



California
LEGISLATIVE INFORMATION

AB-243 Medical marijuana. (2015-2016)

Assembly Bill No. 243

CHAPTER 688

An act to add Article 6 (commencing with Section 19331), Article 13 (commencing with Section 19350), and Article 17 (commencing with Section 19360) to Chapter 3.5 of Division 8 of the Business and Professions Code, to add Section 12029 to the Fish and Game Code, to add Sections 11362.769 and 11362.777 to the Health and Safety Code, and to add Section 13276 to the Water Code, relating to medical marijuana, and making an appropriation therefor.

[Approved by Governor October 09, 2015. Filed with Secretary of State
October 09, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 243, Wood. Medical marijuana.

Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 5, 1996, statewide general election, authorizes the use of marijuana for medical purposes. Existing law enacted by the Legislature requires the establishment of a program for the issuance of identification cards to qualified patients so that they may lawfully use marijuana for medical purposes, and requires the establishment of guidelines for the lawful cultivation of marijuana grown for medical use. Existing law provides for the licensure of various professions by boards or bureaus within the Department of Consumer Affairs. Existing law, the Sherman Food, Drug, and Cosmetic Law, provides for the regulation of food, drugs, devices, and cosmetics, as specified. A violation of that law is a crime.

This bill would require the Department of Food and Agriculture, the Department of Pesticide Regulation, the State Department of Public Health, the Department of Fish and Wildlife, and the State Water Resources Control Board to promulgate regulations or standards relating to medical marijuana and its cultivation, as specified. The bill would also require various state agencies to take specified actions to mitigate the impact that marijuana cultivation has on the environment. By requiring cities, counties, and their local law enforcement agencies to coordinate with state agencies to enforce laws addressing the environmental impacts of medical marijuana cultivation, and by including medical marijuana within the Sherman Act, the bill would impose a state-mandated local program.

This bill would require a state licensing authority to charge each licensee under the act a licensure and renewal fee, as applicable, and would further require the deposit of those collected fees into an account specific to that licensing authority in the Medical Marijuana Regulation and Safety Act Fund, which this bill would establish. This bill would impose certain fines and civil penalties for specified violations of the Medical Marijuana Regulation and Safety Act, and would require moneys collected as a result of these fines and civil penalties to be deposited into the Medical Cannabis Fines and Penalties Account, which this bill would establish within the fund. Moneys in the fund and each account of the fund would be available upon appropriation of the Legislature.

This bill would authorize the Director of Finance to provide an initial operating loan from the General Fund to the Medical Marijuana Regulation and Safety Act Fund of up to \$10,000,000, and would appropriate \$10,000,000 from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the

activities of the bureau.

This bill would provide that its provisions are severable.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would become operative only if AB 266 and SB 643 of the 2015–16 Regular Session are enacted and take effect on or before January 1, 2016.

Vote: majority Appropriation: yes Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 6 (commencing with Section 19331) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 6. Licensed Cultivation Sites

19331. The Legislature finds and declares all of the following:

(a) The United States Environmental Protection Agency has not established appropriate pesticide tolerances for, or permitted the registration and lawful use of, pesticides on cannabis crops intended for human consumption pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(b) The use of pesticides is not adequately regulated due to the omissions in federal law, and cannabis cultivated in California for California patients can and often does contain pesticide residues.

(c) Lawful California medical cannabis growers and caregivers urge the Department of Pesticide Regulation to provide guidance, in absence of federal guidance, on whether the pesticides currently used at most cannabis cultivation sites are actually safe for use on cannabis intended for human consumption.

19332. (a) The Department of Food and Agriculture shall promulgate regulations governing the licensing of indoor and outdoor cultivation sites.

(b) The Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, shall develop standards for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis.

(c) The State Department of Public Health shall develop standards for the production and labeling of all edible medical cannabis products.

(d) The Department of Food and Agriculture, in consultation with the Department of Fish and Wildlife and the State Water Resources Control Board, shall 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.

(e) The Department of Food and Agriculture shall have the authority necessary for the implementation of the regulations it adopts pursuant to this chapter. The regulations shall do all of the following:

(1) Provide that weighing or measuring devices used in connection with the sale or distribution of medical cannabis are required to meet standards equivalent to Division 5 (commencing with Section 12001).

(2) Require that cannabis cultivation by licensees is conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, agricultural discharges, and similar matters. Nothing in this chapter, and no regulation adopted by the department, shall be construed to supersede or limit the authority of the State Water Resources Control Board, regional water quality control boards, or the

Department of Fish and Wildlife to implement and enforce their statutory obligations or to adopt regulations to protect water quality, water supply, and natural resources.

(3) Establish procedures for the issuance and revocation of unique identifiers for activities associated with a cannabis cultivation license, pursuant to Article 8 (commencing with Section 19337). All cannabis shall be labeled with the unique identifier issued by the Department of Food and Agriculture.

(4) Prescribe standards, in consultation with the bureau, for the reporting of information as necessary related to unique identifiers, pursuant to Article 8 (commencing with Section 19337).

(f) 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 or outdoor cultivation of medical cannabis meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

(g) State cultivator license types issued by the Department of Food and Agriculture include:

(1) Type 1, or "specialty outdoor," for outdoor cultivation using no artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on noncontiguous plots.

(2) Type 1A, or "specialty indoor," for indoor cultivation using exclusively artificial lighting of less than or equal to 5,000 square feet of total canopy size on one premises.

(3) Type 1B, or "specialty mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than or equal to 5,000 square feet of total canopy size on one premises.

(4) Type 2, or "small outdoor," for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(5) Type 2A, or "small indoor," for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(6) Type 2B, or "small mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet, inclusive, of total canopy size on one premises.

(7) Type 3, or "outdoor," for outdoor cultivation using no artificial lighting from 10,001 square feet to one acre, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(8) Type 3A, or "indoor," for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(9) Type 3B, or "mixed-light," for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet, inclusive, of total canopy size on one premises. The Department of Food and Agriculture shall limit the number of licenses allowed of this type.

(10) Type 4, or "nursery," for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

~~19338.~~ An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

SEC. 2. Article 13 (commencing with Section 19350) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 13. Funding

19350. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter, 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 chapter. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this chapter 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 19335, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this chapter shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this chapter.

(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 Medical Marijuana Regulation and Safety Act Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation of the Legislature, by the designated licensing authority for the administration of this chapter.

19351. (a) The Medical Marijuana Regulation and Safety Act Fund is hereby established within the State Treasury. Moneys in the fund shall be available upon appropriation by the Legislature. Notwithstanding Section 16305.7 of the Government Code, the fund shall include any interest and dividends earned on the moneys in the fund.

(b) (1) Funds for the establishment and support of the regulatory activities pursuant to this chapter shall be advanced as a General Fund or special fund loan, and shall be repaid by the initial proceeds from fees collected pursuant to this chapter or any rule or regulation adopted pursuant to this chapter, by January 1, 2022. Should the initial proceeds from fees not be sufficient to repay the loan, moneys from the Medical Cannabis Fines and Penalties Account shall be made available to the bureau, by appropriation of the Legislature, to repay the loan.

(2) 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 chapter.

(3) The Director of Finance may provide an initial operating loan from the General Fund to the Medical Marijuana Regulation and Safety Act Fund that does not exceed ten million dollars (\$10,000,000).

(c) Except as otherwise provided, all moneys collected pursuant to this chapter as a result of fines or penalties imposed under this chapter shall be deposited directly into the Medical Marijuana Fines and Penalties Account, which is hereby established within the fund, and shall be available, upon appropriation by the Legislature to the bureau, for the purposes of funding the enforcement grant program pursuant to subdivision (d).

(d) (1) The bureau shall establish a grant program to allocate moneys from the Medical Cannabis Fines and Penalties Account to state and local entities for the following purposes:

(A) To assist with medical cannabis regulation and the enforcement of this chapter and other state and local laws applicable to cannabis activities.

(B) For allocation to state and local agencies and law enforcement to remedy the environmental impacts of cannabis cultivation.

(2) The costs of the grant program under this subdivision shall, upon appropriation by the Legislature, be paid for with moneys in the Medical Cannabis Fines and Penalties Account.

(3) The grant program established by this subdivision shall only be implemented after the loan specified in this section is repaid.

19362. The sum of ten million dollars (\$10,000,000) is hereby appropriated from the Medical Marijuana Regulation and Safety Act Fund to the Department of Consumer Affairs to begin the activities of the Bureau of Medical Marijuana Regulation. Funds appropriated pursuant to this section shall not include moneys received from fines or penalties.

SEC. 3. Article 17 (commencing with Section 19360) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 17. Penalties and Violations

11360. (a) A person engaging in cannabis activity without a license and associated unique identifiers required by this chapter shall be subject to civil penalties of up to twice the amount of the license fee for each violation, and the department, state or local authority, or court may order the destruction of medical cannabis associated with that violation. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section shall be deposited into the Marijuana Production and Environment Mitigation Fund established pursuant to Section 31013 of the Revenue and Taxation Code.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, the penalty collected shall be paid to the treasurer of the city or city and county in which the judgment was entered. If the action is brought by a city attorney and is adjudicated in a superior court located in the unincorporated area or another city in the same county, the penalty shall be paid one-half to the treasurer of the city in which the complaining attorney has jurisdiction and one-half to the treasurer of the county in which the judgment is entered.

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

SEC. 4. Section 12029 is added to the Fish and Game Code, to read:

12029. (a) The Legislature finds and declares all of the following:

(1) The environmental impacts associated with marijuana cultivation have increased, and unlawful water diversions for marijuana irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.

(2) The remediation of existing marijuana cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures. The potential for marijuana cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.

(b) In order to address unlawful water diversions and other violations of the Fish and Game Code associated with marijuana cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.

(c) The department, in coordination with the State Water Resources Control Board, shall establish a permanent multiagency task force to address the environmental impacts of marijuana cultivation. The multiagency task force, to the extent feasible and subject to available Resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on fish and wildlife and their habitats throughout the state.

(d) In order to facilitate the remediation and permitting of marijuana cultivation sites, the department shall adopt regulations to enhance the fees on any entity subject to Section 1602 for marijuana cultivation sites that require remediation. The fee schedule established pursuant to this subdivision shall not exceed the fee limits in Section 1609.

SEC. 5. Section 11362.769 is added to the Health and Safety Code, to read:

11362.769. Indoor and outdoor medical marijuana cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical marijuana cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

SEC. 6. Section 11362.777 is added to the Health and Safety Code, to read:

11362.777. (a) The Department of Food and Agriculture shall establish a Medical Cannabis Cultivation Program to be administered by the secretary, except as specified in subdivision (c), shall administer this section as it pertains to the cultivation of medical marijuana. For purposes of this section and Chapter 3.5 (commencing with Section 19300) of the Business and Professions Code, medical cannabis is an agricultural product.

(b) (1) A person or entity shall not cultivate medical marijuana without first obtaining both of the following:

(A) A license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(B) A state license issued by the department pursuant to this section.

(2) A person or entity shall not submit an application for a state license issued by the department pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation pursuant to these provisions, from the city, county, or city and county in which the cultivation will occur.

(3) A person or entity shall not submit an application for a state license issued by the department pursuant to this section if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning.

(c) (1) Except as otherwise specified in this subdivision, and without limiting any other local regulation, a city, county, or city and county, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical marijuana pursuant to this section. A city, county, or city and county may inspect the intended cultivation site for suitability prior to issuing a permit. After the city, county, or city and county has approved a permit, the applicant shall apply for a state medical marijuana cultivation license from the department. A locally issued cultivation permit shall only become active upon licensing by the department and receiving final local approval. A person shall not cultivate medical marijuana prior to obtaining both a permit from the city, county, or city and county and a state medical marijuana cultivation license from the department.

(2) A city, county, or city and county that issues or denies conditional licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.

(3) A city, county, or city and county's locally issued conditional permit requirements must be at least as stringent as the department's state licensing requirements.

(4) If a city, county, or city and county does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to this section, then commencing March 1, 2016, the division shall be the sole licensing authority for medical marijuana cultivation applicants in that city, county, or city and county.

(d) (1) The secretary may prescribe, adopt, and enforce regulations relating to the implementation, administration, and enforcement of this part, including, but not limited to, applicant requirements, collections, reporting, refunds, and appeals.

(2) The secretary may prescribe, adopt, and enforce any emergency regulations as necessary to implement this part. 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.

(3) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, licensing and assistance pertaining to the cultivation of medical marijuana. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs.

(e) (1) The department, in consultation with, but not limited to, the Bureau of Medical Marijuana Regulation, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for medical 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.

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

(2) The department shall establish a program for the identification of permitted medical marijuana plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical marijuana plant.

(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 19335 of the Business and Professions Code.

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

(f) (1) A city, county, or city and county that issues or denies licenses to cultivate medical marijuana pursuant to this section shall notify the department in a manner prescribed by the secretary.

(2) Unique identifiers and associated identifying information administered by a city or county shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(g) This section does not apply to a qualified patient cultivating marijuana pursuant to Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 100 square feet and he or she cultivates marijuana for his or her personal medical use and does not sell, distribute, donate, or provide marijuana to any other person or entity. This section does not apply to a primary caregiver cultivating marijuana pursuant to Section 11362.5 if the area he or she uses to cultivate marijuana does not exceed 500 square feet and he or she cultivates marijuana exclusively for the personal medical use of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 and does not receive remuneration for these activities, except for compensation provided in full compliance with subdivision (c) of Section 11362.765. For purposes of this section, the area used to cultivate marijuana shall be measured by the aggregate area of vegetative growth of live marijuana plants on the premises. Exemption from the requirements of this section does not limit or prevent a city, county, or city and county from regulating or banning the cultivation, storage, manufacture, transport, provision, or other activity by the exempt person, or impair the enforcement of that regulation or ban.

SEC. 7. Section 13276 is added to the Water Code, 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 associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:

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

SEC. 8. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 10. This measure shall become operative only if both Assembly Bill 266 and Senate Bill 643 of the 2015-16 Regular Session are enacted and become operative.

18.30.340 - Medical marijuana dispensaries.

A. Prohibition

1. **Medical marijuana dispensaries are prohibited.**

B. Definitions.

1. For purposes of this section, "medical marijuana dispensary" shall mean a facility where marijuana is made available for medical purposes in accordance with Section 11362.5 of the California Health and Safety Code.
2. For purposes of this section, "marijuana" shall have the same meaning as the definition of that word in Section 11018 of the California Health and Safety Code.

(Ord. No. 2012-2372, Exh. B-1, 2-7-2012)

18.30.345 - Medical marijuana cultivation.

A. Prohibition.

1. Cultivation of marijuana for medicinal purposes is prohibited.
2. Cultivation of marijuana is prohibited regardless of purpose.

B. Definitions.

1. Cultivation of marijuana shall mean the planting, growing, cultivating, harvesting, drying, or processing of marijuana.
2. For purposes of this section, "marijuana" shall have the same meaning as the definition of that word in Section 11018 of the California Health and Safety Code.

Article 2: Health Regulated Businesses and Activities

Division 13: Medical Marijuana Regulations: Patients and Caregivers
("San Diego Medical Cannabis Voluntary Verification Card Program" added 2-25-2002 by O-19036 N.S.
(Retitled to "Medical Marijuana Regulations: Patients and Caregivers" and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1301 Purpose and Intent

- (a) It is the intent of the Council to adopt regulations consistent with California Health and Safety Code section 11362.5 (Compassionate Use Act) and California Health and Safety Code sections 11362.7-11362.83 (Medical Marijuana Program), to protect the public health, safety, and welfare.
- (b) Nothing in this Division is intended to override a peace officer's judgment and discretion based on a case-by-case evaluation of the totality of the circumstances, or to interfere with a peace officer's sworn duty to enforce applicable law.
- (c) Nothing in this Division is intended to reduce the rights of a *qualified patient* or *primary caregiver* otherwise authorized by California Health and Safety Code section 11362.5(d).
- (d) This Division shall be interpreted in a manner consistent with state law. Nothing in this Division is intended to authorize the sale, distribution, possession of *marijuana*, or any other transaction, in violation of state law.

(Amended 9-29-2003 by O-19218 N.S.)

(Amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1302 Definitions

For the purpose of this Division the following definitions shall apply and appear in italicized letters:

Marijuana has the same meaning as in California Health and Safety Code section 11018.

Primary caregiver means the individual designated by the *qualified patient* who has consistently assumed responsibility for the housing, health, or safety of the *qualified patient*, in accordance with state law, including California Health and Safety Code section 11362.5. As explained in *People v. Mentch*, 45 Cal. 4th 274 (2008), a *primary caregiver* is a person who consistently provides caregiving to a *qualified patient*, independent of any assistance in taking medical *marijuana*, at or before the time he or she assumed responsibility for assisting with medical *marijuana*.

Processed marijuana means harvested *marijuana* that is in a form other than a live plant.

Qualified patient means a California resident having 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 in accordance with state law, including California Health and Safety Code section 11362.5.

SDPD means the City of San Diego Police Department.

State identification card means the card issued to a patient or caregiver in accordance with California Health and Safety Code sections 11362.71-11362.76.

(Amended 9-29-2003 by O-19218 N.S.)

(Amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1303 State Identification Card Holders: Permissible Amounts of Marijuana

A person in possession of a current and valid *state identification card* and who is within the jurisdictional limits of the City, is not subject to arrest by the *SDPD* for possession of *marijuana*, or detention by the *SDPD* longer than necessary to verify his or her status, or seizure by the *SDPD* of *marijuana* in his or her possession, if the amount of *marijuana* possessed is within the following limits:

(a) *Processed Marijuana - Qualified Patients.*

An individual who is a *qualified patient* may possess the total amount of *processed marijuana*, regardless of growing method, recommended by his or her physician for the length of time recommended by the physician, not to exceed one pound, or an amount consistent with the physician's recommendation, whichever is less.

(b) *Processed Marijuana - Primary Caregivers.*

An individual who is a *primary caregiver* may possess no more than the amount specified in section 42.1303(a) for each *qualified patient* for whom the individual serves as a verified *primary caregiver*, except that such amount shall not exceed two pounds, or an amount consistent with the physician's recommendation, whichever is less.

(c) *Indoor Plants - Qualified Patients.*

A *qualified patient* may possess a maximum of twenty-four unharvested *marijuana* plants growing in an area of no more than 64 square feet, or an amount consistent with the physician's recommendation, whichever is less.

(d) *Indoor Plants - Primary Caregivers.*

A *primary caregiver* may possess no more than the amount of *marijuana* specified in section 42.1303(c) and growing in the space specified in 42.1303(c), for each *qualified patient* for whom the individual serves as a *primary caregiver*, not to exceed a total of ninety-nine plants, or an amount consistent with the recommendation of the physician or physicians, whichever is less.

(e) *Outdoor/Greenhouse Plants.*

No unsupervised outdoor *marijuana* cultivation shall be permitted. Growing *marijuana* shall only be permitted in a fully enclosed yard with a minimum six-foot fence perimeter or a greenhouse or structure that must be locked and contained. The amount of *marijuana* grown in the enclosed yard with a minimum six-foot fence perimeter or greenhouses or structures that are locked and contained shall not exceed the permissible amounts for indoor plants according to sections 42.1303(c) and 42.1303(d).

(f) Possession of *marijuana* in amounts which exceed those set forth in section 42.1303(a)-(d) by persons with *state identification cards* will be evaluated by *SDPD* on a case-by-case basis according to the totality of the circumstances, taking into account facts such as whether the amount possessed is consistent with a physician's recommendation.

(Renumbered from former Section 42.1308, retitled to "State Identification Card Holders: Permissible Amounts of Marijuana" and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011. Former Section 42.1303 repealed.)

§42.1304 Smoking

Qualified patients, including those with state identification cards, are prohibited from smoking marijuana in any public place or in any place open to the public. Any person who violates this section is guilty of an infraction.

(Renumbered from former Section 42.1313, and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011. Former Section 42.1304 repealed.)

Ch.	Art.	Div.	
4	2	13	04

Article 2: Health Regulated Businesses and Activities**Division 15: Medical Marijuana Consumer Cooperatives**
*("Medical Marijuana Consumer Cooperatives" added 4-27-2011
by O-20043 N.S.; effective 5-27-2011.)***§42.1501 Purpose and Intent**

It is the intent of this Division to promote and protect the public health, safety, and welfare of the citizens of San Diego by allowing and strictly regulating the cooperative cultivation and exchange of medical *marijuana* among *qualified patients, primary caregivers, and state identification card holders* consistent with state law. It is further the intent of this Division to ensure that *marijuana* is not diverted for illegal purposes, and to limit its use to those persons authorized under state law. Nothing in this Division is intended to authorize the sale, distribution, possession of *marijuana*, or other transaction, in violation of state law.

It is not the intent of this Division to supersede or conflict with state law, but to implement the Compassionate Use Act (California Health and Safety Code section 11362.5) and the Medical Marijuana Program (California Health and Safety Code sections 11362.7-11362.83). Further, the California Corporations Code may allow some conduct for consumer cooperatives that is not otherwise permissible under the California Health and Safety Code and this Division, such as the distribution of profits to members; in those circumstances, it is the intent of the City that the state and municipal laws governing medical *marijuana* control.
(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1502 Definitions

For the purpose of this Division, the following definitions shall apply and appear in italicized letters:

Marijuana has the same meaning as in California Health and Safety Code section 11018.

Medical marijuana consumer cooperative means a facility where marijuana is transferred to qualified patients or primary caregivers in accordance with the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, set forth in California Health and Safety Code sections 11362.5 through 11362.83. A *medical marijuana consumer cooperative* shall not include clinics licensed by the State of California pursuant to Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code.

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Primary caregiver means the individual designated by the *qualified patient* who has consistently assumed responsibility for the housing, health, or safety of the *qualified patient*, in accordance with state law, including California Health and Safety Code section 11362.5. As explained in *People v. Mertych*, 45 Cal. 4th 274 (2008), a *primary caregiver* is a person who consistently provides caregiving to a *qualified patient*, independent of any assistance in taking medical *marijuana*, at or before the time he or she assumed responsibility for assisting with medical *marijuana*.

Qualified patient means a California resident having 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, in accordance with state law, including California Health and Safety Code section 11362.5.

Reasonable compensation means compensation for directors, managers, and *responsible persons* of the *medical marijuana consumer cooperative* commensurate with reasonable wages and benefits paid to employees of IRS qualified non-profit organizations who have similar descriptions and duties.

Responsible person has the same meaning as in San Diego Municipal Code section 11.0210, and includes an employee and each person upon whom a duty, requirement or obligation is imposed by this Division, or who is otherwise responsible for the operation, management, direction, or policy of a *medical marijuana consumer cooperative*. It also includes an employee who is in apparent charge of the *medical marijuana consumer cooperative*.

State identification card means the card issued to a *qualified patient* or *primary caregiver* in accordance with California Health and Safety Code sections 11362.71-11362.76.

Violent felony means the same as it does in California Penal Code section 667.5(c) as may be amended from time to time.
(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)
(Amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)

§42.1503 Cooperatives—Organization

All persons who organize to collectively and cooperatively cultivate medical *marijuana* pursuant to state law shall organize as a “Consumer Cooperative Corporation” pursuant to California Corporations Code Title 1, Division 3, Part 2. *(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)*

§42.1504 Cooperatives—Permit Required

- (a) It is unlawful for any person to operate any *Medical marijuana consumer cooperative* without a *Medical Marijuana Consumer Cooperative Permit* issued pursuant to this Division.
- (b) In addition to any other information requested by the City, a permit applicant must provide evidence that the applicant is in compliance with section 42.1503.
- (c) The *medical marijuana consumer cooperative* shall designate one of its officers or managers to act as its responsible managing officer. The responsible managing officer may complete and sign the permit application on behalf of the *medical marijuana consumer cooperative*.
- (d) The issuance of a *Medical Marijuana Consumer Cooperative Permit* pursuant to this Division does not relieve any person from obtaining any other permit, license, certificate, or other similar approval that may be required by the City, the County of San Diego, or state or federal law.
- (e) A permit applicant must obtain a Conditional Use Permit as required by Chapter 12, Article 6, Division 3, prior to obtaining a permit under this Division.
- (f) Applications for *Medical Marijuana Consumer Cooperative Permits* shall be filed with the City Manager.
- (g) The City Manager shall act upon the application within thirty calendar days, except that notice of an incomplete application shall be given within five business days.
- (h) *Medical Marijuana Consumer Cooperative Permits* issued pursuant to this Division shall be valid for one year.
- (i) An application for a *Medical Marijuana Consumer Cooperative Permit* shall be denied if the permit was revoked by the City Manager within the past twelve months.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)
(Amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)

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§42.1505 Exemptions

This Division does not apply to the cultivation of *marijuana* by a *qualified patient* at that patient's home, so long as the patient is only growing for his or her own personal medical needs in a manner consistent with state law.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

(Amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)

§42.1506 Cooperatives—Cost Recovery Fees

Notwithstanding any other provision of this Code, the City may recover its costs in the form of a permit fee for the costs of permitting and regulating *medical marijuana consumer cooperatives*.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1507 Cooperatives—Background Checks

- (a) All *responsible persons* in the *medical marijuana consumer cooperative* shall undergo fingerprinting prior to acting as a *responsible person*. The fingerprints shall be provided to and kept on file with the City.
- (b) The City shall conduct a background check of all *responsible persons*. Any person who has been convicted of a *violent felony* or a crime of moral turpitude within the past seven years, cannot act as a *responsible person* in the *medical marijuana consumer cooperative*.
- (c) It is unlawful for any *responsible person* in a *medical marijuana consumer cooperative* to act as a *responsible person* for the *medical marijuana consumer cooperative* if he or she:
 - (1) fails to provide their fingerprints to the City; or
 - (2) has been convicted of a *violent felony* or crime of moral turpitude within the past seven years.
- (d) The cost of the fingerprinting and attendant background check shall be borne by the *responsible person*.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

(Amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)

§42.1508 Cooperatives—Operational Requirements

(a) Verification and Documentation

- (1) *Responsible persons* shall ensure that all transactions involving money, in-kind contributions, reimbursements, *reasonable compensation*, and *marijuana* are fully documented, including documenting each member's contribution of labor, resources, or money to the *medical marijuana consumer cooperative*, and the source of their *marijuana*.
- (2) Upon the City's request, *responsible persons* for the *medical marijuana consumer cooperative* shall provide to the City an audit of its operations for the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles.
- (3) A *medical marijuana consumer cooperative* shall maintain and provide upon request by the City a current list of all *responsible persons*.

(b) Not-for-Profit

Responsible persons shall ensure that:

- (1) No *medical marijuana consumer cooperative* operates for profit for itself or its members. Cash and in-kind contributions, reimbursements, and *reasonable compensation* provided by members towards the *medical marijuana consumer cooperative's* actual expenses for the growth, cultivation, and provision of *medical marijuana* shall be allowed in accordance with state law.
- (2) *Medical marijuana consumer cooperative responsible persons*, including directors, managers, and employees, are limited to receiving *reasonable compensation* and shall not receive a bonus.
- (3) Members who bring *medical marijuana* from their own personal grows to the *medical marijuana consumer cooperative*, may be compensated by cash or trade in-kind. Members may be compensated for their expenses as provided by state law at the time the harvest is brought to the *medical marijuana consumer cooperative*.

(c) Age Limitations

- (1) No person under the age of eighteen is allowed at or in any *medical marijuana consumer cooperative* unless the person is a *qualified patient* or *state identification card* holder and accompanied by their parent, legal guardian, or a *primary caregiver* who is over the age of eighteen.
- (2) No person under the age of eighteen may be employed by or act as a *responsible person* on behalf of the *medical marijuana consumer cooperative*.

(d) Transportation

All persons transporting medical *marijuana* in connection with a *medical marijuana consumer cooperative* shall do so in accordance with state law.

(e) Packaging and Labeling

Responsible persons for the *medical marijuana consumer cooperative* shall ensure that medical *marijuana*, edible products containing medical *marijuana*, and concentrates comply with the following packaging and labeling requirements:

- (1) *Marijuana* must be sealed in an airtight manner, and must have a label affixed to the package containing the following information:
 - (A) Patient's name;
 - (B) Dispensing date;
 - (C) Name and address of dispensing cooperative;
 - (D) Name of product;
 - (E) Product ingredients;
 - (F) Product must be used as recommended;
 - (G) Product must be kept out of the reach of children;
 - (H) Product users must not operate heavy machinery while under the influence of *marijuana*;
 - (I) Sale or transfer of product to non-patients is prohibited;

- (J) Product is intended for medical use only. Cal. Health & Safety Code § 11362.5; and
 - (K) Any additional use instructions and warnings that may be applicable.
- (2) Edible Products and Concentrates must be labeled with the following:
- (A) Patient's name;
 - (B) Dispensing date;
 - (C) Name and address of dispensing cooperative;
 - (D) A warning label that contains the cannabis patient advisory information required in section 42.1508(f); and
 - (E) The source of the food production.
- (3) *Medical Marijuana Consumer Cooperatives* are encouraged to label products for potency.
- (4) The City of San Diego may at any time have medical *marijuana* tested for pesticides, mold, mildew, and/or bacteria, and make such testing results available to consumers.
- (f) Interior Signage

A sign shall be posted on a wall in the *medical marijuana consumer cooperative* which states the following:

CANNABIS PATIENT ADVISORY

THIS IS A WARNING REGARDING EDIBLE CANNABIS/MARIJUANA PRODUCTS

CAUTION – Edible marijuana products contain cannabis extracts (THC – Tetra Hydro Cannabinol).

Marijuana is not regulated as a food ingredient and therefore the County Department of Environmental Health does not have any regulatory authority over this ingredient in edibles.

(Retitled from "Cooperatives–Verification and Documentation" to "Cooperatives–Operational Requirements" and amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)

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§42.1509 Cooperatives-Regulatory Actions on Permit

- (a) In addition to any penalties and remedies provided by law, a *Medical Marijuana Consumer Cooperative* Permit is subject to any of the following regulatory actions:
- (1) non-compliance with this Division or any condition of this permit;
 - (2) conviction of any crime which would have been grounds for denial of the permit;
 - (3) failure to take corrective action after timely written notice of a violation; or
 - (4) failure to supervise the business, resulting in a pattern of violations of the San Diego Municipal Code or other provisions of law by the *responsible persons* or patrons, or both. A revocation based on the act or omission of a patron may be based on a determination that a *responsible person* caused or condoned the act or omission, or failed to take reasonable corrective action after a timely written notice of violation.
- (b) Regulatory action includes the following:
- (1) Issuance of a verbal warning;
 - (2) Issuance of a written warning;
 - (3) Issuance of a notice of violation;
 - (4) Placing conditions upon the permit which are reasonably related to any violation. Unless otherwise stated as part of the condition, all such conditions expire when the permit expires, excluding any time stayed during an appeal;
 - (5) Suspension of the *Medical Marijuana Consumer Cooperative* Permit; or
 - (6) Revocation of the *Medical Marijuana Consumer Cooperative* Permit.
- (c) Written notice of the regulatory actions taken pursuant to section 142.1509(b)(2) through (b)(6) shall be provided to the individual identified as the responsible managing officer pursuant to section 42.1504(c).

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- (d) A request for an appeal hearing of the regulatory actions taken pursuant to section 142.1509(b)(2) through (b)(6) may be made by the responsible managing officer.
- (e) The request for an appeal hearing must be made in writing to the City Manager within ten calendar days of the receipt of the notice of regulatory action.
- (f) Upon receiving the request for a hearing, the City Manager shall set hearing not more than thirty calendar days from the date of the receipt of the request, unless a later date is agreed to by the City and the responsible managing officer in writing.
- (g) The City Manager shall notify the responsible managing officer of the date, time, and place of the hearing by means of registered or certified mail, or hand delivery.
- (h) The hearing shall be conducted by a hearing officer provided by the City Manager.
- (i) The hearing officer may affirm, deny, or modify the regulatory action, and shall furnish the reason for the decision to the responsible managing officer in writing within thirty calendar days of the conclusion of the hearing.
- (j) The regulatory action shall be suspended while an appeal is pending, or until the time for filing such an appeal has expired, except for regulatory action taken when the City Manager determines there is a need to take immediate action to protect the public from injury or harm or when the *Medical Marijuana Consumer Cooperative* Permit was based on material misrepresentations in the application and the permit would not have been issued but for the material misrepresentations.

(Retitled from "Cooperatives-Not-for-Profit" to "Cooperatives-Regulatory Actions on Permit" and amended 2-6-2015 by O-20460 N.S.; effective 3-8-2015.)

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Description of Scheduled Controlled Substances Per the CSA

Drugs and other substances that are considered controlled substances under the Controlled Substances Act (CSA) are divided into five schedules. An updated and complete list of the schedules is published annually in Title 21 Code of Federal Regulations (C.F.R.) §§ 1308.11 through 1308.15. Substances are placed in their respective schedules based on whether they have a currently accepted medical use in treatment in the United States, their relative abuse potential, and likelihood of causing dependence when abused. Some examples of the drugs in each schedule are listed below.

Schedule I Controlled Substances

Substances in this schedule have no currently accepted medical use in the United States, a lack of accepted safety for use under medical supervision, and a high potential for abuse.

Some examples of substances listed in Schedule I are: heroin, lysergic acid diethylamide (LSD), marijuana (cannabis), peyote, methaqualone, and 3,4-methylenedioxymethamphetamine ("Ecstasy").

Schedule II/IIN Controlled Substances (2/2N)

Substances in this schedule have a high potential for abuse which may lead to severe psychological or physical dependence.

Examples of Schedule II narcotics include: hydromorphone (Dilaudid®), methadone (Dolophine®), meperidine (Demerol®), oxycodone (OxyContin®, Percocet®), and fentanyl (Sublimaze®, Duragesic®). Other Schedule II narcotics include: morphine, opium, codeine, and hydrocodone.

Examples of Schedule IIN stimulants include: amphetamine (Dexedrine®, Adderall®), methamphetamine (Desoxyn®), and methylphenidate (Ritalin®).

Other Schedule II substances include: amobarbital, glutethimide, and pentobarbital.

Schedule III/IIIN Controlled Substances (3/3N)

Substances in this schedule have a potential for abuse less than substances in Schedules I or II and abuse may lead to moderate or low physical dependence or high psychological dependence.

Examples of Schedule III narcotics include: products containing not more than 90 milligrams of codeine per dosage unit (Tylenol with Codeine®), and buprenorphine (Suboxone®).

Examples of Schedule IIIN non-narcotics include: benzphetamine (Didrex®), phendimetrazine, ketamine, and anabolic steroids such as Depo®-Testosterone.

Schedule IV Controlled Substances

Substances in this schedule have a low potential for abuse relative to substances in Schedule III.

Examples of Schedule IV substances include: alprazolam (Xanax®), carisoprodol (Soma®), clonazepam (Klonopin®), clorazepate (Tranxene®), diazepam (Valium®), lorazepam (Ativan®), midazolam (Versed®), temazepam (Restoril®), and triazolam (Halcion®).

Schedule V Controlled Substances

Substances in this schedule have a low potential for abuse relative to substances listed in Schedule IV and consist primarily of preparations containing limited quantities of certain narcotics.

Examples of Schedule V substances include: cough preparations containing not more than 200 milligrams of codeine per 100 milliliters or per 100 grams (Robitussin AC®, Phenergan with Codeine®), and ezogabine.

Schedule I drugs are those that have the following characteristic according to the United States Drug Enforcement Agency:

- The drug or other substance has a high potential for abuse.
- The drug or other substance has no currently accepted medical treatment use in the U.S.
- there is a lack of accepted safety for use of the drug or substance under medical supervision.

No prescriptions may be written for Schedule I substances, and they are not readily available for clinical use. Tetrahydrocannabinol (THC, marijuana) is still considered a Schedule 1 drug by the DEA.

Marijuana

SCHEDULE 1 (CLASS I) DRUGS are illegal because they have high abuse potential, no medical use, and severe safety concerns; for example, narcotics such as Heroin, LSD, and cocaine. **Marijuana** is also included as a Class 1 drug.

The Unexpected Side Effects of Legalizing Marijuana Cultivation

In jurisdictions where cultivation of marijuana was legalized (mostly in Northern California), residents are fed up with crime and environmental problems associated with the cultivation, and legalization for recreational use of marijuana. The two major issues that residents and city officials are experiencing and causing them to regret their decision to legalize cultivation and sale of marijuana in their jurisdictions are public safety issues and environmental issues that are on the increase within their jurisdiction.

Public Safety issues with Legalizing Marijuana Cultivation:

Marijuana Cultivation is a nuisance that diminishes the quality of life on neighborhood streets and puts the whole neighborhood at risk of robbery, burglary and other crimes.

- February 23 , 2015 - Acacia Lane house (northern California) there was a deadly shootout revealed a large-scale marijuana processing operation with a hash oil lab, cocaine, cash and guns, according to police.
- March 7, 2015 - In California alone, marijuana cultivation operations have drawn considerable violence into residential areas, including a predawn shootout at a Rincon Valley home (California) The home's resident, who shot and killed a man trying to break down his door to get to his marijuana cultivation operation. An alleged accomplice of one of the reported intruders has been charged with murder.
- Santa Rosa Police Sgt. Dave Linscomb said the violent crimes team has investigated at least five home-invasion robberies since September 2014 involving marijuana, and they suspect many more go unreported. Of those, only one involved a situation in which no marijuana was found, according to police reports.
- Sonoma County Sheriff – Steve Freitas said that it may be too late to stem the tide of violence associated with marijuana cultivation. Sheriff Steve Freitas said it was too early for him to comment on whether new changes to local ordinances might help law enforcement stem marijuana-related crime. But he said the violence needs to be addressed.
- In a Glen Ellen neighborhood (Central California), neighbors have a common list of complaints about the pungent odor and risk of crime brought by a man who moved into a house in September and set up cultivation of potted marijuana plants in the backyard. Auto thefts, auto burglaries, house burglaries, assaults

and people smoking marijuana in close proximity to where marijuana is cultivated then driving away from the area.

In Colorado:

The information compares the early medical marijuana era (2006 – 2008), the medical marijuana commercialization and expansion era (2009 – current) and the recreational marijuana era (2013 – current) in Colorado.

- **2006 – 2008:** There were between 1,000 and 4,800 medical marijuana cardholders and no known dispensaries operating in Colorado.
- **2009 – Current:** There were over 108,000 medical marijuana cardholders and 532 licensed dispensaries operating in Colorado by the end of 2012. See the introduction at the beginning of this report for more details on the commercialization and explosion of Colorado's medical marijuana trade.
- **2013 – Current:** In November 2012, Colorado voters passed Constitutional Amendment 64 which legalized marijuana for recreational purposes for anyone over 21 years of age. The amendment also allowed for licensed marijuana retail stores, cultivation operations and edibles manufacturing.
 - Overall, traffic fatalities in Colorado decreased **14.8 percent**, from 2007 to 2012. During the same five years in Colorado, traffic fatalities involving operators testing positive for marijuana increased **100 percent**.
 - In 2007, Colorado traffic fatalities involving operators testing positive for marijuana represented **7.04 percent** of the total traffic fatalities. By 2012, that number more than doubled to **16.53 percent**

Environmental issues:

- In March of this year plants at several growing facilities in the Denver area had to be quarantined because of the misuse of "pesticides." The pesticides, it turns out, were improvised concoctions of chemicals, including some unidentifiable mixtures. Cannabis growers have been left to improvise since no commercial pesticides are labeled for legal use on cannabis plants.
- Discharge of polluted water into storm water system causing city governments to be fined by the EPA

- **Illegal disposal of chemicals and growing on public lands requiring city governments to foot the cost for hazmat to respond and clean the areas up.**

Other issues:

- **Not enough personnel to regulate and license individuals who cultivate marijuana "farms."**



CITY OF NATIONAL CITY - PLANNING DEPARTMENT
1243 NATIONAL CITY BLVD., NATIONAL CITY, CA 91950

NOTICE OF PUBLIC HEARING
SPECIAL MEETING TO DISCUSS AN AMENDMENT TO TITLE 18 (ZONING)
CHAPTER 18.30.340 OF THE NATIONAL CITY MUNICIPAL CODE
(MEDICAL MARIJUANA DISPENSARIES)
TO ADDRESS CULTIVATION OF MARIJUANA.
CASE FILE NO: 2015-25 A

The National City Planning Commission will hold a public hearing at a special meeting after the hour of 6:00 p.m. **Monday, November 23, 2015**, in the City Council Chambers, 1243 National City Blvd., National City, California on a proposed Amendment to the Municipal Code, Chapter 18.30.340 – Medical Marijuana Dispensaries. The general purpose of the amendment is to amend the chapter to address the cultivation of medical marijuana and marijuana generally; including, but not limited to, regulating and/or prohibiting such land use activities.

Members of the public are invited to comment. Any person interested in this matter may appear at the above time and place and be heard. Written comments should be received by the Planning Department on or before 12 p.m., **November 23, 2015**. Planning Department staff may be contacted at 619-336-4310 or planning@nationalcityca.gov.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the public hearing entity conducting the hearing at, or prior to, the public hearing.

NATIONAL CITY PLANNING DEPARTMENT

