish a 250 word candidate statement for the City of El Cerrito at approximately $191.00, including the state mandated Spanish translation. A majority of cities in Contra Costa County have routinely set a 200-250 word count limit for each election. The cost of publishing statements consisting of between 251 and 400 words would double this cost for all candidates. Therefore, staff recommends limiting candidate statements to 250 words, and charging candidates $225 to cover any publication anomalies or unforeseen overages at the time all nomination forms are filed. Overpayments will be refunded promptly and underpayments will be billed. The filing of a candidate statement is optional, not mandatory.

ANALYSIS

City Council action is required to call a general municipal election for Tuesday, November 8, 2016, for the purpose of electing three members of the City Council for full terms of four years each, publish the required notices and authorize the County to conduct the election on behalf of the City.

Staff also recommends setting the length of the candidate statement at 250 words rather than 300 to 400 words to achieve consistency with many other cities in Contra Costa County and to also achieve cost savings for any candidates who wish to file a candidate statement and run for City Council. Some of the other cities in Contra Costa County limit candidate statements to 200 words, but the costs of printing and distributing statements up to 250 words would not result in any substantial processing inefficiencies and therefore does not affect the County's estimate of $191.00 per statement. The option of 251–400 words is also available, but doubles the printing cost because a candidate statement in excess of 250 words is likely to result in less statements being printed per page or run onto a second page in the voter pamphlet.

The City Council must also determine whether the candidate or City will pay for the candidate statement. Based on the County Election Division's estimate of $191.00 per candidate statement for a city the size of El Cerrito, staff recommends requiring the estimated cost of $225 to be paid by each candidate. This amount would be due at the

time of filing the statement with the City Clerk, presuming the candidate chooses to file a statement, which is optional. Alternatively, the City Council could choose to have the City assume the cost of printing all candidate statements resulting in expenditure of additional funds for the election. The City could also forgo requiring payment of the estimated cost by the candidate at the time the statement is filed, and require the payment at some later date. However, there is no assurance that staff will be able to collect funds from a candidate once the election is over.

Finally, the City Council must determine the method of resolving a tie vote – either by choosing a winner by lot, or ordering a special run-off election. Previous City election consolidation resolutions have specified resolving a tie vote by lot. In this instance, the City Council would summon the candidates who received an equal number of votes to appear before them at a time and place designated by the City Council. The City Council would then resolve the tie vote by lot by selecting a person to either toss a coin, or by placing each candidate's name in an unmarked, sealed envelope, drawing the envelope and reading the name of the winning candidate. Alternatively, the City Council could direct that a special runoff election be conducted for those candidates who receive an equal number of votes. However, a special run-off election would delay seating a new City Councilmember and the City would also incur substantial costs conducting a separate special run-off election. California Election Code Section 15651(b) requires a special run-off election to be held on a Tuesday not less than 40 nor more than 125 days after certification of the election.

It is important to note that adopting the provisions for a run-off election in the event of a tie vote will remain in effect for all future elections unless the Council later rescinds the authority for special runoff elections. Previous election consolidation resolutions have specified resolving a tie vote by lot. Staff recommends action consistent with this practice as established by resolution for past general municipal elections.

In the attached resolution, staff recommendations are underlined and are consistent with prior election orders for candidate elections adopted by the City Council.

FINANCIAL CONSIDERATIONS

The County estimates that the 2016 General Municipal Candidate Election will cost approximately $1.50-$2.50 per registered voter. As of June 6, 2016 there were 14,782 registered voters in the City of El Cerrito. This number is expected to increase prior to November. The November 2016 candidate municipal election is estimated to cost approximately $22,173 – $38,000 including election consolidation, public noticing, printing fees and any temporary personnel that might be needed. However, the Contra Costa Elections Division has cautioned that because of the number of variables involved in preparing for and conducting an election, it is not possible to pre-determine the final, actual cost of the election. Should the Council decide to provide for a special runoff election in the event of a tie vote rather than resolving a tie by lot, the Registrar of Voters has estimated the additional cost of a stand-alone special run-off election to be approximately $5.00 per voter or $73,910.

LEGAL CONSIDERATIONS

Election code requirements are fulfilled by adoption of the attached resolution.

Reviewed by:

Scott Hanin/csm

Scott Hanin, City Manager

Attachments:

1. Resolution
2. Contra Costa County Registrar of Voters estimate of candidate statement costs by City
3. Sample of 250-word statements as they would appear in the voter information portion of the "Sample Ballot and Voter Information Pamphlet"
4. November 8, 2016 Candidate Election Calendar

Agenda Item No. 5(D)
Attachment 1

RESOLUTION NO. 2016–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ORDERING AND CALLING A GENERAL MUNICIPAL ELECTION TO FILL THREE CITY COUNCIL SEATS; REQUESTING AND CONSENTING TO CONSOLIDATION OF THE MUNICIPAL ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016; REQUESTING THE SERVICES OF THE CONTRA COSTA COUNTY REGISTRAR OF VOTERS; PROVIDING FOR NOTICE OF ELECTION; AND SETTING SPECIFICATIONS OF THE ELECTION ORDER

WHEREAS, the term of three members of the City of El Cerrito ("City") Council are due to expire and the positions must be filled; and

WHEREAS, the City Council has ordered a Municipal Election to be held on Tuesday, November 8 2016, to fill those offices; and

WHEREAS, other elections may be held in whole or in part of the territory of the city and it is to the advantage of the City to consolidate its municipal election pursuant to California Elections Code Sections 10002 and 10400; and

WHEREAS, the City's boundaries have not changed since the last municipal election; and

WHEREAS, California Elections Code Sections 10002 and 10400 provide that a City Council may request the Contra Costa County ("County") Board of Supervisors to consolidate a general municipal election with the statewide general election; and

WHEREAS, California Elections Code Section 10242 provides that the City Council shall determine the hours of opening and closing the polls; and

WHEREAS, California Elections Code Section 10002 requires the City to reimburse the County in full for the services performed upon presentation of a bill to the City by the County Elections Official; and

WHEREAS, California Elections Code Section 13307 requires that before the nominating period opens the City Council must determine whether a charge shall be levied against each candidate submitting a

candidate's statement to be sent to the voters; and may estimate the cost and determine whether the estimate must be paid in advance; and

WHEREAS, California Elections Code Section 12101 requires the publication of a notice of the election once in a newspaper of general circulation in the City; and

WHEREAS, tie votes shall be determined by lot unless the City Council adopts the provisions of California Elections Code Section 15651(b) prior to the conduct of the election resulting in the tie vote.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL CERRITO DOES HEREBY RESOLVE AND ORDER that an election be held in accordance with the following specifications:

SPECIFICATIONS OF THE ELECTION ORDER

1. The City Council hereby calls for a general municipal election in and for the City of El Cerrito. The Election shall be held on Tuesday, the 8th day of November, 2016. The purpose of the election is to choose successors for the following offices:

Councilmember	4 year term
Councilmember	4 year term
Councilmember	4 year term

2. The El Cerrito City Council hereby requests and consents to the consolidation of this election with other elections which may be held in whole or in part of the territory of the City, as provided in California Elections Code Sections 10002 and 10400.

4. The City hereby designates the hours the polls are to be kept open shall be from 7:00 A.M. to 8:00 P.M.

5. The City will reimburse the County for the actual costs incurred in conducting the election upon receipt of a bill stating the amount due as determined by the elections official.

6. The City Council has determined that the candidate will pay for the Candidate's Statement. The Candidate's Statement will be limited to 250 words. As a condition of having the Candidate's Statement published, the candidate shall pay the full estimated cost at the time of filing. The City Council hereby establishes the estimated cost for a candidate statement as $225.00.

7. The City Clerk is hereby authorized and directed to publish a Notice of Election in the West Contra Costa Times, which is a newspaper of general circulation that is published daily in the city.

8. In the event of a tie vote for a City Council seat the method to resolve it will be determined by lot at a time and place designated by the Election Board (City Council).

9. The City Council directs the City Clerk to file a certified copy of this Resolution with the Registrar of Voters and the Board of Supervisors of Contra Costa County.

I CERTIFY that the foregoing resolution was adopted upon motion of Councilmember _____ and seconded by Councilmember _____at a special meeting on June 14, 2016 by the City Council of the City of El Cerrito who passed this resolution by the following vote:

AYES: Councilmembers
NOES: Councilmembers
ABSENT: Councilmembers
ABSTAIN: Councilmembers

_____

Cheryl Morse, City Clerk

APPROVED:

_____

Gregory B. Lyman, Mayor

CITY	COST ESTIMATE	WORD LIMIT*	PAID BY
Antioch	$479.00	250	Candidate
Brentwood	$319.00	250	Candidate
Clayton	$127.00	250	Candidate
Concord	$599.00	250	Candidate
Danville	$319.00	250	Candidate
El Cerrito	$191.00	250	Candidate
Hercules	$175.00	250	Candidate
Lafayette	$215.00	250	Candidate
Martinez	$263.00	250	Candidate
Moraga	$151.00	250	Candidate
Oakley	$215.00	250	Candidate
Orinda	$183.00	250	Candidate
Pinole	$151.00	250	Candidate
Pittsburg	$303.00	250	Candidate
Pleasant Hill	$239.00	250	Candidate
Richmond	$471.00	250	Candidate
San Pablo	$143.00	250	Candidate
San Ramon	$383.00	250	Candidate
Walnut Creek	$447.00	250	Candidate

*Word limit is 250 unless otherwise determined by the resolution from the city.

Below are samples of 250-word statements as they would appear in the voter information portion of the "Voter Information Pamphlet." Statements will appear in the same order as the candidates appear on the ballot.

CANDIDATE STATEMENT
WASHINGTON UNIFIED SCHOOL DISTRICT
GOVERNING BOARD

JANE DOE
Businesswoman

I am running for the governing board of the Washington Unified School District because I feel I can bring a balance to the board. I attended local schools, graduating from Washington High School in 1985. I am married and currently have two children attending school in the district.

I own and operate my own business, so I am well aware of the need to operate within a budget. With proper distribution of resources and educational materials I am convinced we can offer quality education to all students within the district.

I fully understand the value of a quality public education. As your next school board member, I will work to protect small class sizes and better learning environments for our students. I will also ensure that we create a safer learning environment to achieve these goals.

I have been active in the P.T.A., served on the Save Our Youth committee, and am an active member of the All-Faith Church. I have served as Boy Scout Den Mother and Girl Scout Leader for the past 3 years. I also serve as a volunteer at the Community Recycling Center as time allows.

If elected to serve as a Governing Board Member, I will build on this experience and work diligently to maintain financial stability and foster an educational environment that meets the intellectual and social-developmental needs of our children.

I am looking forward to serving you on the Washington Unified School District Governing Board. I respectively ask for your vote.

Thank you.

CANDIDATE STATEMENT
WASHINGTON UNIFIED SCHOOL DISTRICT
GOVERNING BOARD

JANE DOE
Businesswoman

I am running for the governing board of the Washington Unified School District because I feel I can bring a balance to the board. I attended local schools, graduating from Washington High School in 1985. I am married and currently have two children attending school in the district.

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I am looking forward to serving you on the Washington Unified School District Governing Board. I respectively ask for your vote. Thank you.

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GOVERNING BOARD

JANE DOE
Businesswoman

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NOVEMBER 8, 2016 GENERAL ELECTION CANDIDATE CALENDAR

	APPLIES TO	DATES
Candidate Filing Period – Nomination Period	All Cities, School and Special Districts	**Jul. 18 – Aug. 12** E-113 – 88
First Semi-Annual Campaign Expenditure Statements Due	All Candidate Controlled Committees, Ballot Measure Committees and General Purpose Committees	Aug. 1 E-99
24-hr Late Contribution Disclosure Period Begins ($1,000 or more in aggregate)	All Candidates and Committees	Aug. 10 E-90
Extended Filing Period	If no incumbent files nomination papers by August 12, the filing period is extended for non-incumbents only	Aug. 13 – 17 E-87 – 83
Public Review of "Ballot Designations" and "Candidate Statements"	All candidates	Aug. 13 – 22 E-87 – 78
	For "Candidate Statements" and "Ballot Designations" filed during the extended period	Aug. 18 – 27* E-82 – 73
Last day to withdraw "Candidate Statement"	All candidates	Aug. 15 E-85
	Candidates who filed during the extended filing period	Aug. 18 E-82
Last day to file a petition forcing a contest on the General Election ballot	Applies only to offices where the number of candidates does not exceed the number of positions	Aug. 17 E-83
Randomized alphabet drawing for ballot placement	All Candidates	Aug. 18 E-82
First Pre-Election Campaign Statement due	All Candidates and Committees	Sept. 29 E-40
Deadline to register to vote in the November 8, 2016 General Election	All voters	Oct. 24 E-15
Second Pre-Election Campaign Statement due	All Candidates and Committees	Oct. 27 E-12
Election Day	Polls are open from 7:00 am to 8:00 pm	**November 8, 2016**
Depending on receipt of the County's certification, Council to Adopt and Certify Election Results. Newly elected Councilmembers sworn-in and seated. The City Council also re-organizes.		Dec. 6, 13 or 20, 2016
County Deadline to Certify the General Election		Dec. 8 E+30
Semi-Annual Campaign Statement due	All Candidates and Committees	Jan. 31, 2017

**NOTE: Asterisked dates indicate that the deadline falls on a Saturday, Sunday, or a holiday; the deadline will move forward to the next business day.*

CALENDAR OF IMPORTANT DATES

Military Overseas Voter Ballot Mailing	September 23, 2016
Sample Ballot Mailing	September 29, 2016
Vote-by-Mail Mailing	October 10, 2016
Registration Deadline	October 24, 2016
Supplemental Sample Ballot Mailing	October 27, 2016
Last Day to Request Vote-by-Mail Ballot	November 1, 2016
Last Day to Mail Vote-by-Mail Ballot	November 8, 2016
Election Day	November 8, 2016
Canvass / 1% Period	November 9 – December 8, 2016
Certification Deadline / Results Transmitted	December 8, 2016

AGENDA BILL

Agenda Item No. 5(E)

Date: June 14, 2016

To: El Cerrito City Council

From: Karen Pinkos, Assistant City Manager

Subject: Amendments to City Classification Plan

ACTION REQUESTED

Adopt a resolution amending the City's Classification Plan to establish the classifications and salaries for the position of Childcare Aide and Van Driver.

BACKGROUND/ ANALYSIS

The City's Strategic Plan identifies "Deliver Exemplary Government Services" as a primary goal. The strategies outlined for this goal include recruiting and retaining a talented workforce, and maintaining an emphasis on providing excellent customer service.

The City's Memorandum of Understanding (MOU) with Service Employees International Union (SEIU) has historically included several position titles, both full-time and part-time, that are specifically noted as represented by SEIU. However, for several of the titles, there were not accompanying class specifications or job descriptions that have been approved by the City Council. Rather, the titles evolved over time from the duties performed by the incumbents in various non-specific classifications, and as a result no current job description accurately matches several titles listed in the MOU. This results in confusion as far as essential functions, duties to be performed, and knowledge/skills/abilities required by a person in one of these positions. It also created confusion as to what employees are represented by SEIU.

Human Resources staff, with some assistance from SEIU, has conducted an audit of all part-time classifications in the City in order to clarify the appropriate positions to be covered by the MOU. This audit also clarified what position titles and corresponding classifications are represented by SEIU. The City and SEIU memorialized the results of the audit in a side letter outlining terms for part-time classifications. It was determined that two position titles, Childcare Aide and Van Driver, necessitated the creation of specific job descriptions to detail the requirements and essential functions for these jobs:

- Childcare Aide: this is an entry-level position that works on a variety of childcare and recreation activities, particularly those at the City's on-site Childcare programs. This position requires duties specific to working with

children, that the person is at least 18 years of age, and must maintain CPR and First Aid certifications.

- Van Driver: this position transports patrons using commercial vehicles between locations either on a schedule or on special trips, and performs trip leader duties on day trips. This position requires duties specific to working with seniors, disabled, and children, and the person must possess a Class B, passenger-endorsed driver license by the State of California.

The incumbents currently working under the titles of "Childcare Aide" and "Van Driver" will be placed in these classifications, and will be represented by SEIU. The current salary grade that applies to these titles will continue to apply for these classifications.

STRATEGIC PLAN CONSIDERATIONS

Amending the City's classification plan will help fulfill City of El Cerrito Strategic Plan Goal A: Delivering Exemplary Public Services and the following objectives:

- Recruit and retain a talented and effective workforce
- Maintain emphasis on providing excellent customer service

FINANCIAL CONSIDERATIONS

There will be no additional costs for the proposed changes to the classification plan for Childcare Aide and Van Driver, as the costs for these part-time positions are included within the adopted 2015-16 operating budget. The hourly salary ranges for these positions, which are currently being applied, are:

Childcare Aide:	$11.97 - $15.94
Van Driver:	$15.54 - $19.17

Reviewed by:

Scott Hanin

Scott Hanin, City Manager

Attachments:

1. Resolution establishing classification of Childcare Aide and Van Driver
2. Class Specification – Van Driver
3. Class Specification – Childcare Aide

Agenda Item No. 5(E)
Attachment 1

RESOLUTION 2016-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AMENDING THE CITY CLASSIFICATION PLAN

WHEREAS, the City Council of the City of El Cerrito has an adopted Classification Plan for positions in the City's service; and

WHEREAS, the current Classification Plan does not include class descriptions for a Childcare Aide or Van Driver; and

WHEREAS, the City must amend the Classification Plan to include the Childcare Aide and Van Driver classifications and establish compensation; and

WHEREAS, it is in the City's best interest to recruit and retain high quality employees for the City; and

WHEREAS, an effective means for achieving this objective is to provide competitive salaries, benefits, and conditions of employment for said employees.

NOW THEREFORE, BE IT RESOLVED, that the City Council does hereby amend the City's Classification Plan to establish the class specifications of Childcare Aide and Van Driver, as specified in Exhibits A and B, and establish the hourly salary range as follows:

Childcare Aide:	$11.97 - $15.94
Van Driver:	$15.54 - $19.17

I CERTIFY that at a special meeting on June 14, 2016 the El Cerrito City Council passed this resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June XX, 2016.

_____
Cheryl Morse, City Clerk

APPROVED:

_____
Gregory B. Lyman, Mayor

CITY OF EL CERRITO

VAN DRIVER

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

DEFINITION

Under general supervision, drives a passenger van, bus, or equivalent vehicle to transport patrons between locations using an established schedule and on special trips by dispatch or prior arrangement.

DISTINGUISHING CHARACTERISTICS

This is an entry-level class, which requires the incumbent to perform a broad range of tasks for a variety of Recreation programs under general supervision.

SUPERVISION RECEIVED AND EXERCISED

General supervision provided by Recreation Supervisor or Community Services Coordinator.

ESSENTIAL FUNCTION STATEMENTS

Essential responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Transport passengers, including children, seniors and disabled, within the City of El Cerrito and on day trips to various locations in the Bay Area.

Drives a passenger van, bus, or equivalent vehicle over designated routes and established time schedules, picking up and discharging passengers. May escort riders across streets and roadways when necessary.

Ensures passenger safety and observes guidelines for bus capacity.

Provide physical assistance to passengers using wheelchairs and walkers and children who require booster seats. Ensure all safety belts are in working order and being used correctly.

Perform trip leader duties on day trips: establishing meeting locations and times, contacting appropriate authorities during emergencies, paying trip expenses such as entrance tickets and meals, etc.

Assist staff with dispatch duties.

Inspects vehicle prior to operation for safety compliance. Performs basic maintenance and ensures cleanliness of vehicle.

Identifies and reports problems or equipment malfunctions. Initiates work order requests, describing the problem or circumstance.

Perform all duties in conformance with safety standards.

Actively supervises children under their care ensuring their safety at all times.

Performs other duties as assigned that support the overall objective of the position.

Marginal / Non-Essential Functions:

May drive for special events.

Perform related duties and responsibilities as required

QUALIFICATIONS

Knowledge of:

Working knowledge and understanding of safe driving practices.

Basic knowledge of the operating and mechanical characteristics of a passenger van, bus, or equivalent vehicle.

Basic understanding of State laws, rules and regulations pertaining to passenger vehicle operations.

Working knowledge of City street layouts and designated routes, including stops and traffic hazards.

Ability to:

Perform all of the duties of the position with minimal supervision.

Read and understand laws, rules, regulations and procedures for safe passenger vehicle operation and inspection.

Recognize malfunctions in equipment and take appropriate action, and maintain the assigned vehicle in clean and safe operating condition.

Demonstrate concern and care for the physical and emotional needs of older adults, children and the disabled.

Demonstrate and utilize excellent customer service skills.

To speak clearly and follow written and oral directions.

Ability to interact tactfully with staff and general public.

Maintain physical and mental capacities appropriate to the performance of assigned duties and responsibilities.

Assist with related clerical duties.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Must possess a Class B, passenger-endorsed driver license by the State of California. Prior passenger driving experience preferred.

Training:

High school graduate, GED, or equivalent.

Licenses/Certificates/ Other requirements:

Possession of, or ability to obtain, an appropriate Class B California Driver license with passenger endorsements by date of hire. Possession of basic First Aid and CPR certifications within 6 months of hire.

PHYSICAL DEMANDS

Sitting:	Frequently to constantly	Lifting:	
Standing:	Frequently	up to 10 lbs:	Occasionally
Walking:	Frequently to constantly	11 to 25 lbs:	Occasionally
Bending:	Occasionally	26 to 50 lbs:	Occasionally
Crouching:	Occasionally	51 to 75 lbs:	Occasionally
Stooping:	Occasionally	76 to 100 lbs:	Occasionally
Kneeling:	Occasionally	100 + lbs:	Never
Crawling:	Occasionally	Carrying	
Climbing:	Occasionally	up to 10 lbs:	Occasionally
Balancing:	Never	11 to 25 lbs:	Occasionally
Running:	Occasionally	26 to 50 lbs:	Occasionally
Twisting:	Occasionally	51 to 75 lbs:	Occasionally
Turning:	Occasionally	76 to 100 lbs:	Occasionally
Jumping:	Never	100 + lbs:	Never

Pushing/Pulling:	up to 10 lbs:	Occasionally
	11 to 25 lbs:	Occasionally
	26 to 50 lbs:	Never
	51 to 75 lbs:	Never
	76 to 100 lbs:	Never
	100 + lbs:	Never

Grasping – firm:		Occasionally	
Finger dexterity:		Occasionally	
Reaching forward:		Occasionally	
Pinch grasp:		Occasionally	
Grasp – light:		Occasionally	
Coordination	-	Eye-hand:	Frequently
		Eye-hand-foot:	Occasionally
		Driving:	Occasionally
Talking	-	Face-to-face:	Occasionally to frequently
		Verbal contact:	Occasionally
		Public:	Occasionally to frequently
Vision	-	Acuity far:	Required
		Acuity, near:	Required
		Depth perception:	Required
		Field of vision:	Required
		Accommodation:	Required
		Color vision:	Required
Hearing	-	Conversation:	Occasionally to frequently
		Telephone:	Occasionally
		Earplugs:	Never

MENTAL REQUIREMENTS

Interpret instructions, Problems-standard, Detailed-uninvolved instructions, One or two-step instructions, Reading-simple, Writing-simple, Math skills-simple, Coordinating, Compiling, Mentoring, Negotiating, Instructing, Supervising, Diverting, Persuading, Speaking-signaling, Serving, Taking instructions-helping, Setting up, Driving-operation, Comprehend/follow instructions, Perform simple-repetitive tasks, Maintain work pace, Relate to other people, Influence other people, Perform varied-complex tasks, Generalizations/evaluations, Responsibility for direction.

WORK ENVIRONMENT

Exposure to: Indoors, Outdoors, Slippery/uneven surfaces, Using computer/computer monitor screen, Works around others, Works alone, Works with others.

CITY OF EL CERRITO

CHILDCARE AIDE

*Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are **not** intended to reflect all duties performed within the job.*

DEFINITION
Under general supervision, assists in and conducts a variety of childcare and recreation activities.

DISTINGUISHING CHARACTERISTICS
This is the entry-level position of a series of Childcare recreation positions.

SUPERVISION RECEIVED AND EXERCISED
General supervision provided by Childcare Teacher, Community Services Coordinator, and/or Recreation Supervisor.

ESSENTIAL FUNCTION STATEMENTS
Essential responsibilities and duties may include, but are not limited to, the following:

Essential Functions:
Assist with, conduct, and participate in a variety of childcare and recreation activities; work directly with children in class activities and projects.

Ensure health and safety of children.

Assist site coordinators and teachers in the implementation of educational childcare programs.

Conduct and participate in the planning of curriculum activities.

Assist with variety of program and activity support such as getting supplies and equipment, setting up certain equipment, directing participants during events, and overseeing cleanup of facility.

Contribute to the maintenance of a clean and orderly environment.

Assist in operating the site in an efficient and safe manner.

Interact with parents/guardians on a daily basis.

Interact with Recreation staff and participants and cordially providing information to customers.

Presenting and maintaining a professional appearance and demeanor, including wearing appropriate attire for the position and exhibiting respect and enthusiasm as duties and responsibilities are carried out.

Performs other duties as assigned that support the overall objectives of the position.

Marginal / Non-Essential Functions:

May transport children occasionally in City vehicles.

Perform related duties and responsibilities as required.

QUALIFICATIONS

Knowledge of:

Variety of childcare and recreation activities.

Ability to:

Conduct and participate in childcare and recreation activities.

Assist with related clerical duties.

Demonstrate good customer service and staff relations.

Maintain physical and mental capacities appropriate to the performance of assigned duties and responsibilities.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:
Not required. Volunteer or prior recreation aide experience preferred

Training:
High school graduate, GED, or equivalent. CPR and First Aid certifications prior to hire preferred.

Licenses/Certificates/ Other requirements:

Must be 18 years of age; must meet qualifications required to work in a California State licensed childcare facility (if applicable); must obtain CPR and First Aid certifications within three months of hire. Possession of or ability to obtain valid California driver's license.

PHYSICAL DEMANDS

Sitting: Occasionally to frequently
Standing: Occasionally
Walking: Frequently
Bending: Occasionally
Crouching: Occasionally
Stooping: Occasionally
Kneeling: Occasionally
Crawling: Never
Climbing: Occasionally
Balancing: Occasionally
Running: Occasionally
Twisting: Occasionally
Turning: Occasionally
Jumping: Occasionally
Pushing/Pulling:
- up to 10 lbs: Occasionally
- 11 to 25 lbs: Occasionally
- 26 to 50 lbs: Occasionally
- 51 to 75 lbs: Occasionally
- 76 to 100 lbs: Never
- 100 + lbs: Never

Grasping – firm: Occasionally
Finger dexterity: Occasionally
Reaching forward: Occasionally

Lifting:
up to 10 lbs: Occasionally
11 to 25 lbs: Occasionally
26 to 50 lbs: Occasionally
51 to 75 lbs: Occasionally
76 to 100 lbs: Never
100 + lbs: Never

Carrying
up to 10 lbs: Occasionally
11 to 25 lbs: Occasionally
26 to 50 lbs: Occasionally
51 to 75 lbs: Occasionally
76 to 100 lbs: Never
100 + lbs: Never

Pinch grasp:		Occasionally	
Grasp – light:		Occasionally	
Coordination	-	Eye-hand:	Occasionally
		Eye-hand-foot:	Occasionally
		Driving:	Occasionally
Talking	-	Face-to-face:	Frequently to Constantly
		Verbal contact:	Frequently to Constantly
		Public:	Frequently to Constantly
Vision	-	Acuity far:	Required
		Acuity, near:	Required
		Depth perception:	Required
		Field of vision:	Required
		Accommodation:	Required
		Color vision:	Not required
Hearing	-	Conversation:	Frequently to Constantly
		Telephone:	Occasionally
		Earplugs:	Never

MENTAL REQUIREMENTS

Interpret instructions, Detailed-uninvolved instructions, One or two-step instructions, Reading-simple, Writing-simple, Math skills-simple, Coordinating, Negotiating, Instructing, Supervising, Speaking-signaling, Taking instructions-helping, Setting up, Driving-operation, Manipulation, Comprehend/follow instructions, Perform simple, Repetitive tasks, Maintain work pace, Relate to other people, Influence other people, Perform varied, Complex tasks, Generalizations/evaluations, Responsibility for direction.

WORK ENVIRONMENT

Exposure to: Indoors, Outdoors, Excessive noise, Slippery/uneven surfaces, Using computer/computer monitor screen, Works alone, Works around others, Works with others.

AGENDA BILL

Agenda Item No. 5(F)

Date: June 14, 2016

To: El Cerrito City Council

From: James Chan, Information Systems Manager

Subject: Authorize Expenditure with SSP Data Products

ACTION REQUESTED

Adopt a resolution authorizing the expenditure of $23,350 with SSP Data Products to procure Cisco Data Switches, Cisco SmartNet support and security software annual subscriptions for the City's Network Security Appliances.

DISCUSSION

The Information Systems Division utilizes SSP Data Products to provide the City's network switches, routes, security Appliances/Firewalls and related items. The various components need to be updated and replaced on a somewhat regular basis. In this Fiscal year the Division has replaced the City's old network firewalls at various City facilities with new Cisco new generation network security appliances. Expenditures to date this Fiscal Year have totaled $20,504. The City's procurement policy requires that expenditures over $25,000 are approved by City Council. An additional $23,350 is needed this Fiscal Year to complete the required updates bringing the total Fiscal Year 16 expenditures to $43,854. In this Fiscal Year, expenditures have been slightly higher than in typical years due to the need to replace out of date Cisco routers, data switches and Cisco SmartNet support and security software maintenance subscriptions for the next generation Firewall/Network Security Appliances.

STRATEGIC PLAN CONSIDERATIONS

Continuous maintenance and updating of the City's network facilitates Goal A: Deliver exemplary government services.

FINANCIAL CONSIDERATIONS

The cost of the proposed amendment will be covered through the adopted Information Services Division operating budget and no new budget authorization is required. Cost of products purchased by the Division are compared through an informal bid process unless specific items are required due to compatibility. Most larger items are typically purchased off the State bid list (CMAS) to ensure competitive prices and consistency with City procurement processes as allowed by Council resolution.

Reviewed by:

Scott Hanin/csm

Scott Hanin, City Manager

Attachment:

1. Resolution

Agenda Item No. 5(F)
Attachment

RESOLUTION NO. 2016–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE EXPENDITURE OF $23,350 WITH SSP DATA PRODUCTS

WHEREAS, the City utilizes SSP Data Products to provide the City's network switches, routes, security Appliances/Firewalls and related items to support its information technology systems; and

WHEREAS, system components need to be periodically updated and replaced and subscriptions renewed; and

WHEREAS, the City's procurement policy limits the expenditures with any single vendor to $25,000 per fiscal year; and

WHEREAS, in Fiscal Year 2016, expenditures with SSP Data Products have totaled $20,504; and

WHEREAS, in this Fiscal Year, additional needed replacements, upgrades and subscriptions require an additional expenditure of $23,350; and

WHEREAS, approval of the proposed expenditures will bring the total authorized expenditures with SSP Data Products to $43,854 in FY 2016; and

WHEREAS, maintaining the City's information technology system is necessary to provide exemplary government services; and

WHEREAS, the proposed expenditures will be covered through the adopted Information Services Division operating budget and no new budget authorization is required.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby authorizes the expenditure of $23,350 for the procurement of information technology components and subscriptions with SSP Data Products.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon its passage and adoption.

I CERTIFY that at a special meeting on June 14, 2016, the City Council passed this resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June XX, 2016.

_____

Cheryl Morse, City Clerk

APPROVED:

_____

Gregory B. Lyman, Mayor

AGENDA BILL

Agenda Item No. 5(G)

Date: June 14, 2016

To: El Cerrito City Council

From: James Chan, Information Services Manager
Shannon Collins, Accounting Supervisor

Subject: Authorize Expenditure with SunGard Public Sector

ACTION REQUESTED

Adopt a resolution authorizing the expenditure of $20,800 with SunGard Public Sector to procure additional TRAKiT land management licenses and specialized business automation software.

DISCUSSION

Several departments within the City have utilized TRAKiT Land Management software since approximately 2005 for permitting, inspections, business licenses and other permit tracking activity. The City recently procured iTRAKiT software to improve efficiency in the field for the Building Division. (TRAKiT is a product of SunGard Public Sector, which acquired the product from CRW Systems in 2015). iTRAKiT allows field inspectors to access inspection information from a mobile device and more efficiently schedule, reschedule and access inspection data. Due to the increased use of TRAKiT facilitated by this software, the City is in need of five additional licenses at the cost of $2,000 each. The licensing cost is a one-time expense.

At the same time, the Finance Department wishes to add business automation to the TRAKiT suite of software to be able to automate the business license renewal process. The software will enable automatic renewal of active business licenses, automatic calculation of fees based on the Business License Fee Schedule, automatically expire licenses upon the expiration date, link business licenses to permits in order to alert staff if the business has an expired business license or has a balance due. The cost of this additional product is $10,800.

The cost of the proposed amendment brings the total expenditures with SunGard to $60,000 this fiscal year.

STRATEGIC PLAN CONSIDERATIONS

Adding these software components and licenses facilitates Goal A: Deliver exemplary government services.

FINANCIAL CONSIDERATIONS

The original system was purchased through a completive proposal process and approved by the City Council. The cost of the proposed amendment will be covered through the Information Services Division and Finance Department operating budgets and no new budget authorization is required.

Reviewed by:

Scott Hanin/CSM

Scott Hanin, City Manager

Attachment:

1. Resolution

Agenda Item No. 5(G)
Attachment

RESOLUTION NO. 2016–XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE EXPENDITURE OF $20,800 WITH SUNGARD PUBLIC SECTOR FOR THE PROCUREMENT OF ADDITIONAL TRAKIT LAND MANAGEMENT LICENSES AND SPECIALIZED BUSINESS AUTOMATION SOFTWARE

WHEREAS, the City has utilized TRAKiT Land Management software since 2005 for permitting, inspections, management of business licenses and other permit tracking activity; and

WHEREAS, the City recently procured iTRAKiT software to improve efficiency in the field by being able to access inspection information from mobile devices and more efficiently schedule, reschedule and access inspection data; and

WHEREAS, due to the increased use of TRAKiT facilitated by this software, the City is in need of five additional licenses; and

WHEREAS, the Finance Department also wishes to add business automation to the TRAKiT suite of software to be able to automate the City's business license issuance and renewal process; and

WHEREAS, the City's procurement policy limits the expenditures with any single vendor to $25,000 per fiscal year; and

WHEREAS, in Fiscal Year 2016, expenditures with Sungard Public Sector, the provider of TRAKiT software have totaled $39,200; and

WHEREAS, approval of the proposed expenditures will bring the total authorized expenditures with Sungard Public Sector to $60,000 in FY 2016; and

WHEREAS, the proposed expenditures are necessary for the City to provide exemplary government services; and

WHEREAS, the proposed expenditures will be covered through the adopted Information Services Division operating budget and no new budget authorization is required.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito hereby authorizes the expenditure of $20,800 with SunGard Public Sector to procure additional TRAKiT land management licenses and specialized business automation software.

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon passage and adoption.

Agenda Item No. 5(G)
Attachment

I CERTIFY that at a special meeting on June 14, 2016, the City Council passed this resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June XX, 2016.

_____

Cheryl Morse, City Clerk

APPROVED:

_____

Gregory B. Lyman, Mayor

AGENDA BILL

Agenda Item No. 7(A)

Date: June 14, 2016

To: El Cerrito City Council

From: Paul Keith, Interim Chief of Police
Sean Moss, Senior Planner

Subject: Proposed Timeline and Budget for Development of an Ordinance Regulating Marijuana-Related Businesses

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ACTION REQUESTED

Continue discussion on the current prohibition on marijuana-related businesses and provide direction to staff on developing an ordinance regulating marijuana-related businesses and development of a permit process.

BACKGROUND

During the City Council Meeting on May 17, 2016, City Council directed City Staff to return to the City Council on June 14, 2016 with a proposed timeline, schedule, and budget for development of an ordinance regulating marijuana-related businesses allowing for adequate due diligence, analysis, and public outreach on the topic.

In 1996, California voters passed Proposition 215, also known as the *Compassionate Use Act*, legalizing the use of marijuana for medicinal purposes within the State of California. Marijuana use and cultivation remains illegal under federal law. SB 420 (Vasconcellos), also known as the *Medical Marijuana Program Act*, was adopted in 2003 and further defined the scope of Proposition 215. SB 420 established possession limits for medical marijuana, established a voluntary medical marijuana ID card program at the county level, and recognized the right of patients to cultivate marijuana collectively. The regulatory framework established by SB 420 led to the establishment of medical marijuana dispensaries throughout the state. After the passage of SB 420, many local jurisdictions chose to regulate medical marijuana dispensaries through land use and other regulations. In 2006, the El Cerrito City Council adopted Ordinance 2006-06, prohibiting medical marijuana dispensaries "in all zones throughout the City of El Cerrito."

Licensed medical marijuana dispensaries currently operate near El Cerrito in the cities of Richmond and Berkeley. The City of Albany has a prohibition on medical marijuana dispensaries. The three nearest dispensaries to El Cerrito are 7 Stars Holistic Healing Center on Pierce Street in Richmond (located within Pacific East Mall), Green Remedy on Hilltop Mall Road in Richmond and Berkeley Patients Group on San Pablo Avenue, south of University Avenue, in Berkeley. A search of www.weedmaps.com (one of the most complete resources for medical marijuana services identified) site identified 25 different dispensaries which are listed as providing deliveries to El Cerrito.

There is currently one pending statewide ballot initiative to legalize adult use of marijuana. This initiative is currently pending verification of the required number of valid signatures to qualify

for the November 2016 ballot. The description of the Control, Regulate and Tax Adult Use of Marijuana Initiative (the "Adult Use of Marijuana Initiative") is attached.

Representatives of the "El Cerrito Wellness Center" (ECWC) met with staff and members of the City Council regarding the possibility of opening a medical marijuana dispensary in El Cerrito. The ECWC identified a potential site. At the current time, the operation of a dispensary in El Cerrito requires that the City Council lift the existing ban on medical marijuana dispensaries throughout the City.

ANALYSIS

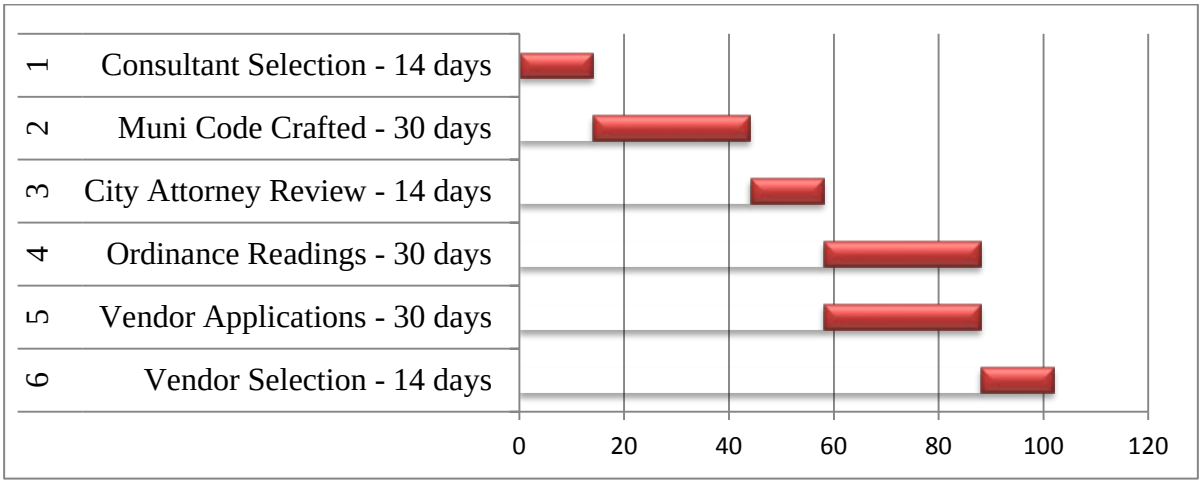
City staff developed two sample schedules to implement changes to City regulations concerning marijuana-related businesses. The schedules represent two different options for proceeding with changes to the municipal code, as well as processing applications for licenses.

The first schedule, depicted in Figure 1, represents an expedited process that provides opportunity for public input only as part of the standard ordinance adoption process. The schedule includes processing dispensary proposals and dispensary-related licenses at the same time that the City Council is considering an ordinance that would allow medical marijuana dispensaries in El Cerrito. Staff would process applications while waiting for the ordinance to go into effect. (The ordinance could also—but would not be required to—allow for regulated non-medical sales of marijuana by an already licensed dispensary if the Adult Use of Marijuana Initiative passed in November.) In this schedule, the City would not engage in additional public outreach efforts and would instead focus on creating an ordinance based on existing, similar ordinances of other California cities.

In this schedule, the process of reading and adopting the new City ordinance would take place at the same time staff accepts and begins processing applications from potential marijuana dispensary operators. The permit approval process would begin as soon as the new ordinance is adopted, and permit issuance would occur at the conclusion of the 30-day period required before the new ordinance could go into effect. A major challenge with this approach is that the final allowed locations based on zoning criteria would not be known and therefore neighborhood input would be difficult if not impossible to obtain based on the actual proposed locations.

City staff would engage a consultant to guide the regulation and vendor selection process.

Figure 1: Expedited Process

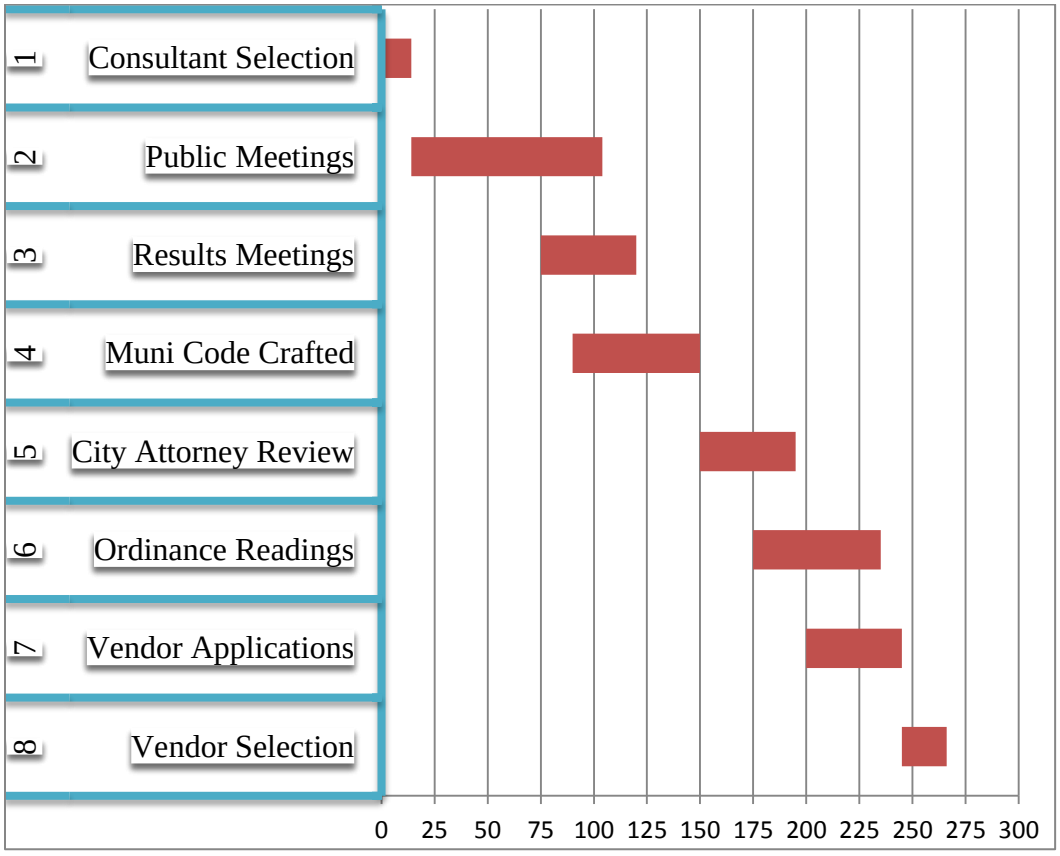


The second schedule, depicted in Figure 2, represents an expanded process that allows for a higher level of public input and fewer overlapping processes. In this schedule, City staff would initiate public outreach efforts, similar to outreach on other significant policy changes such as tobacco regulation, smoking regulation, and minimum wage legislation. This outreach process would engage the community in the policy development process.

The expanded timeline for developing an ordinance would also allow staff to thoroughly research the best practices of other jurisdictions, as well as more time to craft regulations that specifically address the unique characteristics and environment of El Cerrito. Staff would collect feedback via community meetings and other forums, and develop a draft ordinance based on research and community input.

In this example, the City would initiate an application process to evaluate potential vendors at the conclusion of the ordinance adoption process. This would ensure that City staff is clear on the requirements set forth by the City Council before evaluating possible licensees.

Figure 2: Expanded Community Process



Based on the successful public outreach and policy development processes that have resulted in the Smoke Pollution Protection Ordinance, the Tobacco Retailers License Ordinance, and the Minimum Wage Standards Ordinance, along with many other important policies and plans crafted along with the community over the years, staff recommends implementing the expanded community process. This allows thoughtful consideration of all factors involved with marijuana business regulations and engages the community in developing this policy.

Both schedules allow for multiple marijuana business operators to apply for permits to operate in El Cerrito. Under either proposed schedule, staff recommends that the City Council, through the ordinance process, adopt general standards that are sufficient to address the potential impacts of marijuana-related businesses and then review all applications that are consistent with the standards. This process would allow the City Council to choose the business operator(s) and/or locations(s) that the Council determines are best suited for operation of a marijuana-related business. The draft text of the Adult Use of Marijuana Initiative would give licensing priority to medical marijuana dispensaries that are licensed by September 1, 2016. The expedited timeline may have advantages for operators wishing to meet this deadline. Because the proposed expedited timeline allows the City to process the ECWC application as well as other interested parties, thereby reducing the risk of challenges, staff has not included a schedule which involves drafting an ordinance based on a single proposal to operate a marijuana dispensary.

FINANCIAL CONSIDERATIONS

Staff members reached out to a consultant group to research possible costs and timelines associated with contracting for services. These services would involve the consultant assisting staff with public outreach, creating proposed legislation, creating criteria for marijuana business licenses, and developing a selection process for vendors. Some costs incurred by the City can be returned through a cost recovery fee system.

Staff met with representatives of the ECWC regarding their interest in assisting the City with funding the municipal code modification and vendor criteria process. The ECWC is interested in helping to pay actual costs associated with these processes. However, staff has some concerns about the perceived objectivity of the process if funded by one applicant.

Costs associated with developing a new municipal ordinance and developing a permit process will vary, depending on the process selected by the City Council. The process could cost between $20,000 and $120,000, including staff and consultant costs.

A new marijuana business or businesses in El Cerrito could generate additional revenue for the City. However, the amount of revenue generated would depend on the regulatory structure adopted by the City Council.

LEGAL CONSIDERATIONS

The City Attorney reviewed this report and believes that either option described is legally permissible. If directed, the City Attorney would work with staff and any consultant to prepare and implement any necessary changes to the City's Municipal Code, as well as the process of permitting a potential dispensary.

Reviewed by:

Scott Hanin/csw

Scott Hanin
City Manager

Attachments:

1. Current City Ordinance
2. Control, Regulate and Tax Adult Use of Marijuana Initiative
3. California Health and Safety Code Sections 11357-11362.9

EL CERRITO MUNICIPAL CODE CHAPTER 6.80 - MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION[2]

Sections:

Footnotes:

--- (**2**) ---

Editor's note— Ord. No. 2016-01, § 2, adopted Jan. 19, 2016, amended the title of Ch. 6.80 to read as herein set out. Former Ch. 6.80 was titled, "Medical Marijuana Dispensaries."

6.80.010 - Definitions.

The following words or phrases, whenever used in this chapter, shall be given the following definitions:

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

"Medical marijuana delivery" means the transfer of medical marijuana or medical marijuana products from a medical marijuana dispensary to a qualified patient or primary caregiver, as well as the use by a dispensary of any technology platform to arrange for or facilitate the transfer of medical marijuana or medical marijuana products.

"Medical marijuana dispensary" means any facility or location where a primary caregiver makes available, sells, transmits, gives, or otherwise provides medical marijuana to two or more persons with identification cards or qualified patients. A medical marijuana dispensary shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health & Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health & Safety Code, a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health & Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health & Safety Code, a residential hospice licensed pursuant to Chapter 8.5 of Division 2 of the Health & Safety Code, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health & Safety Code, as long as any such use complies strictly with applicable law, including, but not limited to, Health & Safety Code Sections 11362.5 et seq.

"Person with an identification card" shall have the meaning set forth in California Health & Safety Code Section 11362.7, as may be amended from time to time, or any successor statute.

"Primary caregiver" shall have the meaning set forth in California Health & Safety Code Section 11362.7, as may be amended from time to time, or any successor statute.

"Qualified patient" shall have the meaning set forth in California Health & Safety Code Section 11362.7, as may be amended from time to time, or any successor statute.

(Ord. 2006-8 § 1 (part), 2006: Ord. 2006-6 § 1 (part), 2006.) (Ord. No. 2016-01, § 3, 1-19-2016)

6.80.020 - Medical marijuana dispensary, medical marijuana delivery and cultivation of marijuana as prohibited uses.

A medical marijuana dispensary, medical marijuana delivery and cultivation of marijuana, as defined in this chapter, are prohibited in all zones throughout the City of El Cerrito, including but not limited to

cultivation of marijuana as part of a permitted or conditionally permitted nursery use. (Ord. No. 2016-01, § 4, 1-19-2016)

Editor's note— Ord. No. 2016-01, § 4, adopted Jan. 19, 2016, amended § 6.80.020 in its entirety to read as herein set out. Former § 6.80.020 pertained to medical marijuana dispensary as a prohibited use, and derived from Ord. 2006-6, § 1(part), adopted in 2006; and Ord. 2006-8, § 1(part), adopted in 2006.

6.80.030 - Separate offense for each day.

Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly. (Ord. 2006-8 § 1 (part), 2006: Ord. 2006-6 § 1 (part), 2006.)

6.80.040 - Public nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the city pursuant to Chapter 8.34 of this code. (Ord. 2006-8 § 1 (part), 2006: Ord. 2006-6 § 1 (part), 2006.)

6.80.050 - Criminal penalties.

Any violation of any provision of this chapter shall be deemed a misdemeanor. (Ord. 2006-8 § 1 (part), 2006: Ord. 2006-6 § 1 (part), 2006.)

6.80.060 - Civil injunction.

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the city, create a cause of action for injunctive relief. (Ord. 2006-8 § 1 (part), 2006: Ord. 2006-6 § 1 (part), 2006.)

6.80.070 - Administrative remedies.

In addition to the civil remedies and criminal penalties set forth above, any violation of the provisions of this chapter may be subject to administrative remedies, as set forth by Chapter 1.14 of this code. (Ord. 2006-8 § 1 (part), 2006: Ord. 2006-6 § 1 (part), 2006.)

15 - 0 1 0 3 Amdt. # 1

Agenda Item No. 7(A)
Attachment 2

Law Offices of
OLSON
HAGEL &
FISHBURN
LLP

December 7, 2015

RECEIVED
DEC 07 2015
INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

VIA MESSENGER

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

RE: Submission of Amendment to Statewide Initiative Measure – Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103

Dear Ms. Johansson:

As you know, I serve as counsel for the proponents of the proposed statewide initiative, "Control, Regulate and Tax Adult Use of Marijuana Act." The proponents of the proposed initiative are Dr. Donald Lyman and Mr. Michael Sutton. On their behalf, I am enclosing the following documents:

- The amended text of "Control, Regulate and Tax Adult Use of Marijuana Act"
- A red-line version showing the changes made in the amended text
- Signed authorizations from each of the proponents for the submission of the amended text together with their requests that the Attorney General's Office prepare a circulating title and summary using the amended text.

Please continue to direct all inquiries or correspondence relative to this proposed initiative to me at the address listed below:

Lance H. Olson
Olson, Hagel & Fishburn LLP
555 Capitol Mall, Suite 1425
Sacramento, CA 95814

Very truly yours,

OLSON HAGEL & FISHBURN LLP

LANCE H. OLSON
LHO:mdm
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Lance H. Olson
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Richard R. Rios

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Fax: (562) 427-2237

VIA MESSENGER

December 7, 2016

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103, and Request to Prepare Circulating Title and Summary

Dear Ms. Johansson:

On November 2, 2015, the proponents of a proposed statewide initiative titled "Control, Regulate and Tax Adult Use of Marijuana Act" ("Initiative") submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), the proponents hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

Michael Sutton

VIA MESSENGER

December 7, 2016

Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Attention: Ashley Johansson, Initiative Coordinator

Re: Submission of Amendment to Control, Regulate and Tax Adult Use of Marijuana Act, No. 15-0103, and Request to Prepare Circulating Title and Summary

Dear Ms. Johansson:

On November 2, 2015, the proponents of a proposed statewide initiative titled "Control, Regulate and Tax Adult Use of Marijuana Act" ("Initiative") submitted a request that the Attorney General prepare a circulating title and summary pursuant to section 10(d) of Article II of the California Constitution. Pursuant to Elections Code section 9002(b), the proponents hereby submit timely amendments to the text of the Initiative. As one of the proponents of the Initiative, I approve the submission of the amended text to the Initiative and I declare that the amendment is reasonably germane to the theme, purpose, and subject of the Initiative. I request that the Attorney General prepare a circulating title and summary using the amended Initiative.

Sincerely,

Dr. Donald Lyman

SECTION 1. TITLE.

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

SECTION 2. FINDINGS AND DECLARATIONS.

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

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

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

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. And it mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

E. There are currently no laws governing adult use marijuana businesses to ensure that they operate in accordance with existing California laws. Adult use of marijuana may only be

accessed from the unregulated illicit market. The Adult Use of Marijuana Act sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality.

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

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

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

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

J. The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

SECTION 3. PURPOSE AND INTENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local laws, and only to ban outdoor cultivation as set forth in this Act.

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

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

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

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

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

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

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

(u) Prevent illegal production or distribution of marijuana.

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

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

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

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

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

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

SECTION 4. PERSONAL USE.

Sections 11018 of the Health and Safety Code is hereby amended, and Sections 11018.1 and 11018.2 of the Health and Safety Code are hereby added to read:

11018. Marijuana
"Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include ~~the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination~~.
(a) industrial hemp, as defined in Section 11018.5; or
(b) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

11018.1. Marijuana Products
"Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

11018.2. Marijuana Accessories
"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

Sections 11362.1 through 11362.45 are added to the Health and Safety Code, to read:

11362.1.
(a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:
(1) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;

(2) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;
(3) Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;
(4) Smoke or ingest marijuana or marijuana products; and
(5) Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.
(b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subdivision (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. § 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute marijuana accessories.
(c) Marijuana and marijuana products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

11362.2.
(a) Personal cultivation of marijuana under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:
(1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b) of this section.
(2) The living plants and any marijuana produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.
(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.
(b)(1) A city, county, or city and county may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.
(2) Notwithstanding paragraph (1), no city, county, or city and county may completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.
(3) Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.
(4) Paragraph (3) of this subdivision shall become inoperable upon a determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) shall be deemed repealed upon the date of such determination by the California Attorney General.
(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

11362.3.
(a) Nothing in Section 11362.1 shall be construed to permit any person to:
(1) Smoke or ingest marijuana or marijuana products in any public place, except in accordance with Section 26200 of the Business and Professions Code.
(2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.
(3) Smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of the Business and Professions Code or Chapter 3.5 of Division 8 of the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present.
(4) Possess an open container or open package of marijuana or marijuana products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.
(5) Possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.
(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 of Division 8 or Division 10 of the Business and Professions Code.
(7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.
(8) Smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under the age of 21 years are present.
(b) For purposes of this section, "day care center" has the same meaning as in Section 1596.76.
(c) For purposes of this section, "smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.
(d) For purposes of this section, "volatile solvent" means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O2 or H2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.
(e) For purposes of this section, "youth center" has the same meaning as in Section 11353.1.
(f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

11362.4.
(a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one hundred dollar ($100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over

a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.
(b) A person who engages in the conduct described in paragraphs (2) through (4) of subdivision (a) of Section 11362.3 shall be guilty of an infraction punishable by no more than a two hundred and fifty dollar ($250) fine, unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.
(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivisions (c) or (d) of Section 11357.
(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.
(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two hundred and fifty dollar ($250) fine.
(f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.
(g)(1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.
(2) The drug education program required by this section for persons under the age of 18 must be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.
(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

11362.45.
Nothing in section 11362.1 shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:
(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, marijuana or marijuana products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.
(b) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, marijuana products, or marijuana accessories, or the offering to sell, administer, furnish, or give away marijuana, marijuana products, or marijuana accessories to a person younger than 21 years of age.
(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.
(d) Laws pertaining to smoking or ingesting marijuana or marijuana products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

(e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting marijuana or marijuana products.
(f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with state or federal law.
(g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.
(h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.
(i) Laws pertaining to the Compassionate Use Act of 1996.

SECTION 5. USE OF MARIJUANA FOR MEDICAL PURPOSES.

Sections 11362.712, 11362.713, 11362.84 and 11362.85 are added to the Health and Safety Code, and 11362.755 of the Health and Safety Code is amended to read:

11362.712.
(a) Commencing on January 1, 2018, a qualified patient must possess a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.
(b) A county health department or the county's designee shall develop protocols to ensure that, commencing upon January 1, 2018, all identification cards issued pursuant to Section 11362.71 are supported by a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code.

11362.713.
(a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, received and contained in the records of the Department of Public Health and by any county public health department are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Civil Code § 56, et seq.) and shall not be disclosed by the Department or by any county public health department except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.
(b) Within 24 hours of receiving any request to disclose the name, address, or social security number of a patient, their medical condition, or the name of their primary caregiver, the Department of Public Health or any county public health agency shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.
(c) Notwithstanding Section 56.10 of the Civil Code, neither the Department of Public Health, nor any county public health agency, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical

conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.
(d) No identification card application system or database used or maintained by the Department of Public Health or by any county department of public health or the county's designee as provided in Section 11362.71 shall contain any personal information of any qualified patient, including but not limited to, the patient's name, address, social security number, medical conditions, or the names of their primary caregivers. Such an application system or database may only contain a unique user identification number, and when that number is entered, the only information that may be provided is whether the card is valid or invalid.

11362.755.
(a) ~~The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number.~~ Each county health department or the county's designee may charge ~~an additional~~ *a* fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.
(b) In no event shall the amount of the fee charged by a county health department exceed $100 per application or renewal.
(*c*) Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.
(d) Upon satisfactory proof that a qualified patient, or the legal guardian of a qualified patient under the age of 18, is a medically indigent adult who is eligible for and participates in the County Medical Services Program, the fee established pursuant to this section shall be waived.
(e) In the event the fees charged and collected by a county health department are not sufficient to pay for the administrative costs incurred in discharging the county health department's duties with respect to the mandatory identification card system, the Legislature, upon request by the county health department, shall reimburse the county health department for those reasonable administrative costs in excess of the fees charged and collected by the county health department.

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

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

SECTION 6. MARIJUANA REGULATION AND SAFETY.

Division 10 is hereby added to the Business and Professions Code to read as follows:

Division 10. Marijuana

Chapter 1. General Provisions and Definitions

26000.
(a) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.
(b) In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 of Division 8 to include the power and duty to control and regulate the commercial nonmedical marijuana industry.
(c) The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

26001.
For purposes of this division, the following definitions shall apply:
(a) "Applicant" means the following:
(1) The owner or owners of a proposed licensee. "Owner" means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee and (B) the power to direct or cause to be directed, the management or control of the licensee.
(2) If the applicant is a publicly traded company, "owner" includes the chief executive officer and any member of the board of directors and any person or entity with an aggregate ownership interest in the company of 20 percent or more. If the applicant is a nonprofit entity, "owner" means both the chief executive officer and any member of the board of directors.
(b) "Bureau" means the Bureau of Marijuana Control within the Department of Consumer Affairs.
(c) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.
(d) "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products as provided for in this division.
(e) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.
(f) "Customer" means a natural person 21 years of age or over.
(g) "Day care center" shall have the same meaning as in Section 1596.76 of the Health and Safety Code.
(h) "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.
(i) "Director" means the Director of the Department of Consumer Affairs.

(j) "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.
(k) "Fund" means the Marijuana Control Fund established pursuant to Section 26210.
(l) "Kind" means applicable type or designation regarding a particular marijuana variant or marijuana product type, including, but not limited to, strain name or other grower trademark, or growing area designation.
(m) "License" means a state license issued under this division.
(n) "Licensee" means any person or entity holding a license under this division.
(o) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.
(p) "Local jurisdiction" means a city, county, or city and county.
(q) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.
(r) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.
(s) "Marijuana" has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.
(t) "Marijuana accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.
(u) "Marijuana products" has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 of Division 8.
(v) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.
(w) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.
(x) "Package" means any container or receptacle used for holding marijuana or marijuana products.
(y) "Person" includes any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.
(z) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.
(aa) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

(bb) "Testing service" means a laboratory, facility, or entity in the state, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:
(1) Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the state.
(2) Registered with the Department of Public Health.
(cc) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises.
(dd) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.
(ee) "Youth center" shall have the same meaning as in Section 11353.1 of the Health and Safety Code.

Chapter 2. Administration

26010.
(a) The Bureau of Medical Marijuana Regulation established in Section 19302 in Chapter 3.5 of Division 8 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.
(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under Chapter 3.5 of Division 8.
(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in subdivision (b), the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.
(d) Upon the effective date of this section, whenever "Bureau of Medical Marijuana Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

26011.
Neither the chief of the bureau nor any member of the Marijuana Control Appeals Panel established under Section 26040 shall have nor do any of the following:
(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division or Chapter 3.5 of Division 8.
(b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.
(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial marijuana activity.
(d)Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.
(e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

26012.
(a) It being a matter of statewide concern, except as otherwise authorized in this division:
(1) The Department of Consumer Affairs shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana within the state.
(2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of marijuana. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this division.
(3) The Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana. The Department of Public Health shall have the authority to create, issue, and suspend or revoke manufacturing and testing licenses for violations of this division.
(b) The licensing authorities and the bureau shall have the authority to collect fees in connection with activities they regulate concerning marijuana. The bureau may create licenses in addition to those identified in this division that the bureau deems necessary to effectuate its duties under this division.
(c) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

26013.
(a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Such rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.
(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.
(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance unreasonably impracticable.

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

impracticable barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.
(b) The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.
(c) Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the bureau and licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the bureau or licensing authorities.

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

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

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

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

Chapter 3. Enforcement

26030.
Grounds for disciplinary action include:
(a) Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.
(b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.
(c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.

(d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.
(e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.
(f) Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.
(g) The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.

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

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

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

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

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

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

26037.
(a) The actions of a licensee, its employees, and its agents that are: (1) permitted under a license issued under this division and any applicable local ordinances; and (2) conducted in accordance

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

26038.
(a) A person engaging in commercial marijuana activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of marijuana associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b).
(b) If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.
(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial marijuana activity in violation of this division.

Chapter 4. Appeals

26040.
(a) There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.
(b) The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption or incompetency.
(c) A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if five Members of the Senate, or ten Members of the Assembly, join as authors.

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

26042.
The panel shall adopt procedures for appeals similar to the procedures used in Articles 3 and 4 in Chapter 1.5 in Division 9 of the Business and Professions Code. Such procedures shall be adopted in accordance with the Administrative Procedure Act (Government Code, Title 2, Division 3, section 11340 et seq.).

26043.
(a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the bureau or the licensing authority.
(b) Review by the panel of a decision of the bureau or a licensing authority shall be limited to the following questions:
(1) Whether the bureau or any licensing authority has proceeded without or in excess of its jurisdiction.
(2) Whether the bureau or any licensing authority has proceeded in the manner required by law.
(3) Whether the decision is supported by the findings.
(4) Whether the findings are supported by substantial evidence in the light of the whole record.

26044.
(a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the bureau or licensing authority, it may enter an order remanding the matter to the bureau or licensing authority for reconsideration in the light of such evidence.
(b) Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the bureau or licensing authority. When the order reverses the decision of the bureau or licensing authority, the board may direct the reconsideration of the matter in the light of its order and may direct the bureau or licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the bureau or licensing authority.

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

Chapter 5. Licensing

26050.
(a) The license classification pursuant to this division shall, at a minimum, be as follows:
(1) Type 1 = Cultivation; Specialty outdoor; Small.
(2) Type 1A = Cultivation; Specialty indoor; Small.
(3) Type 1B = Cultivation; Specialty mixed-light; Small.
(4) Type 2 = Cultivation; Outdoor; Small.
(5) Type 2A = Cultivation; Indoor; Small.
(6) Type 2B = Cultivation; Mixed-light; Small.
(7) Type 3 = Cultivation; Outdoor; Medium.
(8) Type 3A = Cultivation; Indoor; Medium.
(9) Type 3B = Cultivation; Mixed-light; Medium.
(10) Type 4 = Cultivation; Nursery.
(11) Type 5 = Cultivation; Outdoor; Large.
(12) Type 5A =Cultivation; Indoor; Large.
(13) Type 5B = Cultivation; Mixed-light; Large.
(14) Type 6 = Manufacturer 1.
(15) Type 7 = Manufacturer 2.
(16) Type 8 = Testing.
(17) Type 10 = Retailer.
(18) Type 11 = Distributor.
(19) Type 12 =Microbusiness.
(b) All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 of Division 8. Examples of such a designation include, but are not limited to, "Type 1 – Nonmedical," or "Type 1NM."
(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.
(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.
(e) Notwithstanding subdivision (c), a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operable on January 1, 2019.

26051.
(a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:
(1) allow unreasonable restrains on competition by creation or maintenance of unlawful monopoly power;
(2) perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;
(3) encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;
(4) result in an excessive concentration of licensees in a given city, county, or both;

(5) present an unreasonable risk of minors being exposed to marijuana or marijuana products; or
(6) result in violations of any environmental protection laws.
(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a).
(c) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:
(1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.
(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

26052.
(a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:
(1) Make any contract in restraint of trade in violation of Section 16600;
(2) Form a trust or other prohibited organization in restraint of trade in violation of Section 16720;
(3) Make a sale or contract for the sale of marijuana or marijuana products, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of such seller, where the effect of such sale, contract, condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce;
(4) Sell any marijuana or marijuana products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers;
(5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing marijuana or marijuana products at a lower price in one section, community, or city or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition; or
(6) Sell any marijuana or marijuana products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.
(b) Any person who, either as director, officer or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which such person acts.

(c) A licensing authority may enforce this section by appropriate regulation.
(d) Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

26053.
(a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 of Division 8.
(b) Notwithstanding subdivision (a), a person or entity that holds a state testing license under this division or Chapter 3.5 of Division 8 is prohibited from licensure for any other activity, except testing, as authorized under this division.
(c) Except as provided in subdivision (b), a person or entity may apply for and be issued more than one license under this division.

26054.
(a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 or of tobacco products.
(b) No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in paragraph (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.
(c) It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana products are obtained from a person or entity licensed under this division or Chapter 3.5 of Division 8 permitted to provide or deliver such marijuana or marijuana products.

26054.1
(a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.
(b) Subdivision (a) shall cease to be operable on December 31, 2019 unless reenacted prior thereto by the Legislature.

26054.2
(a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with Chapter 3.5 of Division 8.
(b) The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any

applicable local laws. The bureau shall make the requested information available to licensing authorities.
(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or Chapter 3.5 of Division 8. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).
(d) This section shall cease to be operable on December 31, 2019 unless otherwise provided by law.

26055.
(a) Licensing authorities may issue state licenses only to qualified applicants.
(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within California until the licensing authority reinstates or reissues the state license.
(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.
(d) After issuance or transfer of a license, no licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.
(e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

26056.
An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 of Chapter 3.5 of Division 8 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:
(a) notwithstanding paragraph (2) of subdivision (a) of Section 19322 of Chapter 3.5 of Division 8, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;
(b) an application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and
(c) for applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:
(1) Cultivation.
(2) Extraction and infusion methods.
(3) The transportation process.

(4) The inventory process.
(5) Quality control procedures.
(6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.
(d) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and individual square footage of separate cultivation areas, if any.

26056.5.
The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), the California Endangered Species Act (Fish and Game Code, Section 2800 et. seq.), lake or streambed alteration agreements (Fish and Game Code, Section 1600 et. seq.), the Clean Water Act, the Porter-Cologne Water Quality Control Act, timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.

26057.
(a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.
(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:
(1) Failure to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow and water quality.
(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 of Division 1.5, except as otherwise specified in this section and Section 26059.
(3) Failure to provide information required by the licensing authority.
(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:
(A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
(C) A felony conviction involving fraud, deceit, or embezzlement.
(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.
(E) A felony conviction for drug trafficking with enhancements pursuant to Sections 11370.4 or 11379.8.
(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.
(6) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Sections 12025 or 12025.1 of the Fish and Game Code.
(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities or commercial medical cannabis activities, has had a license revoked under this division or Chapter 3.5 of Division 8 in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Sections 12025 or 12025.1 of the Fish and Game Code.
(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.
(9) Any other condition specified in law.

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

26059.
An applicant shall not be denied a state license if the denial is based solely on any of the following:
(a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.
(b) A conviction that was subsequently dismissed pursuant to Sections 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

Chapter 6. Licensed Cultivation Sites

26060.
(a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.
(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis shall apply to licensed cultivators under this division.
(c) The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.
(d) The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana activity, the same matters described in subdivision (e) of Section 19332 of Chapter 3.5 of Division 8.
(e) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor, outdoor, or mixed light cultivation of marijuana meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

26061.
(a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.
(b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in subdivision (g) of Section 19332 of Chapter 3.5 of Division 8.
(c) Except as otherwise provided by law:
(1) Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.
(2) Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.
(3) Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.
(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.
(e) Commencing on January 1, 2023, A Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

26062.
The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5 of Chapter 3.5 of Division 8.

26063.
(a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.
(b) Marijuana shall not be marketed, labeled, or sold as grown in a California county when the marijuana was not grown in that county.
(c) The name of a California county shall not be used in the labeling, marketing, or packaging of marijuana products unless the marijuana contained in the product was grown in that county.

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

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

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

26067.
(a) The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the secretary. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.
(b) A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.
(c)(1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.
(B) Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.
(2) The department shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each marijuana plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.
(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.
(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26170.
(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each marijuana plant.
(D) The department may promulgate regulations to implement this section.
(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.
(d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.
(e) (1) This section does not apply to the cultivation of marijuana in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.
(2) Subdivision (b) of this section does not apply to persons or entities licensed under either paragraph (3) of subdivision (a) of Section 26070 or subdivision (b) of Section 26070.5.
(f) "Department" for purposes of this section means the Department of Food and Agriculture.

Chapter 7. Retailers and Distributors

26070. Retailers and Distributors
(a) State licenses to be issued by the Department of Consumer Affairs are as follows:
(1) "Retailer," for the retail sale and delivery of marijuana or marijuana products to customers.
(2) "Distributor," for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.
(3) "Microbusiness," for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.
(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation

safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.
(c) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:
(1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary.
(2) Establishing limited access areas accessible only to authorized personnel.
(3) Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

26070.5
(a) The bureau shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b).
The bureau shall consider factors including, but not limited to, the following:
(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?
(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?
(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons?
(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low income persons so long as the local jurisdiction:
(1) confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;
(2) licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;
(3) provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;
(4) certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars ($2,000,000).
(c) Temporary local licenses authorized under subdivision (b) shall expire after twelve months unless renewed by the local jurisdiction.
(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.
(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.
(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

Chapter 8. Distribution and Transport

26080.
(a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, marijuana or marijuana products outside the state, unless authorized by federal law.
(b) A local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with this division.

Chapter 9. Delivery

26090.
(a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.
(b) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.
(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

Chapter 10. Manufacturers and Testing Laboratories

26100.
The Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:
(a) "Manufacturing Level 1," for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.
(b) "Manufacturing Level 2," for sites that manufacture marijuana products using volatile solvents.
(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the Department. A testing

licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.
(d) For purposes of this section, "volatile solvents" shall have the same meaning as in subdivision (d) of Section 11362.2 of the Health and Safety Code unless otherwise provided by law or regulation.

26101.
(a) Except as otherwise provided by law, no marijuana or marijuana products may be sold pursuant to a license provided for under this division unless a representative sample of such marijuana or marijuana product has been tested by a certified testing service to determine:
(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following:
(A) Tetrahydrocannabinol (THC).
(B) Tetrahydrocannabinolic Acid (THCA).
(C) Cannabidiol (CBD).
(D) Cannabidiolic Acid (CBDA).
(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.
(F) Cannabigerol (CBG).
(G) Cannabinol (CBN).
(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:
(A) Residual solvent or processing chemicals, including explosive gases, such as Butane, propane, O2 or H2, and poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.
(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.
(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, P. aeruginosa, aspergillus spp., s. aureus, aflatoxin B1, B2, G1, or G2, or ochratoxin A.
(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopeia (U.S.P. Chapter 467).
(c) The testing required by paragraph (a) shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.
(d) Any pre-sale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

26102.
A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 in Chapter 3.5 of Division 8 or unless otherwise provided by law.

26103.
A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 in Chapter 3.5 of Division 8 or unless otherwise provided by law.

26104.
(a) A licensed testing service shall, in performing activities concerning marijuana and marijuana products, comply with the requirements and restrictions set forth in applicable law and regulations.
(b) The Department of Public Health shall develop procedures to:
(1) ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5;
(2) specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators and the cost of testing marijuana products shall be borne by the licensed manufacturer, and that the costs of testing marijuana and marijuana products shall be borne a nonprofit licensed under Section 26070.5; and
(3) require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the Department of Public Health, unless remedial measures can bring the marijuana or marijuana products into compliance with quality assurance standards as promulgated by the Department of Public Health.

26105.
Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

26106.
Standards for the production and labeling of all marijuana products developed by the Department of Public Health shall apply to licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5 unless otherwise specified by the Department of Public Health.

Chapter 11. Quality Assurance, Inspection, and Testing

26110.
(a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.
(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326 in Chapter 3.5 of Division 8 except as otherwise provided in this division or by law.

Chapter 12. Packaging and Labeling

26120.
(a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.
(b) Packages and labels shall not be made to be attractive to children.
(c) All marijuana and marijuana product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the Department of Public Health: ~~not less than 8 point font~~:
(1) Manufacture date and source.
(2) The following statements, in bold print:
(A) For marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
(B) For marijuana products: "GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED UP TO TWO HOURS. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
(3) For packages containing only dried flower, the net weight of marijuana in the package.
(4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the date of manufacturing and packaging.
(5) The appellation of origin, if any.
(6) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.
(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in 21 C.F.R. section 101.9.
(8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.
(9) A warning if nuts or other known allergens are used.
(10) Information associated with the unique identifier issued by the Department of Food and Agriculture.
(11) Any other requirement set by the bureau or the Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible marijuana products.
(e) In the event the bureau determines that marijuana is no longer a schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that marijuana is a schedule I controlled substance.

Chapter 13. Marijuana Products

26130.
(a) Marijuana products shall be:
(1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.
(2) Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol per serving.
(3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.
(4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.
(5) Manufactured and sold under sanitation standards established by the Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.
(6) Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.
(b) Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

Chapter 14. Protection of Minors

26140.
(a) No licensee shall:
(1) Sell marijuana or marijuana products to persons under 21 years of age.
(2) Allow any person under 21 years of age on its premises.
(3) Employ or retain persons under 21 years of age.
(4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.
(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), a licensee that is also a dispensary licensed under Chapter 3.5 of Division 8 may:
(1) Allow on the premises any person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card;
(2) Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

Chapter 15. Advertising and Marketing Restrictions

26150.
For purposes of this chapter:
(a) "Advertise" means the publication or dissemination of an advertisement.
(b) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television broadcast, or in any other media; except that such term shall not include:
(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.
(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.
(c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently-affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.
(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.
(e) "Market" or "Marketing" means any act or process of promoting or selling marijuana or marijuana products, including but not limited to, sponsorship of sporting events, point of sale advertising, development of products specifically designed to appeal to certain demographics, etc.

26151.
(a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.
(b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.
(d) All advertising shall be truthful and appropriately substantiated.

26152.
No licensee shall:
(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter tends to create a misleading impression;
(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;
(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;
(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;
(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;
(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption; or
(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

26153.
No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

26154.
No licensee shall publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

26155.
(a) The provisions of subsection (g) of section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21years to consume marijuana or marijuana products.
(b) This chapter does not apply to any noncommercial speech.

Chapter 16. Records

26160.
(a) A licensee shall keep accurate records of commercial marijuana activity.
(b) All records related to commercial marijuana activity as defined by the licensing authorities shall be maintained for a minimum of seven years.
(c) The bureau may examine the books and records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.
(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.
(e) A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.
(f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation and fine of up to thirty thousand dollars ($30,000) per individual violation.

26161.
(a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau or Board of Equalization and shall not be commingled with invoices covering other commodities.
(b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:
(1) Name and address of the purchaser.
(2) Date of sale and invoice number.
(3) Kind, quantity, size, and capacity of packages of marijuana or marijuana products sold.
(4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.
(5) The place from which transport of the marijuana or marijuana product was made unless transport was made from the premises of the licensee.
(6) Any other information specified by the bureau or the licensing authority.

Chapter 17. Track and Trace System

26170.
(a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under Article 7.5 to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis

products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.
(b) The Department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.
(c) Any software, database or other information technology system utilized by the Department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

Chapter 18. License Fees

26180.
Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:
(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs to the licensing authority.
(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.
(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.
(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

26181.
The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

Chapter 19. Annual Reports; Performance Audit

26190.
Beginning on March 1, 2020, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's website. The report shall include, but not be limited to, the same type of information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

26191.
(a) Commencing January 1, 2019, and by January 1 of each year thereafter, the Bureau of State Audits shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:
(1) The actual costs of the program.
(2) The overall effectiveness of enforcement programs.
(3) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.
(b) The Legislature shall provide sufficient funds to the Bureau of State Audits to conduct the annual audit required by this section.

Chapter 20. Local Control

26200.
(a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.
(b) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.
(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within ten (10) days of notification, the bureau shall inform the relevant licensing authorities. Within ten (10) days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 of this Division to determine whether a license issued to the licensee should be suspended or revoked.
(d) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:
(1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older;

(2) Marijuana consumption is not visible from any public place or non-age restricted area; and
(3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

26201.
Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

26202.
(a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.
(b) The bureau or any licensing authority shall implement the delegation of enforcement authority in subdivision (a) through a memorandum of understanding between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

Chapter 21. Funding

26210.
(a) The Medical Marijuana Regulation and Safety Act Fund established in Section 19351 of Chapter 3.5 of Division 8 is hereby renamed the Marijuana Control Fund.
(b) Upon the effective date of this section, whenever "Medical Marijuana Regulation and Safety Act Fund" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Marijuana Control Fund.

26211.
(a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the Board of Equalization under Part 14.5 of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.
(1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the Board of Equalization, as necessary, to implement the provisions of Part 14.5 of Division 2 of the Revenue and Taxation Code.
(2) Within 45 days of this section becoming operative:
(A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Marijuana Control Fund that does not exceed thirty million dollars ($30,000,000); and
(B) There shall be advanced a sum of five million dollars ($5,000,000) from the General Fund to the Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Marijuana Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under Part 14.5 of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.
(c) The Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate, and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of marijuana and marijuana products to persons under the age of 21 years, describe the penalties for providing access to marijuana and marijuana products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from marijuana use, the potential harms of using marijuana while pregnant or breastfeeding, and the potential harms of overusing marijuana or marijuana products.

Section 147.6 of the Labor Code is hereby added as follows:

147.6.
(a) By March 1, 2018, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensees under Division 10 of the Business and Professions Code, including but not limited to, whether specific requirements are needed to address exposure to second-hand marijuana smoke by employees at facilities where on-site consumption of marijuana is permitted under subdivision (d) of Section 26200 of the Business and Professions Code, and whether specific requirements are needed to address the potential risks of combustion, inhalation, armed robberies or repetitive strain injuries.
(b) By October 1, 2018, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By October 1, 2018, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

Section 13276 of the Water Code is amended to read:

13276.
(a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.
(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation *and commercial marijuana cultivation under Division 10 of the Business and Profession Code* and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:
(1) Site development and maintenance, erosion control, and drainage features.

(2) Stream crossing installation and maintenance.
(3) Riparian and wetland protection and management.
(4) Soil disposal.
(5) Water storage and use.
(6) Irrigation runoff.
(7) Fertilizers and soil.
(8) Pesticides and herbicides.
(9) Petroleum products and other chemicals.
(10) Cultivation-related waste.
(11) Refuse and human waste.
(12) Cleanup, restoration, and mitigation.

SECTION 7. MARIJUANA TAX.

Part 14.5 (commencing with Section 34010) is added to Division 2 of the Revenue and Taxation Code, to read:

Part 14.5. Marijuana Tax

34010.
For purposes of this part:
(a) "Board" shall mean the Board of Equalization or its successor agency.
(b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.
(c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.
(d) "Marijuana" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.
(e) "Marijuana products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.
(f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the Board.
(g) "Marijuana leaves" shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.
(h) "Gross receipts" shall have the same meaning as set forth in Section 6012.
(i) "Retail sale" shall have the same meaning as set forth in Section 6007.
(j) "Person" shall have the same meaning as set for in section 6005.
(k) "Microbusiness" shall have the same meaning as set for in Section 26070(a)(3) of the Business and Professions Code.
(l) "Nonprofit" shall have the same meaning as set for in Section 26070.5 of the Business and Professions Code.

34011.
(a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of fifteen percent (15%) of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or a retailer, microbusiness,

nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.
(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if non-itemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.
(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.
(d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.
(e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.
(f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.
(g) The sales and use tax imposed by Part 1 of this division shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 of Division 8 of the Business and Professions Code when a qualified patient (or primary caregiver for a qualified patient) provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

34012.
(a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code. The tax shall be due after the marijuana is harvested.
(1) The tax for marijuana flowers shall be nine dollars and twenty five cents ($9.25) per dry-weight ounce.
(2) The tax for marijuana leaves shall be set at two dollars and seventy five cents ($2.75) per dry-weight ounce.
(b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.
(c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.
(d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 of Division 8 of the Business and Professions Code or under Division 10 of the Business and Professions Code.
(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.
(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.
(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.
(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.
(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.
(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

34013.
(a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.
(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.
(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.
(d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.
(e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and

shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code.
(f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

34014.
(a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code without a permit or after a permit has been canceled, suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.
(b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation have been properly prepared, executed and submitted under this part.
(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

34015.
(a)The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Divisions 8 or 10 of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to section 34012(d) the board may by regulation determine when and how the tax shall be paid.
(b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 of Division 8 of the Business or Professions Code or Division 10 of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

34016.
(a) Any peace officer, or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.
(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.
(2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.
(3) Inspections shall be requested or conducted no more than once in a 24-hour period.
(b) Any person who fails or refuses to allow an inspection shall be subject to a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars ($5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.
(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.
(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars ($1,000) for each offense.
(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.
(f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.

34017.
The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.

34018.
(a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.
(b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control,

Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.
(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

34019.
(a) Beginning with fiscal year 2017-2018 the Department of Finance shall estimate revenues to be received pursuant to sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:
(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed four percent (4%) of tax revenues received.
(2) Reasonable costs incurred by the Bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health for implementing, administering, and enforcing Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022-2023.
(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code to the extent those costs are not otherwise reimbursed.
(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.
(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.
(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.
(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 of Division 8 of the Business and Professions Code and Division 10 of the Business and Professions Code.
(b) The Controller shall next disburse the sum of ten million dollars ($10,000,000) to a public university or universities in California annually beginning with fiscal year 2018-2019 until fiscal year 2028-2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the

Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The Bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:
(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.
(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.
(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the Act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.
(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.
(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.
(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.
(7) The economic impacts in the private and public sectors, including but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.
(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the Act, and whether different agencies might do so more effectively. (9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.
(10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.
(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate, and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.
(c) The Controller shall next disburse the sum of three million dollars ($3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018-2019 until fiscal year 2022-2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research

institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.
(d) The Controller shall next disburse the sum of ten million dollars ($10,000,000) beginning fiscal year 2018-2019 and increasing ten million dollars ($10,000,000) each fiscal year thereafter until fiscal year 2022-2023, at which time the disbursement shall be fifty million dollars ($50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the Department of Social Services, to administer a Community Reinvestments grants program to local health departments and at least fifty-percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The Office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the Office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than four percent (4%) for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.
(e) The Controller shall next disburse the sum of two million dollars ($2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the Center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.
(f) By July 15 of each fiscal year beginning in fiscal year 2018-2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:
(1) Sixty percent (60%) shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The Department of Health Care services shall enter into inter-agency agreements with the Department of Public Health and the Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:
(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.
(B) Grants to schools to develop and support Student Assistance Programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.
(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.
(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.
(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.
(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.
(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.
(I) Construction of community-based youth treatment facilities.
(J) The departments may contract with each county behavioral health program for the provision of services.
(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated assessments or submitted reports prepared by the applicable county to demonstrate and validate need.
(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.
(M) The departments may use up to four percent (4%) of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.
(N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.
(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent (20%) shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:
(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.
(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.
(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency task force established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.
(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).
(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of Statutes of 2014).
(3) Twenty percent (20%) shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:
(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The Department may hire personnel to conduct the training programs specified in this subparagraph.
(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.
(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The Board shall not make any grants to local governments which have banned

the cultivation, including personal cultivation under Section 11362.2(b)(3) of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.
(D) For purposes of this paragraph the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022-2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars ($10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars ($40,000,000) annually. In determining the amount to be allocated before fiscal year 2022-2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).
(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.
(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f) of this section. Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027-2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f) of this section.

34020.
The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.

34021.
(a) The taxes imposed by this Part shall be in addition to any other tax imposed by a city, county, or city and county.

34021.5
(a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 of Division 8 of the Business and Professions Code or Division 10 of the Business and Professions Code.
(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.
(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.
(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken

individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.
(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.
(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.
(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

SECTION 8. CRIMINAL OFFENSES, RECORDS, AND RESENTENCING.

Sections 11357, 11358, 11359, 11360 and 11361.5 of the Health and Safety Code are amended, and Sections 11361.1 and 11361.8 are added to read as follows:

11357. Possession
~~(a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.~~
(~~b~~*a*) Except as authorized by law, ~~every person who~~ possesses*sion of* not more than 28.5 grams of marijuana, ~~other than~~ *or not more than four grams of* concentrated cannabis, ~~is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100).~~ *or both, shall be punished or adjudicated as follows:*
(1) Persons under the age of 18 shall be guilty of an infraction and shall be required to:
(A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.
(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.
(2) Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars ($100).
(~~c~~*b*) Except as authorized by law, ~~every person who~~ possesses*sion of* more than 28.5 grams of marijuana, *or more than four grams of* ~~other than~~ concentrated cannabis, shall be punished *as follows:*
(1) Persons under the age of 18 who possess more than 28.5 grams of marijuana or more than four grams of concentrated cannabis, or both, shall be guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.
(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.
(2) Persons 18 years of age or over who possess more than 28.5 grams of marijuana, or more than four grams of concentrated cannabis, or both, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.
(~~d~~*c*) Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, *or not more than four grams of* ~~other than~~ concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished ~~by a~~ *as follows:*
(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.
(2) A fine of not more than five hundred dollars ($500), or by imprisonment in a county jail for a period of not more than 10 days, or both*, upon a finding that a second or subsequent offense has been committed.*
(~~e~~*d*) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, *or not more than four grams of* ~~other than~~ concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of ~~a misdemeanor~~ *an infraction* and shall be *punished in the same manner provided in paragraph (1) of subdivision (b) of this section.* ~~subject to the following dispositions:~~
~~(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.~~
~~(2) A fine of not more than five hundred dollars ($500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.~~

11358. Planting, harvesting, or processing
Every person who plants, cultivates, harvests, dries, or processes ~~any~~ marijuana *plants,* or any part thereof, except as otherwise provided by law, *shall be punished as follows:*
(a) Every person under the age of 18 who plants, cultivates, harvests, dries, or processes any marijuana plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of section 11357.
(b) Every person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living marijuana plants shall be guilty of an infraction and a fine of not more than one hundred dollars ($100).
(c) Every person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants, or any part thereof, except as otherwise provided by law, ~~shall~~ *may* be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code *if:*
(1) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;
(2) the person has two or more prior convictions under subdivision (c); or
(3) the offense resulted in any of the following:
(A) violation of Section 1052 of the Water Code relating to illegal diversion of water;
(B) violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of waste;
(C) violation of Fish and Game Code Section 5650 or Section 5652 of the Fish and Game Code relating to waters of the state;
(D) violation of Section 1602 of the Fish and Game Code relating to rivers, streams and lakes;
(E) violation of Section 374.8 of the Penal Code relating to hazardous substances or Sections 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste;
(F) violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act; or
(G) intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

11359. Possession for sale
Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished *as follows:*
(a) Every person under the age of 18 who possesses marijuana for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of section 11357.
(b) Every person 18 years of age or over who possesses marijuana for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.
(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code *if:*
(1) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;
(2) the person has two or more prior convictions under subdivision (b); or
(3) the offense occurred in connection with the knowing sale or attempted sale of marijuana to a person under the age of 18 years.
(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any marijuana.

11360. Unlawful transportation, importation, sale, or gift
(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished *as follows:*
(1)Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of section 11357.
(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.
(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period two, three, or four years *if:*
(A) the person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;
(B) the person has two or more prior convictions under paragraph (2);
(C) the offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer or give away marijuana to a person under the age of 18 years; or
(D) the offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of marijuana or more than four grams of concentrated cannabis.
(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a*n infraction* ~~misdemeanor~~ and shall be punished by a fine of not more than one hundred dollars ($100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his *or her* written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.
(c) For purposes of this section, "transport" means to transport for sale.
(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

11361.1.
(a) The drug education and counseling requirements under sections 11357, 11358, 11359, and 11360 shall be:
(1) mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;
(2) free to participants, and the drug education provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.
(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under sections 11357, 11358, 11359; and 11360.

Subdivision (a) of Section 11361.5 of the Health and Safety Code is amended to read:

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

Section 11361.8 is added to the Health and Safety Code to read:

11361.8
(a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by this Act.
(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.
(2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.
(c) A person who is serving a sentence and resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Penal Code Section 3000.08 or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.
(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.
(e) A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that Act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by this Act.
(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.
(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).
(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.
(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.
(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.
(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under this act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).
(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.
(l) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

SECTION 9. INDUSTRIAL HEMP.

Section 11018.5 of the Health and Safety Code is amended to read as follows:

11018.5. *Industrial hemp*
(a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to ~~nonpsychoactive~~ types of the plant Cannabis sativa L. ~~and the seed produced therefrom,~~ having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, *whether growing or not;* ~~and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from~~ the seeds of the plant;~~,~~ *the resin extracted from any part of the plant; and* ~~or any other~~ *every* compound, manufacture, salt, derivative, mixture, or preparation of the *plant, its seeds or* ~~mature stalks, except the~~ resin ~~or flowering tops extracted~~ *produced* therefrom~~, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination~~.
(b) The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial hemp shall not be subject to the provisions of this Division or of Division 10 of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 of the Food and Agricultural Code, inclusive.

Sections 81000, 81006, 81008, and 81010 of the Food and Agricultural Code are amended to read, and Section 81007 of the Food and Agricultural Code is repealed as follows:

81000. Definitions
For purposes of this division, the following terms have the following meanings:
(a) "Board" means the Industrial Hemp Advisory Board.
(b) "Commissioner" means the county agricultural commissioner.
(c) "Established agricultural research institution" means ~~a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers.~~
any institution that is either:
(1) a public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or
(2) an institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for

purposes of research conducted under an agricultural pilot program or other agricultural or academic research.
(d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.
(e) "Secretary" means the Secretary of Food and Agriculture.
(f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.
(g) "Seed cultivar" means a variety of industrial hemp.
(h) "Seed development plan" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

81006. Industrial hemp growth limitations; Prohibitions; Imports; Laboratory testing
(a)(1) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than ~~five acres~~ *one-tenth of an acre* at the same time, ~~and no portion of an acreage of industrial hemp shall include plots of less than one contiguous acre~~.
(2) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than *one-tenth of an* ~~two~~ acres at the same time, ~~and no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre~~.
(3) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than one-*tenth of an* acre and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.
(b) Ornamental and clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.
(c) Pruning and tending of individual industrial hemp plants is prohibited, except when grown by an established agricultural research institution or when the action is necessary to perform the tetrahydrocannabinol (THC) testing described in this section.
(d) Culling of industrial hemp is prohibited, except when grown by an established agricultural research institution, when the action is necessary to perform the THC testing described in this section, or for purposes of seed production and development by a registered seed breeder.
(e) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.
(f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.
(1) Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.

(2) The entire fruit-bearing part of the plant including the seeds shall be used as a sample. The sample cut shall be made directly underneath the inflorescence found in the top one-third of the plant.
(3) The sample collected for THC testing shall be accompanied by the following documentation:
(A) The registrant's proof of registration.
(B) Seed certification documentation for the seed cultivar used.
(C) The THC testing report for each certified seed cultivar used.
(4) The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC, shall indicate the date and location of samples taken, and shall state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.
(5) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.
(6) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the registrant that grows industrial hemp shall submit additional samples for testing of the industrial hemp grown.
(7) A registrant that grows industrial hemp shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of THC exceeds 1 percent, the destruction shall take place within 48 hours after receipt of the laboratory test report. If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after receipt of the second test report.
(8) A registrant that intends to grow industrial hemp and who complies with this section shall not be prosecuted for the cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.
(9) Established agricultural research institutions shall be permitted to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this division.
(10) Except for an established agricultural research institution, a registrant that grows industrial hemp shall retain an original signed copy of the laboratory test report for two years from its date of sampling, make an original signed copy of the laboratory test report available to the department, the commissioner, or law enforcement officials or their designees upon request, and shall provide an original copy of the laboratory test report to each person purchasing,

transporting, or otherwise obtaining from the registrant that grows industrial hemp the fiber, oil, cake, or seed, or any component of the seed, of the plant.
(g) If, in the Attorney General's opinion issued pursuant to Section 8 of the act that added this division, it is determined that the provisions of this section are not sufficient to comply with federal law, the department, in consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

~~81007. Prohibitions; De minimis considerations~~
~~(a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.~~
~~(b) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.~~

81008. Attorney General reports; Requirements
(a) Not later than January 1, 2019, ~~or five years after the provisions of this division are authorized under federal law, whichever is later,~~ the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:
(1) A field of industrial hemp being used to disguise marijuana cultivation.
(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.
(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.
(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.

81010. Operation of division
(a) This division, *and Section 221 of the Food and Agricultural Code,* shall ~~not~~ become operative ~~unless authorized under federal law~~ *on January 1, 2017.*
(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 of the Business and Professions Code.

SECTION 10. AMENDMENT.

This Act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this Act contained in Sections 5 and 6 to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this Act as stated in Section 3. Amendments to this Act that enact protections for employees and other workers of licensees under Section 6 of this Act that are in addition to the protections provided for in this Act or that

otherwise expand the legal rights of such employees or workers of licensees under Section 6 of this Act shall be deemed to be consistent with and further the purposes and intent of this Act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this Act. Except as otherwise provided, the provisions of the Act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the Act.

SECTION 11. CONSTRUCTION AND INTEPRETATION.

The provisions of this Act shall be liberally construed to effectuate the purposes and intent of the Control, Regulate and Tax the Adult Use of Marijuana Act; provided, however, no provision or provisions of this Act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the federal Controlled Substances Act, such that the provision or provisions of this Act and federal law cannot consistently stand together.

SECTION 12. SEVERABILITY.

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

SECTION 13. CONFLICTING INITIATIVES.

In the event that this measure and another measure or measures concerning the control, regulation, and taxation of marijuana, medical marijuana, or industrial hemp appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

Agenda Item No. 7(A)
Attachment 3

HEALTH AND SAFETY CODE SECTION 11357-11362.9

11357. (a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

(b) Except as authorized by law, every person who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100).

(c) Except as authorized by law, every person who possesses more than 28.5 grams of marijuana, other than concentrated cannabis, shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

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

(e) Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of marijuana, other than concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be subject to the following dispositions:

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

(2) A fine of not more than five hundred dollars ($500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.

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 an infraction, punishable by a fine not to exceed two hundred fifty dollars ($250).
(c) As used in this section, the term "synthetic cannabinoid compound" refers to any of the following substances:
(1) 1-pentyl-3-(1-naphthoyl)indole (JWH-018).
(2) 1-butyl-3-(1-naphthoyl)indole (JWH-073).
(3) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200).
(4) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497).
(5) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol; CP-47,497 C8 homologue).
(d) This section shall become operative on January 1, 2016.

11358. Every person who plants, cultivates, harvests, dries, or processes any marijuana or any part thereof, except as otherwise provided by law, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

11359. Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

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 marijuana shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three or four years.
(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.
(c) For purposes of this section, "transport" means to transport for sale.
(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

11361. (a) Every 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 marijuana, who unlawfully sells, or offers to sell, any marijuana to a minor, or who furnishes, administers, or gives, or offers to furnish, administer, or give any marijuana to a minor under 14 years of age, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of three, five, or seven years.

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

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 subdivision (b), (c), (d), or (e) of Section 11357 or subdivision (b) of Section 11360, shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision (e) of Section 11357 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 shall provide for the timely destruction of the records in accordance with subdivision (c). 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.

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

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents ($37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars ($10).

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

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

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

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.

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.

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.

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 marijuana 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 Marijuana Research Program.

(2) The program shall develop and conduct studies intended to ascertain the general medical safety and efficacy of marijuana and, if found valuable, shall develop medical guidelines for the appropriate administration and use of marijuana.

(b) The program may immediately solicit proposals for research projects to be included in the marijuana 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 marijuana's 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 marijuana.

(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 marijuana, addressing patients diagnosed with the acquired immunodeficiency syndrome (AIDS) or the 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 marijuana.

(7) Proposals shall demonstrate the use of a laboratory capable of analyzing marijuana, 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, marijuana. 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 marijuana studies shall employ state-of-the-art research methodologies.

(j) The program shall ensure that all marijuana 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 marijuana 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 marijuana as a pharmacological agent, the program shall conduct focused controlled clinical trials on the usefulness of marijuana 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 marijuana 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 marijuana.

(2) The program shall examine the safety of marijuana in patients with various medical disorders, including marijuana'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 marijuana as part of medical treatment, and should not be construed as encouraging or sanctioning the social or recreational use of marijuana.

(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 marijuana 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 marijuana 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 marijuana studies other marijuana 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 marijuana 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 marijuana 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 marijuana 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 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.

AGENDA BILL

Agenda Item No. 7(B)

Date: June 14, 2016

To: El Cerrito City Council

From: Wall of Fame Nomination Subcommittee

Subject El Cerrito Wall of Fame Recommendation

ACTION REQUESTED

Approve the City Council Wall of Fame Nomination Subcommittee's recommendation to induct David Weinstein into the El Cerrito Wall of Fame and direct the City Clerk to return with a resolution confirming the appointment and schedule the formal induction ceremony in either July or August 2016 pending the availability of all parties involved.

BACKGROUND

Information pertaining to the Wall of Fame was advertised in the citywide newsletter and publicized in local newspapers. The deadline for submission of nomination forms was March 15, 2016. As a result, the City Council received a nomination prepared by Jenny Hammer on behalf of the El Cerrito Trail Trekkers for David Weinstein. The completed nomination form was transmitted to the City Council on April 19, 2016. On April 19 the City Council appointed Councilmember Bridges and Councilmember Friedman to a Council Subcommittee to review the application. On May 9, 2016 Councilmember Bridges notified the City Clerk that the Subcommittee had reviewed the nomination materials and had determined that Mr. Weinstein meets all of the criteria for induction into the El Cerrito Wall of Fame and requested that the City Clerk forward the recommendation to the City Council for consideration.

Resolution No. 2008–77 establishes guidelines and policy for nomination and selection of Wall of Fame inductees. Each candidate and sponsor has been contacted to inform them of the subcommittee's recommendation.

Attachments:

1. Nomination of David Weinstein
2. Resolution No. 2008–77

Agenda Item No. 7(B)
Attachment 1

CITY OF EL CERRITO
WALL OF FAME NOMINATION

City of El Cerrito
City Clerk

Name and Address of Nominee:
David Weinstein
[redacted]
El Cerrito, CA 94530

Date: 3/14/16

Note: The nominee must be a resident of the City of El Cerrito.

Describe the activities for which recognition is sought. Indicate whether each activity is non-profit if it is not inherently obvious.
El Cerrito Trail Trekkers (non-profit): see letter
Friends of the Cerrito Theater (non-profit): see Brenner and Moss letters, and Miller letter
Environmental Quality Committee: see Goudey letter and Schultz letter
El Cerrito Historical Society

How long has the nominee been actively engaged in carrying out this activity(s)?
ECTT: 6+ years; EQC: 8 years; Friends of the Cerrito Theater: 13 years

How does the activity(s) benefit or potentially benefit residents of El Cerrito?
see attached letters

Please list the names and addresses of any groups or organizations that recognized the person's activities on behalf of the community. Please state how recognition was given and when.

Submitted by: [signature]
Signature

Name of individual or organization: Jenny Hammer for El Cerrito Trail Trekkers
Address: [redacted]
El Cerrito, CA 94530
Phone number: [redacted]

February 23, 2016

El Cerrito Wall of Fame City Council Subcommittee
c/o Cheryl Morse
City Clerk, City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

Dear Committee Members,

We are writing this letter to nominate David Weinstein for the El Cerrito Wall of Fame. Because of his continuous and outstanding contributions to our city for over ten years, we feel very strongly that he is deserving of this honor. All El Cerrito residents have benefitted from his indefatigable energy, ideas, and commitment.

A remarkable thing about David Weinstein is that he doesn't simply join existing community-enhancing groups in El Cerrito; he starts them, with the purpose of filling needs in the community. This is evident from his Friends of the Cerrito Theater and other work but, more specifically, El Cerrito Trail Trekkers. It is as ECTT board members that we write to nominate him.

Six years ago, El Cerrito Trail Trekkers did not exist. For years prior to its founding, David and his dog, Patches, walked the streets of El Cerrito and discovered city-owned paths and rights-of-way, trails, and points of interest -- many of them long-forgotten and (in some cases) long-neglected. He produced a preliminary map of these paths and byways and this, along with his vision, prompted the creation of El Cerrito Trail Trekkers, an organization that David founded for the purpose of more carefully surveying, mapping, restoring, improving, and announcing to the larger El Cerrito community these gems that he had found. El Cerrito Trail Trekkers very quickly expanded the scope of its mission -- under Dave's leadership -- to lead hikes, to add open space to the City (specifically Madera Open Space), to educate the community about the environment, to co-sponsor educational and environmental events, and to serve as a supporting group for the work of other non-profit organizations.

Dave has lead many hikes over the years -- all free and all open to the public. Most of these hikes have showcased the architectural heritage, history, and natural beauty of El Cerrito, but he has always been ready to lead "on-demand" hikes to tout potential open space. These educational hikes, in fact, were instrumental in generating interest and support from the community, Trust for Public Lands, and El Cerrito City Council members for the acquisition of what is now called the Madera Open Space. He has also led hikes to other areas of environmental and scenic importance, such as Murieta Rock and the area of the potential Fairview Open Space.

Regarding the Madera Open Space, David Weinstein was *the* principal agent acting toward and cheering on its acquisition by Trust for Public Lands and, eventually, the City of El Cerrito. He got El Cerrito Trail Trekkers behind these efforts and served as the co-

chair of the El Cerrito Open Space Campaign Committee which galvanized the community to donate and raise over $100,000 toward the Madera Open Space purchase so Measure WW funds would not be depleted and could, therefore, go toward other city needs.

David was also instrumental in interesting the National Park Service to work with El Cerrito Trail Trekkers in designing signage for the trail network in El Cerrito. Through their Rivers, Trails, and Conservation Assistance Program, the NPS has been working with El Cerrito Trail Trekkers and the City of El Cerrito to there will be signage for all trails and public pathways in the city, benefiting all.

For the past three years, Dave's vision directed and inspired the work involved for El Cerrito Trail Trekkers, and other non-profit organizations, to put on and run the Hillside Festival (now in its third year). This was originally a fund-raising event for Madera Open Space, but it is now an event that raises money for the continuing restoration and maintenance of the Hillside Natural Area and other open space in El Cerrito. Dave's organization skills and enthusiasm have amassed an impressive list of activities, participants, and education-providing groups for this (now) annual festival.

The same tireless work on Dave's part went into the two Music for Madera events -- also fund-raisers for the acquisition of the Madera Open Space, an area of the city that will now be preserved for the enjoyment of all.

All of the past accomplishments of the El Cerrito Trail Trekker organization are the result of Dave's actions and attitude toward benefitting the community that he lives in: improving trail, leading hikes, hosting/running festivals, working with the City to develop the Urban Greening Plan, leading outreach and discussions with the Boy Scouts and Girl Scouts to include young people in ECTT activities.

Whether his actions and attitudes infused and informed El Cerrito Trail Trekkers, or the Environmental Quality Committee, or the El Cerrito Green Teams, or the El Cerrito Historical Society, or the Friends of the Cerrito Theater, David Weinstein has always directed them toward his beloved city and the other residents here. Over long years of service to his community, Dave has repeatedly shown himself to have and to fulfill all the requisites for an El Cerrito Wall of Fame nomination. We are happy to have the opportunity to nominate him for this honor.

Sincerely,

Jenny Hammer
Pam Austin
Tom Gehling
Mark Miner

El Cerrito Trail Trekkers Board members

February 25, 2016

Dianne P. Brenner

[redacted]

El Cerrito, CA 94530

Cheryl Morse

City Clerk, City of El Cerrito

10890 San Pablo Ave.

El Cerrito, CA 94530

RE: Nomination of David Weinstein to El Cerrito's Wall of Fame

Dear Ms. Morse:

I am happy to have this opportunity to write in support of the nomination of David Weinstein to be included on El Cerrito's Wall of Fame.

I first met Dave back in 2000 or 2001, in the earliest days of the effort to save the Cerrito Theater. By all accounts, Dave is the single person responsible getting that effort started. As you know, the effort to save the Theater ultimately was successful, and the Theater has been a well-regarded asset to the community ever since it re-opened in 2006. It all started with Dave's vision of what could be, and he remains engaged with the Friends of the Cerrito Theater 16 years later.

Back in 2000, when Dave first heard that the former movie theater was coming on the market after serving as a furniture warehouse for 40 years, and that all its' Art Deco features were still intact, the building captured his imagination and he decided to do all he could to save it. Back when it was his idea alone, Dave wisely arranged a tour of the empty theater for city staff, so they could see for themselves what an opportunity the theater represented. City staff saw that opportunity, and they were soon on board supporting the idea. Dave also enlisted the help of several other volunteers from the community, who had significant skills and experience to contribute to the effort, and the Friends of the Cerrito Theater was born. As soon as the idea of renovating and re-opening the theater gained publicity, there was a groundswell of support, which continues to this day. But Dave started it all.

I served as co-chair of the Friends of the Cerrito Theater along with Ann Lehman for the years from about 2001 to approximately 2010, until Dave Weinstein assumed the role of chair, which he still holds today. Through all those years, Dave has remained

an anchor of the effort, and the Friends continue to support the Theater, though now in more of a watch-dog role.

No doubt you will hear from others about Dave's many other contributions to community life here in El Cerrito. His vision to save the Cerrito Theater should be recognized as a significant contribution to the life we all enjoy in El Cerrito today.

I urge your favorable consideration of his nomination to be included on El Cerrito's Wall of Fame.

Sincerely,

Dianne P. Brenner

Former co-Chair, Friends of the Cerrito Theater

Feb 27, 2016

El Cerrito Wall of Fame Nomination Committee
c/o Cheryl Morse, City Clerk
El Cerrito City Hall
10890 San Pablo Avenue
El Cerrito, CA 94530.

Dear El Cerrito Wall of Fame Nominating Committee,

Please consider this letter in support of the nomination of David Weinstein to the El Cerrito Wall of Fame. I have known David since 2010 when I joined the Environmental Quality Committee (EQC). He has continuously served the community on the EQC since 2008 when it was founded.

As a stalwart member of the EQC, David has truly put the "sustainable" into advancing efforts of environmental importance in our city, by his steadfast contribution to leading the EQC Green Teams year after year. The Green Teams typically organize 6 volunteer work party events per year, and almost all of them have been organized and hosted by Dave. Often these work parties focus on collecting trash and recyclables from our public streets, sidewalks, paths, parks and creeks. This activity has been especially important to help the city meet its obligations to reduce water borne trash pollution into the bay as part of its stormwater quality permit. These work parties are able to consistently document diversion of substantial volumes of waste that might otherwise contribute to a serious water pollution liability for the city, as well as relieving the general blight of litter in the community. Always keen to recognize the contributions of fellow volunteers and build a strong shared identity around service to the community, Dave has also organized EQC volunteer appreciation events at the recycling center.

As part of the EQC role to develop and recommend environmental related policy to City Council, David has contributed to the many enacted policies that began with substantial development and public outreach through the EQC, including: an updated animal ordinance, an ordinance prohibiting single-use plastic bags and EPS take-out foodware, the Climate Action Plan, the Urban Greening Plan, a Pollinator Friendly Community ordinance, definition of Priority Conservation Areas, and enrollment in Community Choice Aggregation (CCA). The City's CCA enrollment, allowing residents to choose up to 100% renewable sourced electricity, has been the single largest contributor to reducing El Cerrito's greenhouse gas emissions in support of the goals of our Climate Action Plan. In addition to EQC activities related to the Urban Greening Plan, David also volunteered as a member of the Urban Greening Task Force that contributed to the development effort of that plan in even more detail.

His love of walking and hiking through the city and our unique natural open space (the Hillside Natural Area, HNA), inspired Dave to co-found the Trail Trekkers non-profit in 2010 with many other enthusiastic and active El Cerrito volunteers from the community who have achieved an enormous amount, with modest resources, in a relatively short time. Starting with a foundation of documenting and mapping trails and paths in the city, Dave Weinstein and the Trail Trekkers have organized a diverse array of regular walking/hiking events, as well as trail building and maintenance work parties to expand the path wandering opportunities and trail awareness in the city. Their first major trail building project established a substantial new link up so called "Motorcycle Hill" in the northern end of

the HNA. This helped build momentum to work toward the public acquisition of a private parcel of land to connect the north and south Hillside Natural Areas and enable spectacular trail continuity from one end to the other, entirely through public open space in the heart of our city.

The EQC and Trail Trekkers have successfully partnered on many recent campaigns and events, in no small part because of Dave Weinstein's substantial leadership role in both groups. The campaign to acquire and raise funds for the Madera open space that connected the Hillside Natural Areas, was a major focus of both groups over the past few years. New recurring events co-sponsored by both the Trailer Trekkers and EQC have begun as a result, including the Hillside Festival in May, and Music for Madera in the fall. These events contributed to the land acquisition fundraising effort by building awareness of, and celebrating, our unique open space natural resources in the city. David put a great deal of personal effort into organizing the fundraising campaign and his tireless outreach was an undeniably crucial part of the extraordinarily successful $100,000+ grassroots fundraising achievement, by a handful of volunteers, without a big outreach budget. Most of the donations were between $50 and $2000, so it required contact and education of hundreds of individuals to build that sizable total.

In addition to his recent activities with the EQC and Trail Trekkers, Dave has been a highly active volunteer in the community for well over 10 years with other groups that have had significant positive impacts on El Cerrito, including the Friends of Cerrito Theater, that enabled the recognition of the potential to bring a historic theater back into operation in the city, including another significant fundraising to support that effort, as well as the El Cerrito Historical Society, where Dave has been highly active planning historical speaker events and historical architectural walks through El Cerrito Neighborhoods.

While not 100% volunteer activities, Dave has also contributed to documenting the history of the city through his professional avocation as writer. For the 100th anniversary of the Stege Sanitary District he researched, interviewed and documented the 100+ year history of sanitation in El Cerrito. Also, after the spectacular remodeling of the pioneering El Cerrito Recycling Center, Dave researched the history, and interviewed many of the people who made the recycling center possible through the years, culminating with a written history of the Recycling Center dating back to its origins in 1972. While he was paid for writing these valuable pieces of history about our city, his love of the community and its history undoubtedly led him to spend many volunteer hours uncovering the nuances of the stories that he documented.

From my experience in El Cerrito, David Weinstein has made contributions to the community of unparalleled breadth and depth. He unquestionably deserves recognition on the El Cerrito Wall of Fame.

Sincerely,

Howdy Goudey
[redacted]
El Cerrito, CA 94530

I am writing in support of electing Dave Weinstein to the El Cerrito Wall of Fame.

I have known Dave since about 2003, when I became involved with the Friends of the Cerrito Theater. Dave is a visionary, who could see what an amazing contribution the rebirth of the Cerrito Theater would make to the community.

He led from the outset in that difficult process, and has always lent his energy, pragmatism, and skills with people to any situation that arises with the Cerrito. For a number of years, he has served as chairman of the Friends, and we rely on his judgment and commitment.

For his contribution to the Cerrito Theater alone, Dave should be elevated to the Wall of Fame. But he has invested his vision and energy in so many other ways to El Cerrito, over a number of years.

He is passionately involved with the El Cerrito Historical Society, helping so much to reinvent the organization by bringing about innovative tours and speakers. His deep commitment to preserving the city's many historic sites has greatly enriched life in El Cerrito.

Creating the Madera Land Trust and seeing the project through was an invaluable contribution to El Cerrito, which will enhance the life of generations yet to come.

His creation of the Trail Trekkers is an amazingly innovative achievement. Through his vision and hard work, he and a lot of energetic young and older people rediscovered and are restoring El Cerrito's historic trails. And having a lot of fun in the process!

I cannot state too emphatically that Dave belongs on the Wall of Fame!

Linda Moss
[redacted]
El Cerrito

Friends of the Cerrito Theater

March 7, 2016

El Cerrito Wall of Fame Nomination Committee
c/o Cheryl Morse, City Clerk
El Cerrito City Hall
10890 San Pablo Avenue
El Cerrito, CA 94530.

Re: Dave Weinstein Wall of Fame Nomination

Dear El Cerrito Wall of Fame Nominating Committee:

Please consider this letter in support of the nomination of David Weinstein to the El Cerrito Wall of Fame. I have known Dave since 2008 when he joined the Environmental Quality Committee as a founding member of that committee.

As an active and engaged member of the EQC, Dave was always present and eager to get others engaged in important volunteer efforts to support the environment. One of the things I found most impressive during my time working with him was his consistency of effort, working not only to support important efforts such as El Cerrito's Annual Earth Day but also trails maintenance, creek and litter clean-ups, invasive species removal, and many other activities throughout each and every year. His love and care are visible – though often unseen – in cleaner streets and parks and a growing trail system throughout the City.

During my time with the City, Dave was also an avid supporter of the El Cerrito Recycling Center. He played a key role in documenting the Center's long and interesting history in conjunction with the redevelopment and re-opening of the center on Earth Day, 2012. His wonderfully detailed written history of the Center's colorful past can be read online through the City's website at http://ca-elcerrito.civicplus.com/DocumentCenter/Home/View/1462 and was the inspiration for the short film the City produced on the same topic in 2013.

As staff with the City, before Council meetings I would frequently remind myself of the foundational El Cerritans recognized on the Wall of Fame. Their commonalities, not surprisingly: long-term leadership, volunteerism, and committed vision for what helps make El Cerrito great. Dave is worthy of recognition along with them because he exemplifies an infectious and steadfast commitment to making El Cerrito an ever-better place that others can and do aspire to.

Sincerely,

Garth Schultz
City of El Cerrito employee (2006-2014)
[redacted]
Albany, CA 94706
[redacted]

Alan C. Miller
[redacted]
El Cerrito, CA 94530-3222
[redacted]

March 10, 2016

El Cerrito Wall of Fame Nomination Committee
c/o Cheryl Morse, City Clerk
El Cerrito City Hall
10890 San Pablo Avenue
El Cerrito, CA 94530.

Dear El Cerrito Wall of Fame Nominating Committee:

Please consider this letter in support of the nomination of David Weinstein to the El Cerrito Wall of Fame. I have known David since 2002 when we were part of a group of El Cerrito residents who formed the **Friends of the Cerrito Theater** and worked to persuade the City of El Cerrito to purchase the theater property and restore it as an operating neighborhood movie theater.

David, with his extensive historical knowledge of El Cerrito and his interest in, and knowledge of other community neighborhood theaters in California, was instrumental in the success of this project. He contributed many, many hours of his time assisting city staff by researching materials needed for various reports and locating historical information about the original theater to ensure accuracy of the restoration.

I had the honor to serve as a Director of the Stege Sanitary District over the years we were preparing to celebrate our Centennial Anniversary in 2013. The District hired Dave to write the story of our first hundred years of service to El Cerrito, Kensington and the Richmond Annex. While he was paid for this work, it was clear to all of us at Stege that he spent two to three times over the agreed number of hours working on this book. This effort is of special interest to the residents of El Cerrito since the history of Stege is so closely intertwined with the history of El Cerrito. This book, *Where the Sewage meets the Sea*, is available at the El Cerrito Public Library and the El Cerrito Historical Society.

I believe the contributions David has made to El Cerrito over the years, especially in his efforts to improve the quality of life we now enjoy, deserve recognition on the Wall of Fame. I am proud to recommend him for this honor.

Sincerely

AC Miller

Al Miller

March 10, 2016

Wall of Fame Committee
City of El Cerrito
10890 San Pablo Avenue
El Cerrito, CA 94530

Dear Wall of Fame Committee,

Please accept this letter of support for Dave Weinstein's Wall of Fame nomination. Dave has been an active member of the El Cerrito Historical Society since he came onto the Board of Directors in late 2007. He is the Society's Vice President and also serves as the Program Chair.

Dave has contributed to the Historical Society in a number of ways. He has written articles for the Society's Forge newsletter and put together a walking tour brochure to introduce people to a number of the important sites in El Cerrito. Every year Dave plans the Society's Fourth of July booth and last year he created a history quiz for the booth.

Dave has led a number of tours around town including at Camp Herms, No-man's land, the U.C. President's House, and others. He has arranged a number of programs, such as ones featuring gambling in El Cerrito, former businesses in El Cerrito, the east bay regional parks, and eucalyptus trees in El Cerrito. Within the past few months he has begun narrating the bus tours sponsored by the Senior Center that introduce people to significant sites in El Cerrito.

Beyond the Historical Society, Dave has been active in a number of other activities from the Green Teams and other clean-up efforts to the Trail Trekkers to the Environmental Quality Commission to the Madera Open Space campaign to the Friends of the Cerrito Theater. We need more people who donate their time to make El Cerrito a better place the way that Dave does.

Sincerely,

Tom Panas
[redacted]
El Cerrito, CA 94530
[redacted]

RESOLUTION 2008–77

RESOLUTION OF THE EL CERRITO CITY COUNCIL CONFIRMING THE GUIDELINES AND POLICY FOR NOMINATION AND SELECTION OF WALL OF FAME INDUCTEES, ESTABLISHING A PROCESS FOR NOMINATION AND SELECTION OF APPOINTMENTS TO THE WALL OF FAME AND ESTABLISHING AN ANNUAL WALL OF FAME EVENT

WHEREAS, at its meeting of September 15, 2008 the City Council appointed Councilmembers Letitia Moore and Jan Bridges to an El Cerrito Wall of Fame City Council Subcommittee; and

WHEREAS, on September 19, 2008 the Wall of Fame City Council Subcommittee met and prepared recommendations for Council consideration regarding the process for nomination and selection of appointments to the Wall of Fame; an Annual Wall of Fame Event; Guidelines for Nomination and Selection of Inductees to the Wall of Fame; and consideration of Miriam Wilkins; and

WHEREAS, the City Council considered and discussed the Wall of Fame Subcommittee recommendation at its meeting of October 20, 2008; and

WHEREAS, the City Council adopted the Wall of Fame Subcommittee's recommendations by unanimous vote with the provision that future Wall of Fame Subcommittees be appointed by the Mayor on an ad-hoc basis.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby establishes the following components of the Wall of Fame Program:

Section 1: PROCESS FOR NOMINATION AND SELECTION OF APPOINTMENTS TO THE WALL OF FAME

A. Future Wall of Fame City Council Subcommittees (Wall of Fame Subcommittee) shall consist of two members of the City Council who will be appointed on an ad-hoc basis by the Mayor for the purpose of reviewing nomination(s) for the Wall of Fame and will make recommendations regarding appointment to the City Council.

B. An annual application deadline of March 15th is established for nominations to the Wall of Fame.

C. Each year, once the application deadline passes, the City Clerk will provide copies of all nomination packages, if any, received that year by the application deadline to the Wall of Fame Subcommittee.

D. The City Clerk will determine when an application is complete. Only complete applications will be passed on to the Wall of Fame Subcommittee for review.

E. Each year, and ad-hoc Wall of Fame Subcommittee shall review the nominations, if any, and provide a written recommendation concerning each nomination to the City Council for consideration on or before May 15th.

F. All persons identified in the nomination papers shall be notified prior to the City Council Meeting of the Subcommittee recommendation(s) and the date and time of the City Council Meeting to consider the recommendation(s).

G. Each year in July, at the City Council meeting scheduled on the third Monday in July, the City Council shall consider the recommendation(s), if any, of the Wall of Fame Subcommittee and induct nominee(s), if any, to the Wall of Fame.

Section 2: ANNUAL WALL OF FAME EVENT

A. Each year the City Newsletter will feature an article showcasing the El Cerrito Wall of Fame which will highlight one of the people inducted into the El Cerrito Wall of Fame and provide a complete list of all persons on the Wall of Fame (living and deceased) and briefly describe why each was inducted in to the Wall of Fame, and announce any new inductee(s) to the Wall of Fame who were appointed at the July City Council Meeting and provide a brief description of that persons achievements and contributions.

B. New inductees to the Wall of Fame shall be invited to and recognized at the Annual Volunteer Recognition Dinner.

Section 3: GUIDELINES/POLICY FOR NOMINATION AND SELECTION OF INDUCTEES TO WALL OF FAME

The purpose and policy for nomination and selection of inductees shall remain as follows:

A. PURPOSE: To reaffirm the City Council's commitment to recognizing citizens of El Cerrito for outstanding community contributions by portrayal on the "Wall of Fame" and to advise employees and the public of the guidelines for Council selection.

B. POLICY: It is the policy of the City of El Cerrito to recognize citizens of El Cerrito who have made substantial contributions to the community over a long period of time through their work on special projects. The persons selected by the City Council shall have their photograph, preferably in the setting of the activity for which they are being recognized, placed on the Wall of Fame located at City Hall. The guidelines for selection are:

1. The Honoree must be a resident of the City of El Cerrito.

2. The work for which an individual is recognized must be an ongoing activity in El Cerrito for at least ten (10) consecutive years, but may be an annual event.

3. The event or activity must be available to potentially benefit all El Cerrito residents.

4. The event or activity must be non-profit in nature.

5. City board, commission or committee service is not in itself grounds for selection. Members may, however, qualify for this award if they have been active in an ongoing activity for the benefit of El Cerrito in addition to serving on a board, commission or committee.

6. Recipients of this honor should have been recognized for their efforts by a citizen group or an organization in El Cerrito, West County, regionally, statewide or nationally.

I CERTIFY that at a regular meeting on November 3, 2008 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	Councilmembers Abelson, Bridges, Moore, Potter and Mayor Jones
NOES:	None
ABSENT:	None
ABSTAIN:	None

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on November 5, 2008.

Cheryl Morse, City Clerk

APPROVED:

William C. Jones, III, Mayor

THE CITY OF
EL CERRITO

OFFICE OF THE CITY CLERK

June 14, 2016
Special Concurrent City Council Meeting / Public Financing Authority and Pension Trust Board Meeting

Agenda Item No. 7(C)
Proposed Fiscal Year 2016-17 and 2017-18 Biennial Budget Presentation

A hardcopy of the proposed budget book and appendices is available for review at:

The El Cerrito Library 6510 Stockton Avenue El Cerrito, CA	and	Office of the City Clerk City of El Cerrito 10890 San Pablo Avenue El Cerrito