

Mt. Shasta City Council Regular City Council Meeting Agenda

Mt. Shasta Community Center, 629 Alder Street
Monday, February 8, 2016; 5:30 p.m.

“Our mission is to maintain the character of our “small town” community while striking an appropriate balance between economic development and preservation of our quality of life. We help create a dynamic and vital City by providing quality, cost-effective municipal services and by forming partnerships with residents and organizations in the constant pursuit of excellence.”

Page	Item
	1. Call to Order and Flag Salute
	2. Roll call
	3. Special Presentations & Announcements
	<p>4. Public Comment:</p> <p>Welcome to our City Council meeting. The Council invites the public to address the Council on matters on the Consent Agenda and matters not listed on the agenda that are within the Council’s subject matter jurisdiction. If the Public wishes to comment on matters that are on the agenda, the Council will request comment when the matter is heard. The Council reserves the right to limit public comment on matters that are outside its subject matter jurisdiction.</p> <p>The City Council may regulate the total amount of time on particular issues and for speakers (typically 3 minutes). The Council may place additional time limits on comments, to ensure members of the public have an opportunity to speak and the Council is able to complete its business. A group may be asked to choose a spokesperson to address the Council on a subject matter, or the Council may limit the number of persons addressing the Council whenever a group of persons wishes to address the council on the same subject matter. Speakers may not cede their time to another.</p> <p>The Mayor manages the City Council meeting with a commitment to effective engagement while maintaining a positive, respectful decorum. The Mayor will typically start the Public Comment period sharing the following reminders relating decorum and Brown Act compliance efforts:</p> <ul style="list-style-type: none">✓ This is the time for the public to address the Council on matters on the Consent Agenda or matters NOT on the Council Agenda. This will be a comment period only. If the public wishes a response, they may provide their contact information to the Deputy City Clerk.✓ The Mayor will recognize each speaker in an orderly fashion. Most often, the Mayor will call the speakers whom have signed in first and shall then call for those who would like to address the Council but whom did not sign in by inviting them to come to the front of the room and wait to be recognized to speak. Once the speaker is recognized, the speaker will address the Council only and shall provide comment

	<p>from the public microphone. Public Comment will typically not be taken from any person shouting from the audience.</p> <ul style="list-style-type: none"> ✓ No heckling or shouting from the audience at a speaker shall be permitted. ✓ The City Council may ask “clarifying” questions only. Due to equity and Brown Act concerns, the Council will avoid engaging in dialogue or debate. ✓ If there is an item of great community significance/interest and is within the Council’s subject matter jurisdiction, the Council may request the item be agendized for further consideration at a subsequent Council meeting.
	5. Meeting Recess (As Necessary)
	6. Council and Staff Comments
<p>Page 5</p> <p>Page 13</p> <p>Page 21</p>	<p>7. Consent Agenda - The City Manager recommends approval of the following Consent Agenda items. All Resolutions and Ordinances on this agenda, or added hereto, shall be introduced or adopted, as applicable, by title only, and the full reading thereof is hereby waived.</p> <ul style="list-style-type: none"> a. Approval of Minutes: January 25, 2016 City Council Regular Meeting Draft Minutes. b. Approval of Disbursements: Accounts Payable: 1/20/16, 1/26/16, 1/27/16; Total Gross Payroll and Taxes: For Period Ending 1/20/2016 (Muriel Howarth Terrell, Finance Director) c. Resolutions CCR-16-4 and CCR-16-5 authorizing the City Manager as the Authorized Representative for State Water Resources Control Board planning grant applications (Rod Bryan, Public Works Director)
Page 25	<p>8. Cost Sharing Agreement Between the City of Mount Shasta and the Mount Shasta Fire Protection District</p> <p><u>Background:</u> The purpose of the proposed cost sharing agreement is to establish cost sharing for all paid fire personnel for the City of Mt. Shasta Fire Department and the Mt. Shasta Fire Protection District, who have historically and currently work together on a daily basis to provide fire protection services. Both entities rely heavily on volunteer support in order to respond to emergencies. Under the proposed agreement the City of Mt. Shasta would be provided with improved fire protection services, as additional staff would be available ensure reliable and adequate emergency response.</p> <p><u>Report by:</u> Fire Chief Matt Melo</p> <p><u>Recommended Council Action:</u> Staff respectfully requests the City Council adopt Resolution CCR-16-6 approving a cost sharing agreement between City of Mt. Shasta and the Mt. Shasta Fire Protection District.</p>
Page 31	<p>9. State Compliance changes to Marijuana Ordinance</p> <p><u>Background:</u> The proposed ordinance is an urgency ordinance in accordance with Government Code 36937 in order to protect the immediate preservation of the public peace, health, or safety of the community and to satisfy the March 1, 2016 deadline. Approval of such ordinance allows the City to maintain its right to prohibit or regulate cultivation within the City of Mt. Shasta.</p> <p><u>Report by:</u> Kristen Maze, City Planner</p> <p><u>Recommended Council Action:</u> City staff respectfully recommends that the City Council review and approve the proposed zone amendment 2016-01 to prohibit commercial (large scale) medical marijuana cultivation and delivery in the City of Mt. Shasta.</p>

<p>Page 83</p>	<p>10. Planning Commission Size Reduction Zone Amended <u>Background:</u> On January 19, 2016 the Planning Commission held a public hearing to reduce the Planning Commission size. The Planning Commission voted unanimously to maintain the seven member Commission and simplify the interview and appointment process, but to change the number of members allow from outside the City limits from two to three as long as the person maintains a Mt. Shasta, 96067 zip code. Three members would be allowed outside the City limits while the other four members would be from inside the City limits. <u>Report by:</u> Kristen Maze, City Planner <u>Recommended Council Action:</u> City staff respectfully recommends that the City Council review and approve the proposed zone amendment 2016-02 to reduce the size of Planning Commission from seven members to five members and simplify the appointment process.</p>
<p>Page 93</p>	<p>11. Update on the Nest <u>Background:</u> City staff will present background, including photos at the January 25th City Council meeting. Neighbors will be invited to attend the meeting. In summary, our community continues to suffer as a result of long-term deficiencies and gross negligence at 305 Old McCloud Road in Mt. Shasta, CA, commonly referred to as “The Nest.” <u>Report by:</u> Paul Eckert, City Manager <u>Recommended Council Action:</u> City staff respectfully recommends the City Council consider and accept the staff presentation regarding the current City mitigation efforts to minimize public health and safety and nuisance mitigation concerns at The Nest housing complex.</p>
	<p>12. Council Reports on Attendance at Appointed/Outside Meetings:</p>
	<p>13. Future Agenda Items (Appearing on the agenda within 60-90 days):</p> <ul style="list-style-type: none"> • Special Meeting with Recreation Department – 2/2016 • Overview of Proposition 218 - 2/22/16 • State Mandated Waste Water Plant Project, Public Hearing – TBD • First Reading of Panhandling in Street Ordinance - TBD • Impact Fees Potential Changes – 3/14/2016 • Fire Prevention & Environment – 3/14/2016 • Alternatives for Capital Improvements Project – 3/14/2016 • Noise Ordinance – 3/14/2016 • Streamlining Solar Project – 3/14/2016 • Agreement for City Engineering Services – 3/14/2016 • Overview of CEQA / EIR Laws – 3/28/2016 • Expanding Downtown Business District – 4/11/2016 • Update on the Landing & Brownfields – 4/11/16 • Timber Management Plan of City Owned Properties (City Springs & Westside of The Landing) – 4/24/2016 • Presentation Regarding Potential Forest Service Use of Treated Effluent for Fire Suppression & Dust Control – 4/24/2016
	<p>14. Closed Session Item: None.</p>
	<p>15. Adjourn Availability of Public Records: All public records related to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act,</p>

that are distributed to a majority of the legislative body will be available for public inspection at City Hall located at 305 North Mt. Shasta Blvd., Mt. Shasta, CA at the same time the public records are distributed or made available to the members of the legislative body. Agenda related writings or documents provided to a majority of the legislative body after distribution of the Agenda packet will be available for public review within a separate binder at City Hall at the same time as they are made available to the members of the legislative body.

The City of Mt. Shasta does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or provision of services. In compliance with the Americans with Disabilities Act, persons requiring accommodations for a disability at a public meeting should notify the City Clerk or Deputy City Clerk at least 48 hours prior to the meeting at (530) 926-7510 in order to allow the City sufficient time to make reasonable arrangements to accommodate participation in this meeting.

Mt. Shasta City Council Regular City Council Meeting **Draft** Minutes

Mt. Shasta Community Center, 629 Alder Street

Monday, January 25, 2016; 5:30 p.m.

“Our mission is to maintain the character of our “small town” community while striking an appropriate balance between economic development and preservation of our quality of life. We help create a dynamic and vital City by providing quality, cost-effective municipal services and by forming partnerships with residents and organizations in the constant pursuit of excellence.”

Item
1. Call to Order and Flag Salute: At the hour of 5:34 p.m. Mayor Jeffrey Collings called the meeting to order and led the audience in the Pledge of Allegiance.
2. Roll call: Council Members Present: Kathy Morter, Tim Stearns, Geoff Harkness, Mayor Jeffrey Collings, and Mayor Pro Tem Mike Burns Sr.
Special Presentations & Announcements: None.
3. Public Comment: <u>Afa Garrigan</u> – Announcement that he will be holding a local ‘Town Hall Meeting’ every second and fourth Sunday of the month (the day before City Council Regular Meetings). The meeting location is the Silk Road Chai Shop located at 105 E Alma Street in Mt. Shasta. <u>Sarah Jewett</u> – Requested update on if Police Department can use bikes for patrol.
5. Meeting Recess: None
6. Council & Staff Comments: <u>Police Chief Parish Cross</u> – Responded to Sarah Jewett’s question. The Police Department feels that it may be possible for officers to patrol using bikes a few hours during the summer and at special events. Training with staff will need to be done, and equipment may need to be secured. <u>Councilmember Kathy Morter</u> – Suggested that the Police Department consider reaching out to ‘Mountain Wheelers’ or the Trail Association about the possibility of partnering to cover the cost of the bikes. <u>Councilmember Tim Stearns</u> – Requested update on LED street light project and signal lights. <u>Rod Bryan, Public Works Director</u> – Provided update on LED street light project. About 150 lights have been installed. The lights will be low wattage, and the project will be completed sometime next week. The signal lights are still in flash mode because the replacement cabinet has not arrived yet. Contractor will install the cabinet once it arrives. Lights have temporary wiring at the moment. <u>Councilmember Geoff Harkness</u> – Provided update regarding full funding for the Big Lakes project via a DWR Proposition 84 grant. <u>Mayor Jeffrey Collings</u> – Requested update about the LED street light in the Downtown Area on South West Corner of Lake and Mt. Shasta Streets. <u>Rod Bryan, Public Works Director</u> – Provided update about LED street lights in the Downtown Area indicating that several historic street lights are not functional at the moment. The parts for these lights were difficult to secure and more costly to replace. These lights have been replaced with LEDs at the moment.

Mayor Jeffrey Collings – Comments regarding inclusive consensus, dialogue, and the decision making process for City Council. Indicated that there is a difference between ‘fact’ and ‘opinion,’ regarding information presented to City Council for consideration. Discussed a letter received by City Council regarding a well on private property. The letter indicated that the well’s condition was impacted by Crystal Geysers. Acknowledged multiple perspectives which include facts and opinions, and that these perspectives are at times in conflict with each other.

7. Consent Agenda - The City Manager recommends approval of the following Consent Agenda items. All Resolutions and Ordinances on this agenda, or added hereto, shall be introduced or adopted, as applicable, by title only, and the full reading thereof is hereby waived.
- a. Approval of Minutes: January 11, 2016 City Council Regular Meeting Draft Minutes and January 11, 2016 City Council Special Meeting Draft Minutes.
 - b. Approval of Disbursements: Accounts Payable: 1/13/16; Total Gross Payroll and Taxes: For Period Ending 1/7/16 (Muriel Howarth Terrell, Finance Director)
 - c. Monthly Investment and Financial Report for the Period Ending December 31, 2015 (Muriel Howarth Terrell, Finance Director)
 - d. Appointment to City Committee (Larisa Proulx, Deputy City Clerk)

COUNCIL ACTION: Approve agenda item number 7 a-d. All Resolutions and Ordinances on this item were introduced or adopted, as applicable, by title only, and the full reading thereof was waived.

MOTION: Councilmember Geoff Harkness

SECOND: Mayor Pro Tem Mike Burns Sr.

AYES: All

NOES: None

ABSENT: None

ABSTAIN: None

Council & Staff Comments:

Mayor Pro Tem Mike Burns Sr. – Requested clarification on Approval of Disbursements concerning Backhoe repairs on page 2. What did the repairs consist of? Question about senior snow removal and where money is drawn from.

Rod Bryan, Public Works Director – Comment that the backhoe cost of repair included work on the transmission, replacement of seals, and fixing some other major issues.

Muriel Howarth Terrell, Finance Director – Comment that senior snow removal is paid for out of 4%.

Larisa Proulx, Deputy City Clerk – Acknowledged error in staff report regarding Dean Whetstined. Dean is being appointed solely to the Library Tax Advisory Committee.

8. Resolution CCR-16-1 Providing Water to Youth Sports Field

COUNCIL ACTION: Approve agenda item 8. All Resolutions and Ordinances on this item were introduced or adopted, as applicable, by title only, and the full reading thereof was waived.

MOTION: Councilmember Geoff Harkness

SECOND: Mayor Pro Tem Mike Burns Sr.

AYES: All

NOES: None

ABSENT: None

ABSTAIN: None

City Council Comments:

Councilmember Tim Stearns – Question regarding contract in 2012 relating to annual payment being due by December 20th. Was the payment made? Would like confirmation that the proposed resolution will be used until a rate study is completed, and that the resolution is subject to being amended. Would like confirmation that the Recreation District will comply with state and local water conservation measures. When a resolution came before council several years ago about this topic there was a lot of inquiry and suggestions to consider.

Muriel Howarth Terrell, Finance Director – Confirmed that the proposed resolution will be used until a rate study is completed, it is subject to being amended, and the Recreation District will comply with state and local water conservation measures.

Councilmember Kathy Morter – Question regarding if before a rate study is done could the fee structure be impacted by the Recreation District’s budget? Are there different types of rates for different users (public versus commercial)? Thank you for a well thought out resolution.

Muriel Howarth Terrell, Finance Director – Rate study cannot adjust rates to reflect what the Recreation District’s budget is. The rate study will be fair and equitable, and confirm what the rate structure can for different types of users. In a drought situation the best use of water would be for public consumption, not necessarily for watering sports fields.

Councilmember Geoff Harkness – Comment that the Recreation District will have the opportunity to comment during the rate study. This Resolution is mostly for the Sission Fields only. The peak use of water last year was 1 million gallons over the course of three days in July. The rest of the year had minimal water use.

Mayor Pro Tem Mike Burns Sr. – Comment that the Recreation District is willing to work with the City. This resolution provides latitude and room for adjustments.

9. December Financials & Annual Mid-Year Budget Adjustments

COUNCIL ACTION: Approve agenda item 9. All Resolutions and Ordinances on this item were introduced or adopted, as applicable, by title only, and the full reading thereof was waived.

MOTION: Councilmember Tim Stearns

SECOND: Mayor Pro Tem Mike Burns Sr.

AYES: All

NOES: None

ABSENT: None

ABSTAIN: None

Staff & City Council Comments:

Councilmember Kathy Morter – Requested more information on the Beatification Endowment Fund. Requested confirmation that the Beautification Committee requested \$17,000.00 of funds for a variety of projects, and there is a balance of about \$45,000. Question about decision making process for providing the Beautification Committee with money. Requested that the Deputy City Clerk send a reminder to City Committees about submitting funding requests for next year by March 2016.

Muriel Howarth Terrell, Finance Director – The Beatification Endowment Fund was set up many years ago through a donation with a restriction that it be used for beautification purposes only. Anyone can add to that fund. Confirmed that the Beautification Committee requested \$17,000.00 in funds for a variety of projects, and there is a balance of about \$45,000.

Councilmember Geoff Harkness – Process for requesting funds is that each committee can fill out an application requesting funds from the general fund. Applications are reviewed by staff and brought to City Council. Question about if this is the formal review of requested funds, and approval of this item implies approval of the requested funds.

Muriel Howarth Terrell, Finance Director – Confirmed that approval of this item approves requested funds. ATC funding has already been approved.

Mayor Pro Tem Mike Burns Sr. – Question about ATC funding being approved. Question about general fund projection.

Councilmember Tim Stearns – Requested more information regarding fund balance. Should City Council or the public be alarmed by the items in red?

Muriel Howarth Terrell, Finance Director – The fund balance is based on actual cash. We have paid bills but not received reimbursement yet (those come in during January). No one should be alarmed by the items in red.

Mayor Jeffrey Collings – Requested information on sales tax relative to TOT.

Muriel Howarth Terrell, Finance Director – Comment that there is a projected additional \$38,000 to come from TOT because first quarter numbers were good. More information will be available later in the year. Sales tax is slightly higher than where it was last year. Comment that the general fund projection is \$516,408 by the end of June. We started at \$821,457. The target for the general funds is 17.49%.

10. Independent Audit

COUNCIL ACTION: Approve agenda item 10. All Resolutions and Ordinances on this item were introduced or adopted, as applicable, by title only, and the full reading thereof was waived.

MOTION: Councilmember Tim Stearns

SECOND: Councilmember Geoff Harkness

AYES: All

NOES: None

ABSENT: None

ABSTAIN: None

City Council Comments:

Councilmember Geoff Harkness – The City received an unqualified audit, which is actually good news. Requested reminder about timeline for rate study. Rate study will be going out to bid in the Spring, the initial study will be done sometime between March and June, it will be open for public comment sometime during the summer, and then the rates will be finalized sometime toward the end of 2016. Comment regarding inventory of controls related to public works, and that concerns have been addressed. Comment regarding CALPERS liability, and that it will be watched going forward. Some costs associated with future benefits from a different health care plan were eliminated. Overall this was a good report, thank you.

Steve Drageset, Independent Auditor with Aiello, Goodrich and Teuscher - The sewer fund is spending a lot of cash, and this will be looked at. The general fund has a fair net position. There are new liabilities concerning CALPERS that the City had to book.

Mayor Jeffrey Collings – Comment that concern about sewer fund should be addressed as soon as possible. There will be a more detailed overview of the rate study timeline at the February, 22 City Council Regular Meeting in regards to Proposition 218.

Muriel Howarth Terrell, Finance Director – Confirmed that Councilmember Geoff Harkness is correct about that timeline for the rate study.

Councilmember Kathy Morter – Question regarding what is there to keep an eye on concerning the CALPERS liability?

Councilmember Geoff Harkness – Comment that the City was required to reflect CALPERS liability in the report.

Councilmember Tim Stearns – Comment that the City has always had theoretical liability to CALPERS, and this liability has been carried off the books in many communities. The change is that Cities now have to carry liability on the books and know what the liability is. Question about how the actual CALPERS liability is calculated. What other obligations does the City have regarding this liability?

Steve Drageset, Independent Auditor with Aiello, Goodrich and Teuscher –CALPERS liability is calculated by actuaries. They take into account mortality tables, projected investment returns, how much contributions are, etc. This number is then impacted by additional information pertaining to the City. The final number is then calculated and we report it. The City is obligated to pay the amount asked for by CALPERS. If the City stopped operating permanently on June 30th the CALPERS liability number is what would be paid out to employees.

11. BDG Residual Funds Upper Lodge Heating System & Housing Rehab

COUNCIL ACTION: Approve agenda item 11. All Resolutions and Ordinances on this item were introduced or adopted, as applicable, by title only, and the full reading thereof was waived.

MOTION: Councilmember Geoff Harkness

SECOND: Mayor Pro Tem Mike Burns Sr.

AYES: All

NOES: None

ABSENT: None

ABSTAIN: None

City Council Comments:

Rod Merys, Great Northern Services – Programming is low payments received for previous grants for housing rehabilitation and economic development. In 2014 the City received a few loan pay offs that exceeded \$35,000, which is the first reason that we are discussing this item. In July 2014, the state made a change to how it manages revolving loan funds.

Previously the City had revolving loan funds set up for housing rehabilitation and economic development, and programming would have automatically transferred into those. As the result of the changes that were made in 2014, the City follows most of the jurisdiction in California eliminating their revolving loan funds. There is programming that needs to be spent on CDBG eligible activities. The options are spend it on open grant activities that have already been approved, which has already happened, or spend money on other CDBG eligible actives. Some money has been set aside for housing rehabilitation, and a facilities improvement project for the City Park HVAC system.

Mayor Pro Tem Mike Burns Sr. – Question about areas that funding can be used in. Question about sunset date on use of money. Question to Mike Rodriguez, District Administrator for the Mt. Shasta Recreation and Parks District, regarding recreation center versus senior center title. Will operating this system be added to the annual maintenance, operations, upkeep?

Rod Merys, Great Northern Services – The money can be spent on any CDBG eligible activities. Some areas of programming are hard to approve as supplemental activities. The sunset date for money is the expiration of the grant, which is the end of this year. In July 2014, another change was made to program income accounting. The state requires that program income be spent prior to doing a funds request for an open grant. This money has already been spent. We are asking for reimbursement for that money if we can find additional projects. If we don't find additional projects or spend additional money on grant activities it will be disencumbered at the end of the year.

Muriel Howarth Terrell, Finance Director – Added that the City is providing three different services such as a security deposit program, a snow removal program for seniors, and a food program. The City has also been doing some small business grants and one sizable business loan this cycle. That grant encompasses all of this. The public facility piece is an allowable expense because that particular facility provides services to senior citizens who meet the eligibility.

Councilmember Kathy Morter – Question about the eligibility criteria for the grant. Question about total amount for the HVAC project.

Rod Merys, Great Northern Services – In terms of housing rehabilitation, eligibility is that the family income has to be less than or equal to 8% of the county median income. It's the same for economic development loans. They have to create a job for somebody that is low to moderate income. The qualification process takes a lot of effort and extensive, and so the amount requested should be more than \$10,000 in funds typically. Indicated that the total amount for the HVAC project is \$35,000.

Mike Rodriguez, District Administrator for the Mt. Shasta Recreation and Parks District – The

Recreation Center is where the Senior Center is. Having air-conditioning in that building will help senior citizens enjoy the space.

Councilmember Geoff Harkness – Question about \$105,000, and if this is just for these two projects or if there is more funding available.

Rod Merys, Great Northern Services – The \$105,000 is probably more than what is available. We can ask for more, and then if more payments come in, we can spend it.

Councilmember Tim Stearns – Question about if \$7,000 can be used for 5-10 projects.

Question about funding being loaned versus granted. Question about money from paybacks going into a special account. Question about what the \$35,000 will be used on in particular concerning the HVAC system. Question about volume of HVAC system for potential meetings being held in the space. Question about if CDBG funds could be used for creation or operation of a community land trust for Mt. Shasta?

Rod Merys, Great Northern Services – Clarified that it can be used for 5-7 projects. For a project of less than \$10,000 the project overhead becomes too great. The City's program guidelines typically allow funds on a loan basis, but there are allowances for a percentage of projects to be on a grant basis if there are severe health and safety issues, and the value of the house wouldn't allow for a loan.

Muriel Howarth Terrell, Finance Director – Clarified that in the past CDBG funding allowed for monies under the threshold were miscellaneous income and you could use them for anything. If we get anything under \$35,000 it becomes the City's money to use. If it's over that amount it's called program income, and it has to be spent on within the CDBG guidelines that we have established. Comment that this is a public hearing.

Mike Rodriguez, District Administrator for the Mt. Shasta Recreation and Parks District – Indicated that the whole HVAC system will be upgraded to be more cost effective and install an AC unit. It will potentially increase the use of the building. Some of the cost is related to estimate on installation.

Rod Merys, Great Northern Services – Comment that the HVAC project is a public facilities improvement project and so there is also administrative overhead with prevailing wage compliance. Multiple bids will be received. Is not sure if CDBG funds could be used for creation or operation of a community land trust for Mt. Shasta. Will do research and let City Council know.

Councilmember Geoff Harkness – Comment that a lot of building in the Park are in need of remodeling and upkeep, and the board has been trying to address it over time. You feel that this is the best use of these funds at this time?

Mike Rodriguez, District Administrator for the Mt. Shasta Recreation and Parks District – Comment that this is the best use of the money at this time. The sound from the new system will be much less loud.

12. Update Regarding Mitigation Efforts at The Nest Housing Complex

This item was moved to the next upcoming City Council Regular Meeting on February 8th due to absence of Paul Eckert, City Manager.

13. Council Reports on Attendance at Appointed/Outside Meetings:

Mayor Pro Tem Mike Burns Sr. – Attended monthly LTC meeting with City Manager Paul

Eckert.

Councilmember Tim Stearns – Attended the ‘Quality of Life’ subcommittee meeting with Councilmember Kathy Morter last week.

Councilmember Kathy Morter - Attended the ‘Quality of Life’ subcommittee. This committee is looking at how to manage the homeless population in Mt. Shasta, and what resources are available to assist.

14. Future Agenda Items (Appearing on the agenda within 60-90 days):

- Special Meeting with Recreation Department – 2/2016
- State Mandated Waste Water Plant Project, Public Hearing – 2/8/2016
- Cost Sharing Agreement Between the City of Mount Shasta and the Mount Shasta Fire Protection District – 2/8/2016
- State Compliance changes to Marijuana Ordinance – 2/8/2016
- Overview of Proposition 218 - 2/22/16
- Impact Fees Potential Changes – 3/14/2016
- Fire Prevention & Environment – 3/14/2016
- Alternatives for Capital Improvements Project – 3/14/2016
- Noise Ordinance – 3/14/2016
- Agreement for City Engineering Services – 3/14/2016
- Overview of CEQA / EIR Laws – 3/28/2016
- Expanding Downtown Business District – 4/11/2016
- Update on the Landing & Brownfields – 4/11/16
- Timber Management Plan of City Owned Properties (City Springs & Eastside of The Landing) – 4/24/2016
- Presentation Regarding Potential Forest Service Use of Treated Effluent for Fire Suppression & Dust Control – 4/24/2016

Councilmember Tim Stearns – Requested that Streamlining Solar Project be added to the future agenda items list.

15. Closed Session Item: None.

16. Adjourn

There being no further business, the meeting was adjourned at 7:25 p.m.

City Council Agenda Item # 7b
Staff Report

Meeting Date: February 8, 2016
To: Mayor and City Council
From: Muriel Howarth Terrell, Finance Director
Subject: Approval of Warrants and Payroll

	Regular
x	Consent
	Closed
	Presentation

Recommendation:

Staff respectfully requests the Mayor and City Council Approve warrants paid including payroll benefits and withholding, and payroll distribution, in the amount of \$348,477.37.

Background & Summary:

Approval of Check Numbers 37312-37444	\$283,874.50
Total Payroll Distribution	\$ 46,221.37
Total Payroll Taxes	<u>\$ 18,381.50</u>
	\$348,477.37

Financial Impact:

Expenditures are consistent with the Budget that the City Council has adopted.

Compliance with 2014-17 City Council Strategic Plan:

The City Council’s leadership efforts to ensure adherence to the best possible financial practices and overall transparency falls under Strategic Focus IV – Grow Mt. Shasta Pride and Quality and the Municipal Responsibilities of Progressive Leadership and Financial Health and Economic Opportunity.

Attachments:

- 1.) Check Registers – 1/20/16, 1/26/16, 1/27/16
- 2.) ACH Payroll Distribution – 1/20/16
- 3.) EFTPS Reports – 1/26/16

Check Register Report

Date: 01/20/2016
 Time: 3:29 pm
 Page: 1

City of Mt. Shasta

BANK: TRI COUNTIES BANK

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
TRI COUNTIES BANK Checks							
37312	01/20/2016	Printed		11423	WILLIAM BULLINGTON	Court mileage reimbursement	27.00
37313	01/20/2016	Printed		12185	CALIFORNIA P.E.R.S.	01/21/16 Rate Plan 925	4,443.38
37314	01/20/2016	Printed		12185	CALIFORNIA P.E.R.S.	01/21/16 Rate Plan 926	610.36
37315	01/20/2016	Printed		12185	CALIFORNIA P.E.R.S.	01/21/16 Rate Plan 927	3,541.30
37316	01/20/2016	Printed		12185	CALIFORNIA P.E.R.S.	01/21/16 Rate Plan 27429	1,059.05
37317	01/20/2016	Printed		12185	CALIFORNIA P.E.R.S.	01/21/16 Rate Plan 25862	380.21
37318	01/20/2016	Printed		28790	CALPERS 457 PLAN	01/21/16 457 SIP Deductions	1,000.00
37319	01/20/2016	Printed		16197	HOWARD GUBETTA	2015-16 work boot/clothing	109.92
37320	01/20/2016	Printed		15240	NATIONWIDE RETIREMENT SOLUTION	01/21/16 457 SIP Deductions	1,790.00
37321	01/20/2016	Printed		25116	JAY POLK	Reimburse - eye drops	22.47
37322	01/20/2016	Printed		28815	STERLING HEALTH ADMINISTRATION	01/21/16 HSA Deductions	170.00
37323	01/20/2016	Printed		29188	TURNERS CARPETS ETC INC	PD remodel - 2nd installment	1,226.72
37324	01/20/2016	Printed		30080	UNITED WAY	Jan 16 Payroll Deductions	4.00
37325	01/20/2016	Printed		32070	THE WELLNESS CENTER	Jan 16 Gym Dues Deductions	124.00
Total Checks: 14						Checks Total (excluding void checks):	14,508.41
Total Payments: 14						Bank Total (excluding void checks):	14,508.41
Total Payments: 14						Grand Total (excluding void checks):	14,508.41

Check Register Report

Date: 01/26/2016

Time: 11:26 am

Page: 1

City of Mt. Shasta

BANK: TRI COUNTIES BANK

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
TRI COUNTIES BANK Checks							
37388	01/26/2016	Printed		10210	ALLSTAR FIRE EQUIPMENT	Fire goggles/helmets	1,254.35
37389	01/26/2016	Printed		25050	AT&T	Dec 15 CLETS phone service	1,173.19
37390	01/26/2016	Printed		11140	BASIC LABORATORY INC.	wwtp lab services	972.40
37391	01/26/2016	Printed		11220	BLACK BEAR DINER	snow meal 1/15/16	128.86
37392	01/26/2016	Printed		11340	BROOKS COMPLETE AUTO REPAIR	fire tires	2,735.74
37393	01/26/2016	Printed		12152	CALIFORNIA BUILDING STANDARDS	oct - dec 15 fees collected	18.00
37394	01/26/2016	Printed		12010	CDW GOVERNMENT, INC.	juniper switch mounts IT	68.96
37395	01/26/2016	Printed		12495	CITY CLERK'S ASSOC. OF CA.	reg for clerk 2016 nutsbolts	175.00
37396	01/26/2016	Printed		12820	CROSS PETROLEUM	dec fuel fire	5,859.91
37397	01/26/2016	Printed		13067	DELL MARKETING, L.P.	dell ofc365 shared server	7,320.00
37398	01/26/2016	Printed		14140	DON ERICKSON SHELL JOBBER	dec furnace oil	327.01
37399	01/26/2016	Printed		14134	ERICKSON CONSTRUCTION	sr snow removal 1/15/16	8,084.00
37400	01/26/2016	Printed		15221	FRIENDS OF THE MT SHASTA	reimburse cc	457.45
37401	01/26/2016	Printed		14160	GENE ERICKSON TRUCKING, INC.	transport backhoe	605.00
37402	01/26/2016	Printed		17000	HACH COMPANY	wwtp lab supplies	116.57
37403	01/26/2016	Printed		19090	JOHN'S SATELLITE-TV	screen protector	5.38
37404	01/26/2016	Printed		21171	LIVING SHASTA PHOTOGRAPHY	website pics	250.00
37405	01/26/2016	Printed		21177	LONGHAIR COLLISION WORKS	explorer bumper/fender	1,911.09
37406	01/26/2016	Printed		22023	RICHARD MARQUES	sr snow removal 1/15/16	3,984.00
37407	01/26/2016	Printed		22071	MENDES SUPPLY COMPANY	trash bags	449.32
37408	01/26/2016	Printed		28620	MT SHASTA AREA NEWSPAPERS	rop display lets talk trash	131.25
37409	01/26/2016	Printed		22283	MT. SHASTA FIRE PROTECTION	water fire	1,902.50
37410	01/26/2016	Printed		22317	MT. SHASTA SHELL	dec fuel #25	28.70
37411	01/26/2016	Printed		22320	MT. SHASTA SPRING WATER	wwtp lab water	9.70
37412	01/26/2016	Printed		22371	MUSTARD PRESS INC	business cards	118.42
37413	01/26/2016	Printed		23052	NORTHLAND CABLE TELEVISION INC	Feb 16 internet - PW Office	94.99
37414	01/26/2016	Printed		25080	PACIFIC POWER & LIGHT	dec 15 power	18,973.82
37415	01/26/2016	Printed		25100	PAPE' MACHINERY INC	pw41 seat chassis	1,687.76
37416	01/26/2016	Printed		25120	PERSONNEL PREFERENCE INC	pw temp help	1,751.14
37417	01/26/2016	Printed		25103	PIONEER LAW GROUP LLP	cystal geyser user permit	547.50
37418	01/26/2016	Printed		22507	QUANTUM HEALING	business expenses cdbg grant	1,527.99
37419	01/26/2016	Printed		27106	REVOLVE SOLAR	refund plan check fee	150.00
37420	01/26/2016	Printed		28000	S.C.O.R.E.	Jan - Mar 16 Work Comp Ins	55,101.00
37421	01/26/2016	Printed		28073	TIMOTHY SEIDLITZ O.D.	First Aid Jay Polk	47.00
37422	01/26/2016	Printed		11350	SHASTA BROWN, INC.	sr snow removal 1/15/16	2,400.00
37423	01/26/2016	Printed		28173	SHASTA CLEANING & MAINTENANCE	Library cleaning 1/18/16	190.00
37424	01/26/2016	Printed		28214	SHASTA VALLEY TIRE	ford escapte tires	321.78
37425	01/26/2016	Printed		28255	SIERRA CHEMICAL COMPANY	container refund	806.68
37426	01/26/2016	Printed		28283	SIMPLY FLEX	Jan 16 Flex Spend Admin Fee	95.00
37427	01/26/2016	Printed		28287	SHWANI SINGH	utility deposit refund	57.30
37428	01/26/2016	Printed		28340	SISKIYOU COUNTY AUDITOR	Oct-Dec 15 FD dispatched calls	695.00
37429	01/26/2016	Printed		28371	SISKIYOU COUNTY COMMUNITY	2016 CUPA fees - WWTP	765.00
37430	01/26/2016	Printed		28451	SISKIYOU COUNTY SHERIFF	2nd qtr dispatch	2,500.00
37431	01/26/2016	Printed		22043	SISKIYOU MEDIA COUNCIL	2nd half 2015/2016	2,625.00
37432	01/26/2016	Printed		28560	SISKIYOU OPPORTUNITY CENTER	dec 15 recycling pickups	825.00
37433	01/26/2016	Printed		11380	SJ DENHAM-MT. SHASTA	PW11 parts	719.60
37434	01/26/2016	Printed		28595	JOHN SMITH SANITATION INC	dumpster rental	45.00
37435	01/26/2016	Printed		29011	TEAMSTERS LOCAL 137	Jan 16 PD dues deductions	880.44
37436	01/26/2016	Printed		29171	TRI COUNTIES BANK	payoff 1/21/16	5,135.52
37437	01/26/2016	Printed		30070	UNITED RENTALS NORTHWEST INC	backhoe/loader rental	1,367.35
37438	01/26/2016	Printed		32140	WESTERN BUSINESS PRODUCTS	Feb 16 - Apr 16 copier maint	605.94
37439	01/26/2016	Printed		32132	DENISE M WHEELER RN	SART exam 15-3585	500.00

Check Register Report

Date: 01/26/2016

Time: 11:26 am

Page: 2

City of Mt. Shasta

BANK: TRI COUNTIES BANK

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
Total Checks: 52						Checks Total (excluding void checks):	138,502.61
Total Payments: 52						Bank Total (excluding void checks):	138,502.61
Total Payments: 52						Grand Total (excluding void checks):	138,502.61

Checks 37330 – 37387 voided due to printer error.

Check Register Report

Date: 01/27/2016

Time: 7:01 am

Page: 1

City of Mt. Shasta

BANK: TRI COUNTIES BANK

Check Number	Check Date	Status	Void/Stop Date	Vendor Number	Vendor Name	Check Description	Amount
TRI COUNTIES BANK Checks							
37440	01/27/2016	Printed		14218	EXECUTIVE COMMUNICATION SYSTEM	Dispatch recording system	33,956.03
37441	01/27/2016	Printed		22096	MODULAR COMMUNICATIONS SYSTEMS	Dispatch equipment upgrade	86,337.62
37442	01/27/2016	Printed		22096	MODULAR COMMUNICATIONS SYSTEMS	Dispatch radio CPE equipment	1,702.81
37443	01/27/2016	Printed		22963	NATIONAL BUSINESS FURNITURE	Two Dispatch ergo chairs	3,391.80
37444	01/27/2016	Printed		27111	RUSS BASSETT	LED task lights for Dispatch	5,475.22
				Total Checks: 5	Checks Total (excluding void checks):		130,863.48
				Total Payments: 5	Bank Total (excluding void checks):		130,863.48
				Total Payments: 5	Grand Total (excluding void checks):		130,863.48



Approval History

Select the appropriate criteria for the approvals you want to see and click Submit. When approvals display, click a batch ID for more detail.

Type:	Originator:	Approver:
All	All	All
From Initiated Date:	To Initiated Date:	<input type="button" value="Submit"/>
1/15/2016	1/20/2016	

Type	ID	Name	Initiated Date	Effective Date	Approval Expiration Date	Approval Action Date	Originator	Approver	Transfer From	Transfer To	Action	Amount
ACH PPD Credits (PPD, PPD+)	132306		1/20/2016	1/21/2016	1/20/2016	1/20/2016	Polk, Jodi	Howarth Terrell, Muriel	City of Mt Shasta		Approved	\$46,221.37

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FEDERAL PAYROLL TAX PAYMENT (EFTPS-941)

PAYROLL PERIOD ENDING: 01/17/16
 PAYROLL DATE: 01/21/16

ACCOUNT NAME:	ACCT.#	AMOUNT
SOCIAL SECURITY	11-000-2110	\$8,371.86
MEDICARE	11-000-2110	\$1,957.92
FED. WITHHOLDING	11-000-2120	\$5,993.22
TOTAL DEPOSIT:		\$16,323.00

EFTPS CONFIRMATION NO: 10746355

EFTPS BANK DEBIT DATE: 1/26/2016

APPROVED:

STATE PAYROLL TAX PAYMENT (EDD)

PAYROLL PERIOD ENDING: 01/17/16
 PAYROLL DATE: 01/21/16

ACCOUNT NAME:	ACCT.#	AMOUNT
STATE WITHHOLDING	11-000-2130	\$1,664.42
STATE DISABILITY INS	11-000-2140	\$394.08
TOTAL DEPOSIT:		\$2,058.50

EDD CONFIRMATION # (STATE): 22194474056

EDD CONFIRMATION # (SDI): 22194489056

EDD BANK DEBIT DATE: 1/26/2016

APPROVED:

City Council Agenda Item # 7c
Staff Report

Meeting Date: February 8, 2016
To: Mayor and City Council
From: Rod Bryan, Public Works Director
Subject: SRF Planning Grants

	Regular
X	Consent
	Closed
	Presentation

Recommendation:

Staff respectfully requests the City Council adopt the proposed Resolutions designating the City Manager as the Authorized Representative for State Water Resources Control Board Planning grant applications and associated documents.

Background & Summary:

The City is submitting Financial Assistance Applications to the SWRCB under the Clean Water and Drinking Water State Revolving Funds for various water and wastewater capital projects (see attachment 3). The City will be requesting a total of \$1.5 Million worth of planning projects in both categories.

It is a requirement of the SWRCB to designate an Authorized Representative to sign and submit any CWSRF application materials, certify compliance with applicable state and federal laws, execute the financial assistance agreement and amendments, and certify disbursement requests.

The proposed Resolution satisfies the requirements of the SRF programs.

Financial Impact:

None.

Compliance with 2014-17 City Council Strategic Plan:

Supports Infrastructure and General Plan goals.

Attachments:

- Resolution No. CCR-16-4
- Resolution No. CCR-16-5
- Wastewater and Water Planning Projects Scope of Work Table

RESOLUTION NO. CCR-16-4

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MT. SHASTA DESIGNATING THE CITY MANAGER AS THE
AUTHORIZED REPRESENTATIVE FOR STATE WATER RESOURCES CONTROL
BOARD APPLICATIONS, AGREEMENTS, OR AMENDMENTS THERETO**

WHEREAS, the City of Mt. Shasta (Entity) is eligible to receive Federal and/or State funding for certain Planning and Design Projects, through the Clean Water State Revolving Fund (CWSRF) Drinking Water State Revolving Fund (DWSRF), and other State Water Resources Control Board (SWRCB) funding programs; and

WHEREAS, the City Council wishes to delegate authority to the City Manager, or designee, to sign and submit any CWSRF and DWSRF application materials, certify compliance with applicable state and federal laws, execute the financial assistance agreement and amendments, and certify disbursement requests.

NOW, THEREFORE, BE IT RESOLVED that the City Manager (the “Authorized Representative”) or designee is hereby authorized and directed to sign and file, for and on behalf of the Entity, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of the State-Mandated Wastewater Treatment Plant Improvement Project, Interceptor Sewer Replacement Project, and Downtown Collection System Improvements Project (the “Projects”)

BE IT FURTHER RESOLVED that: this Authorized Representative, or his/her designee, is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto.

BE IT FURTHER RESOLVED that: the Authorized Representative, or his/her designee, is designated to represent the City of Mt. Shasta in carrying out the Entity’s responsibilities under the financing agreement, including certifying disbursement requests on behalf of the Entity and compliance with applicable state and federal laws.

The foregoing resolution was approved and adopted on this 8th day of February 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: February 8, 2016

ATTEST:

CITY OF MT. SHASTA:

Larisa Proulx, Deputy City Clerk

Jeffrey Collings, Mayor

RESOLUTION NO. CCR-16-5

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MT. SHASTA DESIGNATING THE CITY MANAGER AS THE
AUTHORIZED REPRESENTATIVE FOR STATE WATER RESOURCES CONTROL
BOARD APPLICATIONS, AGREEMENTS, OR AMENDMENTS THERETO**

WHEREAS, the City of Mt. Shasta (Entity) is eligible to receive Federal and/or State funding for certain Planning and Design Projects, through the Clean Water State Revolving Fund (CWSRF), Drinking Water State Revolving Fund (DWSRF), and other State Water Resources Control Board (SWRCB) funding programs; and

WHEREAS, the City Council wishes to delegate authority to the City Manager, or designee, to sign and submit any CWSRF and DWSRF application materials, certify compliance with applicable state and federal laws, execute the financial assistance agreement and amendments, and certify disbursement requests.

NOW, THEREFORE, BE IT RESOLVED that the City Manager (the “Authorized Representative”) or designee is hereby authorized and directed to sign and file, for and on behalf of the Entity, a Financial Assistance Application for a financing agreement from the State Water Resources Control Board for the planning, design, and construction of Water Rate Study, Prop 218 Proceedings Project, Leak Detection Project, Big Lakes Water Supply Improvements, Project, Tank 1 Replacement Project, and the West Jessie/Cedar/Spring Street Pipeline Replacement Projects, (the “Projects”)

BE IT FURTHER RESOLVED that: this Authorized Representative, or his/her designee, is designated to provide the assurances, certifications, and commitments required for the financial assistance application, including executing a financial assistance agreement from the State Water Resources Control Board and any amendments or changes thereto.

BE IT FURTHER RESOLVED that: the Authorized Representative, or his/her designee, is designated to represent the City of Mt. Shasta in carrying out the Entity’s responsibilities under the financing agreement, including certifying disbursement requests on behalf of the Entity and compliance with applicable state and federal laws.

The foregoing resolution was approved and adopted on this 8th day of February 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED: February 8, 2016

ATTEST:

CITY OF MT. SHASTA:

Larisa Proulx, Deputy City Clerk

Jeffrey Collings, Mayor

**CITY OF MT. SHASTA
PLANNING PROJECTS FOR WATER AND WASTEWATER UTILITIES
(Updated 01-22-16)**

WASTEWATER CAPITAL PROJECTS - PLANNING SCOPE OF WORK

Project	Description	Estimated Cost
STATE-MANDATED WASTEWATER TREATMENT PLANT IMPROVEMENTS		
1	Environmental Documentation (<i>After November 5, 2015</i>)	\$60,000
2	CWSRF Planning/Construction Funding Applications (<i>After November 5, 2015</i>)	\$20,000
3	Wastewater Utility Rate Study (<i>Performed concurrently with Water Rate Study</i>)	\$30,000
4	Proposition 218 wastewater rate increase proceedings (<i>Shared with Water Utility</i>)	\$15,000
5	Design (<i>Partial - Total Estimated Fee is about \$715,000, not including EDA-Funded Project</i>)	\$375,000
Total State-Mandated WWTP Improvements Planning Grant Activities:		\$500,000
INTERCEPTOR SEWER REPLACEMENT PROJECT		
1	Right-of-Way Acquisition (<i>includes legal & procurement services, not cost of ROW</i>)	\$40,000
2	Remaining Environmental Documentation (<i>After November 5, 2015</i>)	\$150,000
3	Geotechnical Investigation	\$25,000
4	Remaining Design (<i>Design is currently about 75% complete</i>)	\$40,000
Total Interceptor Sewer Replacement Project Planning Grant Activities:		\$255,000
DOWNTOWN COLLECTION SYSTEM IMPROVEMENTS		
1	Environmental Documentation	\$30,000
2	CWSRF Engineering Report and Construction Funding Application	\$40,000
3	CCTV Collection System Inspections (<i>36,000 feet at \$1.50/LF by City Crews</i>)	\$55,000
4	Downtown Sewer-to-Storm Drain Mitigation Feasibility Study/PER	\$40,000
5	Design	\$80,000
Total Downtown Collection System Improvements Planning Grant Activities:		\$245,000
TOTAL:		\$1,000,000

WATER CAPITAL PROJECTS - PLANNING SCOPE OF WORK (DRAFT)

Project	Description	Estimated Cost
1	Prepare Planning Grant Application on FFAST for work described below	\$15,000
2	Water Utility Rate Study	\$30,000
3	Proposition 218 wastewater rate increase proceedings (Shared with Wastewater Utility)	\$10,000
4	Leak Detection for remainder of water distribution system	\$25,000
5	Big Lakes Water Supply Improvements	-
	Environmental Documentation (Assume MND/IS)	\$90,000
	Construction Funding Application (Includes engineering report)	\$40,000
	Right-of-way acquisition	\$100,000
	Design	\$260,000
6	Tank 1 Replacement Project	-
	Environmental Documentation (Assume MND/IS)	\$50,000
	Construction Funding Application (Includes engineering report)	\$40,000
	Remaining Right-of-way acquisition	\$10,000
	Design	\$115,000
7	West Jessie/Cedar/Spring Pipeline Replacements	-
	Environmental Documentation (Assume CEQA Cat-Ex)	\$1,000
	Construction Funding Application (Includes engineering report)	\$35,000
	Design	\$40,000
TOTAL:		\$861,000
TOTAL (Not Including Highlighted Work):		\$500,000

City Council Agenda Item # 8
Staff Report

Meeting Date: February 8, 2016

To: Mayor and City Council

From: Fire Chief Matt Melo

Subject: Cost Sharing Agreement between City of Mt. Shasta and the Mt. Shasta Fire Protection District

X	Regular
	Consent
	Closed
	Presentation

Recommendation:

Staff respectfully requests the City Council adopt Resolution CCR-16-xx approving a cost sharing agreement between City of Mt. Shasta and the Mt. Shasta Fire Protection District.

Background & Summary:

The Mt. Shasta City Fire Department proudly protects over 4,000 people living in an area of approximately four square miles. The Department operates out of two stations that protect a primarily residential area. At present the Mt. Shasta City Fire Department heavily relies on volunteer support to operate. Approximately 25 volunteers and 12 explorers help to provide services under the leadership of a full-time Chief. This mostly volunteer department responds to about 800 fire and medical emergency calls per year.

Through a partnership with all fire protection agencies in Siskiyou County via a mutual aid agreement, the Mt. Shasta City Fire Department works cooperatively to reduce fire threats to the community from adjacent forest and wild-land areas. The Department participates in the Statewide Mutual Aid System, and responds with one fire engine anywhere in the State as needed. The department has made a strong commitment to Automatic aid at the local level, and maintains written automatic aid agreements with California Department of Forestry and Fire Protection, Dunsmuir City Fire Department, Weed City Fire Department, Mt. Shasta Fire Protection District. This pooling of resources helps each agency combat emergencies of any size or duration and insures that the closest emergency resource responds regardless of jurisdiction.

The purpose of the proposed cost sharing agreement is to establish cost sharing for all paid fire personnel for the City of Mt. Shasta Fire Department and the Mt. Shasta Fire Protection District, who have historically and currently work together on a daily basis to provide fire protection services. Both entities rely heavily on volunteer support in order to respond to emergencies. Under the proposed agreement the City of Mt. Shasta would be provided with improved fire protection services, as additional staff would be available ensure reliable and

adequate emergency response. At present the Mt. Shasta Fire Protect District employs a Chief and an Assistant Chief, and the City employs a Chief. Through this agreement one additional Captain and one firefighter position will be created, and the Mt. Shasta Fire Protect District Chief and the Assistant Chief will become employees of the City. The District's Assistant Chief Position will then be converted into a Battalion Chief position. Through this agreement the day-to-day operations for these 5 paid employees and their respective volunteers would be conducted under the commonly used and recognized name of 'Mt. Shasta Fire Department' (MSFD). All fire and rescue apparatus and equipment owned by the City of Mt Shasta or the Mt Shasta Fire Protection District shall remain the property of the respective agencies. In no way does this agreement preclude the City of Mt Shasta and the Mt Shasta Fire Protection District from Joint Powers Authority.

Through this Agreement, the City of Mt Shasta would provide fiscal management functions as they relate to all paid fire personnel under MSFD, and the Mt Shasta Fire Protection District would pay the City of Mt Shasta for services received. The agreement would remain in full force and effect until terminated by the parties, and can be amended as approved by resolutions adopted by each of the agency's Governing Board or Council.

Financial Impact:

District shall pay to City a quarterly sum in the amount of \$37,500.00, due within the month that an invoice for services is received. Invoices will be received and issued in January, April, July and October of each year that the Agreement remains in effect. Each agency shall bear the responsibility to bill and collect monies owed under separate local, state and federal agreements, including the collection of local, state and federal taxes. The intent of this Agreement is that each party pay its fair share of personnel costs. Over time, the cost of personnel positions assumed by the City may increase. This will require a mutually agreed increase in quarterly payments. The financial impact of the proposed agreement is budget neutral.

Compliance with 2014-17 City Council Strategic Plan:

Providing timely, cost effective, and reliable fire protection and emergency service for residents in the City of Mount Shasta via a cost sharing agreement between the City of Mt. Shasta and the Mt. Shasta Fire Protection District directly supports Strategic Focus III - Enhance Public/Private Partnerships.

Attachments:

- Resolution CCR-16-6
- Proposed Cost Sharing Agreement

RESOLUTION NO. CCR-16-6

**A RESOLUTION OF CITY OF MT. SHASTA CITY COUNCIL
APPROVING A COST SHARING AGREEMENT
BETWEEN CITY OF MT. SHASTA AND MT. SHASTA FIRE PROTECTION DISTRICT**

WHEREAS, both the City of Mt. Shasta and Mt. Shasta Fire Protection District are authorized by law to provide fire protection services within their respective jurisdictions; and,

WHEREAS, it is to the benefit of the City of Mt. Shasta and the Mt. Shasta Fire Protection District to mutually provide personnel for fire protection services and the parties hereto are desirous of contracting for said fire personnel; and

WHEREAS, the City of Mt. Shasta and Mt. Shasta Fire Protection District have entered into a Mutual Aid Agreement to provide fire protection services to their combined service areas

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Mt. Shasta hereby approves the attached Cost Sharing Agreement between the City of Mt. Shasta and Mt. Shasta Fire Protection District to facilitate the provision of efficient fire protection services for each party by unifying personnel in one agency with each party paying its fair share of personnel costs.

The foregoing Resolution was APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Mt. Shasta on the 8th day of February, 2016 by the following vote:

AYES:

NOES:

ABSTAIN:

DATED: February 8, 2016

ATTEST:

CITY OF MT. SHASTA:

Larisa Proulx, Deputy City Clerk

Jeffrey Collings, Mayor

**COST SHARING AGREEMENT
BETWEEN
CITY OF MT. SHASTA
AND
MT. SHASTA FIRE PROTECTION DISTRICT**

THIS AGREEMENT is made and entered into on this day of February 8, 2016 by the City of Mt. Shasta ("City"), a municipal corporation in the State of California, and the Mt. Shasta Fire Protection District ("District"), a fire protection district of the County of Siskiyou in the State of California, organized pursuant to Section 13800, et seq., of the Health and Safety Code.

RECITALS:

1. Both the City and District are authorized by law to provide fire protection services within their respective jurisdictions; and,
2. It is to the benefit of the City of Mt. Shasta and the Mt. Shasta Fire Protection District to mutually provide personnel for fire protection services and the parties hereto are desirous of contracting for said fire personnel; and
3. City and District have entered into a Mutual Aid Agreement to provide fire protection services to their combined service areas.

WITNESSETH:

In consideration of the Recitals set forth above, the parties agree as follows:

1. PURPOSE.

The purpose of this Agreement is to facilitate the provision of efficient fire protection services for each party by unifying personnel in one agency with each party paying its fair share of personnel costs.

2. TERM.

This Agreement shall be executed on March 1, 2016, by the parties and shall become effective on March 1, 2016. The executed Agreement shall remain in full force and effect until terminated by the parties. Either party shall retain the right to terminate this Agreement by providing a three (3) month written notice submitted to the other party. The parties further agree no cause shall be required for the termination of the Agreement. This Agreement may be amended at any time by either agency provided the noticing agency submits a 90-day written notice of intent to amend. All amendments must be approved by resolutions adopted by each of the agency's Governing Board or Council.

3. UNIFORMITY OF STANDARD OPERATING PROCEDURES & SERVICES.

The City of Mt. Shasta and the Mt. Shasta Fire Protection District will maintain uniformity in standard operating procedures and services outlined by the National Firefighters Protection Association (NFPA).

4. FIRE PROTECTION PERSONNEL.

At present the Mt. Shasta Fire Protection District employs a Chief and an Assistant Chief, and the City employs a Chief. Through this agreement one additional Captain and one firefighter position will be created, and the Mt. Shasta Fire Protection District Chief and the Assistant Chief will become employees of the City. The District's Assistant Chief position will then be converted into a Battalion Chief position. Through this agreement the day-to-day operations for these 5 paid employees and their respective volunteers will be conducted under the commonly used and recognized name of 'Mt. Shasta Fire Department' (MSFD). These employees will provide fire protection services as provided for in the Mutual Aid Agreement. In addition, each party may utilize volunteer firefighters. The volunteers will be the individual responsibility of each party.

5. EQUIPMENT.

As described above, all fire/rescue apparatus and equipment owned by the City of Mt Shasta or the Mt Shasta Fire Protection District shall remain the property of the respective agencies. Future purchases of equipment shall continue to be made separately.

6. FISCAL MANAGEMENT.

City of Mt. Shasta shall provide fiscal management functions as they relate to all paid fire personnel for the City of Mt. Shasta and the Mt. Shasta Fire Protection District. The City of Mt. Shasta shall conduct all accounting procedures in accordance with generally accepted accounting principles for public agencies, as required by law.

7. DISTRICT PAYMENT TO THE CITY.

District shall pay to City a quarterly sum in the amount of \$37,500.00, due within the month that an invoice for services is received. Invoices will be received and issued in January, April, July and October of each year that the Agreement remains in effect. Each agency shall bear the responsibility to bill and collect monies owed under separate local, state and federal agreements, including the collection of local, state and federal taxes. The intent of this Agreement is that each party pay its fair share of personnel costs. Over time, the cost of personnel positions assumed by the City may increase. This will require a mutually agreed increase in quarterly payments. Every year employee benefits will be assessed by both parties. Each entity will pay equal shared of all employees, which will total 5.

8. UNIFORMITY OF NAME.

The day-to-day operation of the City of Mt. Shasta and the Mt. Shasta Fire Protection District shall be conducted under the commonly used and recognized name of "Mt. Shasta Fire Department," hereinafter referred to as "MSFD."

9. COST SHARING.

All costs associated with the paid employees of the MSFD, as described in this Agreement, shall be shared equally by the agencies. These expenses include, but are not limited to:

- A. Salary, wages, and benefits (medical, vision and dental insurance, PERS retirement, vacation, sick and comp time);
- B. Worker’s compensation insurance (for all paid fire personnel); and
- C. Social Security and Medicare taxes.
- D. Liability Insurance Premiums

IN WITNESS THEREOF, the City of Mt. Shasta and the Mt. Shasta Fire Protection District have caused this Agreement to be executed this day of February 9, 2016.

CITY OF MT. SHASTA

MT. SHASTA FIRE PROTECTION DISTRICT

Mayor Jeffrey Collings

John Anderson, District Board Chairman

ATTEST:

ATTEST:

Larisa Proulx, City Clerk

Jenny Davis, District Board Secretary

City Council Agenda Item # 9

Date: February 8, 2016
To: Mayor and City Council
From: Kristen Maze, City Planner
Subject: Zone Amendment 2016-01 Medical Marijuana Commercial Cultivation and Delivery

x	Regular
	Consent
	Closed
	Presentation

Recommendation:

City staff respectfully recommends that the City Council review and approve the proposed zone amendment 2016-01 to prohibit commercial (large scale) medical marijuana cultivation and delivery in the City of Mt. Shasta.

Background & Summary:

On October 9, 2015 Governor Brown signed three bills into law (AB 266, AB243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (MMRSA). The MMRSA sets up a State licensing scheme for commercial medical marijuana uses while protecting local control, by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial medical marijuana activities.

The MMRSA contains language that requires the City to prohibit cultivation uses by March 1, 2016 either expressly or otherwise under the principles of permissive zoning, or the State will become the sole licensing authority. The MMRSA also contains language that requires delivery services to be expressly prohibited by local ordinance, if the City wishes to do so.

The proposed ordinance is an urgency ordinance in accordance with Government Code 36937 in order to protect the immediate preservation of the public peace, health, or safety of the community and to satisfy the March 1, 2016 deadline. Approval of such ordinance allows the City to maintain its right to prohibit or regulate cultivation within the City of Mt. Shasta. As of January 29, 2016 staff has been informed that cleanup legislation removing the March 1, 2016 cultivation deadline has passed through both the California Senate and Assembly and is now headed to Governor Brown's desk for signature. He is anticipated to sign off on the legislation. Once the Governor has signed this bill, the March 1, 2016 deadline from the recently passed medical marijuana law will be removed.

On January 19, 2016 the Planning Commission held a public hearing for zone amendment 2016-01. The Planning Commission voted unanimously to deny the proposed ordinance prohibiting commercial cultivation and delivery of medical marijuana. The Planning Commission was not comfortable with the rapid time table necessary to act on this proposed ordinance and stated that they did not think it was good business to prohibit the commercial cultivation and delivery in the City of Mt. Shasta (see attached draft minutes). Three

individuals spoke at the Planning Commission meeting on this subject, two of which made statements of their marijuana experiences. The third stated, that as a dispensary owner she was not comfortable with a delivery service since it is not permitted in the County and the risk associate with carrying the product and cash was not safe.

The proposed ordinance would not affect the existing MSMC Title 18.96 medical marijuana dispensaries ordinance or the dispensaries located in the City of Mt. Shasta, nor would this proposal effect SB 215, the Compassion Use Act.

Proposition 215, Section 11362.5 to the California Health and Safety Code:

- Exempts patients and defined caregivers who possess or cultivate marijuana recommended by a physician from criminal laws which otherwise prohibit possession or cultivation of marijuana.
- Provides physicians who recommend use of marijuana for medical treatment shall not be punished or denied any right or privilege.
- Declares that the measure is not to be construed to supersede prohibitions of conduct endangering others or to condone diversion of marijuana.

Although there has been some discussion regarding the March 1, 2016 deadline being extended, at this time staff is not aware of any extensions of time to implement an ordinance in order to maintain local control of the commercial cultivation and delivery of medical marijuana. Moreover, once the City has an ordinance in place it is possible to revise that ordinance at a later date, should that be necessary.

Financial Impact:

The proposed ordinance ZA 2016-01 would have no financial impact on the City of Mt. Shasta.

Compliance with the City Council’s 2014-2017 Strategic Plan:

The proposed amendment would meet Strategic Plan Focus IV – Grow Mt Shasta Pride and Quality by maintaining local control of a dynamic issue that the State and local agencies are faced with in California.

Possible Actions:

1. Adopt Ordinance 16-02 approving the first reading for the proposed zone amendment to prohibit the commercial cultivation and delivery of medical marijuana and approve the exemption from CEQA pursuant to the CEQA Guidelines section 15305.
2. Deny Ordinance 16-02 prohibiting the commercial cultivation and delivery of medical marijuana.

Attachments:

- January 19, 2016 Draft PC Minutes
- Proposed Ordinance CCO 16-02
- AB 243, AB 266, and SB 643

**Meeting Minutes of the Mt. Shasta Planning Commission
Regular Meeting Minutes**

Mt. Shasta Community Center, 629 Alder Street
Tuesday, January 19, 2016; 6:00 p.m.

Item
<p>1. Call to Order and Flag Salute At the hour of 6:00 p.m., Chair Higuera called the meeting to order and led the audience in the Pledge of Allegiance.</p>
<p>2. Roll call Commissioners Present: Findling, Wagner, Chair Higuera, and Pardee Commissioners Absent: Derby</p>
<p>3. Approval of Minutes: a. Minutes of November 17, 2015 Regular Planning Commission Meeting.</p> <p style="padding-left: 40px;">Motion to approve the Minutes of August 18, 2015. Motion by: Commissioner Findling Second by: Commissioner Wagner 4 – Ayes Findling, Pardee, Wagner and Higuera 0 – Noes 1- Abstain Clure</p>
<p>4. Correspondence from Public and Staff: None</p>
<p>5. Public Comment: Council woman Kathy Morter spoke regarding the invitation to be on a “First Impression” committee to form a team and improve the downtown. The Planning Commissioners were interested in her invitation and asked that she email them the information.</p>
<p>6. Consent Agenda: None</p>
<p>7. <u>Commission Action</u>: Medical Marijuana Cultivation and Delivery Regulations Zone Amendment 2016-01 Motion by Findling to recommend denial with the statement that the Planning Commission would like to regulate commercial medical marijuana cultivation and delivery. Second by Commissioner Clure 5 – Ayes Findling, Pardee ,Clure, Wagner and Higuera 0 - Noes The public hearing was opened. Elizabeth Taylor stated that she is the owner/operator of one of the two local dispensaries in the City and she is currently working with lobbyists for medical marijuana in Sacramento. She suggested that the City put together and ad hoc committee to discuss the issues. She stated that she believes strongly in education on this matter. She also stated that because the County has prohibited medical marijuana commercial cultivation and delivery she could not and would not deliver in the County. She stated as a dispensary owner she would not deliver in the City because of the money and product that she would be carrying. She was not comfortable with delivering although she understood the need. Rosyln McCoy spoke about her mother in Colorado that has hip problems that enjoys her medical marijuana tootsie rolls.</p>

Steve Russ had questions about the ordinance and discussed his past issues with law enforcement concerning medical marijuana cultivation.

Commissioner Higuera had concerns about prohibiting the commercial marijuana cultivation and delivery in the City but understood the need to have an ordinance in place before the March 1, 2016 deadline so we can regulate the use locally. Commissioner Pardee also had concerns and suggested the matter be tabled. Commissioner Wagner asked who wrote the proposed ordinance and why the City staff decided to prohibit. Commissioner Wagner stated she felt this was not good business for the City. Commissioner Findling agreed and wanted an opportunity to rewrite the ordinance to regulate commercial marijuana cultivation and delivery. Discussion included whether this would impact the current dispensaries in the City. Staff indicated that this would in no way affect the dispensaries or the individual grows for patient and caregivers allowed by Senate Bill 215. Commissioner Clure suggested that we replace the word "prohibit" with regulate and pass the ordinance onto the City Council. All the Commissioners were not comfortable with the short time table to act on this ordinance.

8. Commission Action: Reduce the size of Planning Commission from seven (7) to five (5).

Zone Amendment 20167-02

Motion to approve by Commissioner Findling with changes to the proposed ordinance, to remain at 7 commissioners, however to allow 3 persons be outside the City limits within the Mt. Shasta zip code (96067) with the remaining 4 commissioner to be located inside the City limits.

Second by Commissioner Clure

5 – Ayes Findling, Pardee ,Clure, Wagner and Higuera

0 - Noes

Commissioner Higuera stated that she did not support the reduction in size of the planning commission. Commissioner Wagner asked where the City advertised for the planning commission members. Staff explained that we have been advertising since September 2015 for the vacancy position which was posted on the City website and in the local newspaper, the City also posted the two openings and the existing vacancy on Craigslist. Commissioner Wagner also asked about the interview process changes and agreed with a simplified interview process. All the Commissioners agreed the interview process would be better served if it were less onerous.

Commissioner Findling stated that she also did not support the reduction and believes it is important to have seven individuals on the commission for their opinions. Commissioner Pardee agreed that a seven member Planning Commission was important to the City planning process.

The public hearing was opened. Elizabeth Taylor, local medical marijuana dispensary owner asked about volunteering for Planning Commission and what it took to be a Commissioner. Commissioner Higuera told her that we already had two Commissioner from outside the City limits therefore it wasn't possible for her to be on the Commission at this time.

There was discussion about increasing the number of people eligible and the Commission stated that if the boundary and number of people outside the City limits was increased that would encourage more interest in membership.

9. Commission and Staff Comments

Staff reported on the City Council public hearing regarding the proposed short term rental in the R-1 zone district with an administrative use permit. Staff informed the Commission of the 3 to 2 vote to deny the proposed ordinance for allow with and Administrative use permit short term rentals in the R-1 zone district. Commissioner Wagner stated that it was primarily because the Council did not want to negatively affect the existing businesses that are permitted to operate on a short-term basis such as the existing Bed and Breakfast and motels in the area.

Staff gave an overview of the priorities that the Planning Department was working on and what the

Planning Commission would be involved with.

Commissioner Findling reported about the need for additional members on the Active Transportation Committee. Commissioner Findling also asked about recent closure of the Rockfellow house that is managed by the Opportunity Center for developmental disabled persons. Findling would like the City to look into the possibility of creating an affordable housing unit at that site. Staff stated that the City would fully support the site being affordable housing, however it is privately owned therefore it would require the owners to make any transitions or changes to the existing housing situation.

10. Adjourn: Next regular meeting to be held Tuesday February 16, 2016.

There being no further business before the Planning Commission, the meeting was adjourned at the hour of 7:55 p.m.

ORDINANCE NO. 16-02

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MT. SHASTA ADDING CHAPTER 18.81 TO THE MT. SHASTA MUNICIPAL CODE PROHIBITING ALL COMMERCIAL MEDICAL MARIJUANA USES IN THE CITY AND REGULATING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT

The City Council of the City of Mt. Shasta does hereby ordain as follows:

Section 1. Findings and Purpose.

The City Council finds and declares as follows:

A. On October 9, 2015 Governor Brown signed 3 bills into law (AB 266, AB 243, and SB 643) which collectively are known as the Medical Marijuana Regulation and Safety Act (hereafter "MMRSA"). The MMRSA set up a State licensing scheme for commercial medical marijuana uses while protecting local control by requiring that all such businesses must have a local license or permit to operate in addition to a State license. The MMRSA allows the City to completely prohibit commercial medical marijuana activities.

B. The City Council finds that cultivation, processing, and delivery of medical marijuana as allowed by the CUA and MMP can adversely affect the health, safety, and well-being of City residents. Citywide prohibition of cultivation, processing, and delivery of medical marijuana is proper and necessary to avoid the risks of criminal activity, degradation of the natural environment, malodorous smells and indoor electrical fire hazards that may result from such activities. Further, as recognized by the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, marijuana cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that surrounding homes or businesses may be negatively impacted by nuisance activity such as loitering or crime.

C. The MMRSA contains language that requires the city to prohibit cultivation uses by March 1, 2016 either expressly or otherwise under the principles of permissive zoning, or the State will become the sole licensing authority. The MMRSA also contains language that requires delivery services to be expressly prohibited by local ordinance, if the City wishes to do so. The MMRSA is silent as to how the City must prohibit other type of commercial medical marijuana activities. The City therefore moves forward with this Ordinance to preserve its rights under law and to protect the immediate preservation of the public peace, health, or safety of the community.

D. The Planning Commission held a duly noticed public hearing on January 19, 2016 at which time it considered all evidence presented, both written and oral and at the end of the hearing voted to adopt a resolution recommending that the City Council adopt this ordinance.

E. The City Council held a duly noticed public hearing on this ordinance on February 22, 2016, at which time it considered all evidence presented, both written and oral.

Section 2. Enactment. Chapter 18.81 is hereby added to the Mt. Shasta Municipal Code to read as follows:

Chapter 18.81

MEDICAL MARIJUANA AND CULTIVATION

18.81.010 Definitions

“Cannabis” shall have the same meaning as set forth in Business & Professions Code § 19300.5(f) as the same may be amended from time to time.

“Caregiver” or “primary caregiver” shall have the same meaning as set forth in Health & Safety Code § 11362.7 as the same may be amended from time to time.

“Commercial cannabis activity” includes cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distributions or sale of medical cannabis or a medical cannabis product except as set forth in Business & Professions Code § Section 19319, related to qualifying patients and primary caregivers.

“Cooperative” shall mean two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering or making available medical marijuana, with or without compensation.

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

“Cultivation site” means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to Chapter 3.5 of the MMRSA.

“Delivery” means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. Delivery also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under Chapter 3.5 of the MMRSA that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

“Dispensary” shall have the same meaning as set forth in Business & Professions Code § 19300.5(n) as the same may be amended from time to time. For purposes of this Chapter, “Dispensary” shall also include a cooperative. “Dispensary” shall not include the following uses: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code, (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code, (3) a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code, (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code, (5) a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

“Dispensing” means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

“Distribution” means the procurement, sale, and transport of medical cannabis or medical cannabis products between entities licensed pursuant to this chapter.

“Distributor” means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

“Manufacturer” shall have the same meaning as set forth in Business & Professions Code § 19300.5(y) as the same may be amended from time to time.

“Manufacturing site” means a location that produces, prepares propagates or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

“Medical cannabis,” “medical cannabis product,” or “cannabis product” shall have the same meanings as set forth in Business & Professions Code § 19300.5 (eg) as the same may be amended from time to time.

“Medical Marijuana Regulation and Safety Act” or “MMRSA” shall mean the following bills signed into law on October 9, 2015 as the same may be amended from time to time: AB 243, AB 246, and SB 643.

“Nursery” means a licensee that produces only clones, immature plants, seeds and other agricultural products used specifically for planting, propagation, and cultivation of medical cannabis.

“Qualifying patient” or “Qualified patient” shall have the same meaning as set forth in Health & Safety Code § 11362.7 as the same may be amended from time to time.

“Testing laboratory” means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

1. Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.
2. Registered with the State Department of Public Health.

“Transport” shall have the same meaning as set forth in Business & Professions Code § 19300.5(am) as the same may be amended from time to time.

“Transporter” means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued as state license pursuant to this chapter.

18.81.020 Prohibition.

Marijuana cultivation, marijuana processing, and marijuana deliveries shall be prohibited activities in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for the activities of marijuana cultivation, marijuana processing, or marijuana deliveries in the City, and no person shall otherwise establish or conduct such activities in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity for which the use permit, variance, building permit, or any other entitlement, license, or permit is sought.

18.81.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 18.81 shall be, and hereby is declared to be, a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731 or any other remedy available to the City.

18.81.040 Civil Penalties.

In addition to any other enforcement permitted by this Chapter 18.81, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.02 of this code against any person or entity that violates this Chapter. In any civil action brought pursuant to this Chapter, a court of competent jurisdiction may award reasonable attorney’s fees and costs to the prevailing party.

Section 3. Nothing in this Ordinance shall be interpreted to mean that the City’s zoning scheme allows any other use not specifically listed therein.

Section 4. CEQA. This ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15305, minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density and section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

Section 5. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 6. To the extent the provisions of the Mt. Shasta Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 7. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of adoption and shall post a certified copy of this Ordinance, including the vote for and against same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 22nd day of February, 2016.

AYES:
NOES:
ABSENT:

Jeffrey Collings, Mayor

ATTEST:

Larisa Proulx, City Clerk

APPROVED AS TO FORM:

John Sullivan Kenny, City Attorney



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.

19333. 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.

19352. 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

19360. (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.

(3) This bill would provide that its provisions are severable.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(5) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(6) The bill would provide that it shall become operative only if SB 643 and AB 243 of the 2015–16 Regular Session are also enacted and become operative.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants, in

accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) The Bureau of Medical Marijuana Regulation shall disclose information on its licensees.

(g) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2. Section 101 of the Business and Professions Code is amended to read:

101. The department is comprised of the following:

(a) The Dental Board of California.

(b) The Medical Board of California.

(c) The State Board of Optometry.

(d) The California State Board of Pharmacy.

(e) The Veterinary Medical Board.

(f) The California Board of Accountancy.

(g) The California Architects Board.

(h) The Bureau of Barbering and Cosmetology.

(i) The Board for Professional Engineers and Land Surveyors.

- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.
- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) The State Board of Chiropractic Examiners.
- (al) The Bureau of Real Estate.
- (am) The Bureau of Real Estate Appraisers.
- (an) The Structural Pest Control Board.
- (ao) The Bureau of Medical Marijuana Regulation.
- (ap) Any other boards, offices, or officers subject to its jurisdiction by law.

SEC. 3. Section 205.1 is added to the Business and Professions Code, to read:

205.1. Notwithstanding subdivision (a) of Section 205, the Medical Marijuana Regulation and Safety Act Fund is

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product, except as set forth in Section 19319, related to qualifying patients and primary caregivers.

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

(m) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined by the bureau to a primary caregiver or qualified patient as defined in Section 11362.7 of the Health and Safety Code, or a testing laboratory. "Delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed under this chapter, that enables qualified patients or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.

(n) "Dispensary" means a facility where medical cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, medical cannabis and medical cannabis products as part of a retail sale.

(o) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.

(p) "Distribution" means the procurement, sale, and transport of medical cannabis and medical cannabis products between entities licensed pursuant to this chapter.

(q) "Distributor" means a person licensed under this chapter to engage in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a licensed manufacturer, for sale to a licensed dispensary.

(r) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.

(s) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum. An edible medical cannabis product is not considered food as defined by Section 109935 of the Health and Safety Code or a drug as defined by Section 109925 of the Health and Safety Code.

(t) "Fund" means the Medical Marijuana Regulation and Safety Act Fund established pursuant to Section 19351.

(u) "Identification program" means the universal identification certificate program for commercial medical cannabis activity authorized by this chapter.

(v) "Labor peace agreement" means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant's business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant's employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant's employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

(w) "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 license.

(x) "Cultivation site" means a facility where medical cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(y) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as described in subdivision (ae), or medical cannabis 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 medical cannabis or medical cannabis products or labels or relabels its container, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

(z) "Testing laboratory" means a facility, entity, or site in the state that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:

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

(2) Registered with the State Department of Public Health.

(aa) "Transporter" means a person issued a state license by the bureau to transport medical cannabis or medical cannabis products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.

(ab) "Licensee" means a person issued a state license under this chapter to engage in commercial cannabis activity.

(ac) "Live plants" means living medical cannabis flowers and plants, including seeds, immature plants, and vegetative stage plants.

(ad) "Lot" means a batch, or a specifically identified portion of a batch, having uniform character and quality within specified limits. In the case of medical cannabis or a medical cannabis product produced by a continuous process, "lot" means a specifically identified amount produced in a unit of time or a quantity in a manner that ensures its having uniform character and quality within specified limits.

(ae) "Manufactured cannabis" means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product.

(af) "Manufacturing site" means a location that produces, prepares, propagates, or compounds manufactured medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and is owned and operated by a licensee for these activities.

(ag) "Medical cannabis," "medical cannabis product," or "cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. For the purposes of this chapter, "medical cannabis" does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(ah) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of medical cannabis.

(ai) "Permit," "local license," or "local permit" means an official document granted by a local jurisdiction that specifically authorizes a person to conduct commercial cannabis activity in the local jurisdiction.

(aj) "Person" means an individual, firm, 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 includes the plural as well as the singular number.

(ak) "State license," "license," or "registration" means a state license issued pursuant to this chapter.

(al) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the Health and Safety Code.

(am) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

19300.7. License classifications pursuant to this chapter are as follows:

(a) Type 1 = Cultivation; Specialty outdoor; Small.

(b) Type 1A = Cultivation; Specialty indoor; Small.

(c) Type 1B = Cultivation; Specialty mixed-light; Small.
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- (d) Type 2 = Cultivation; Outdoor; Small.
- (e) Type 2A = Cultivation; Indoor; Small.
- (f) Type 2B = Cultivation; Mixed-light; Small.
- (g) Type 3 = Cultivation; Outdoor; Medium.
- (h) Type 3A = Cultivation; Indoor; Medium.
- (i) Type 3B = Cultivation; Mixed-light; Medium.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing.
- (n) Type 10 = Dispensary; General.
- (o) Type 10A = Dispensary; No more than three retail sites.
- (p) Type 11 = Distribution.
- (q) Type 12 = Transporter.

Article 2. Administration

19302. There is in the Department of Consumer Affairs the Bureau of Medical Marijuana Regulation, under the supervision and control of the director. The director shall administer and enforce the provisions of this chapter.

19303. Protection of the public shall be the highest priority for the bureau in exercising its licensing, regulatory, and disciplinary functions under this chapter. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

19304. The bureau shall make and prescribe reasonable rules as may be necessary or proper to carry out the purposes and intent of this chapter and to enable it to exercise the powers and duties conferred upon it by this chapter, not inconsistent with any statute of this state, including particularly this chapter and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the performance of its duties, the bureau has the power conferred by Sections 11180 to 11191, inclusive, of the Government Code.

19305. Notice of any action of the licensing authority required by this chapter to be given may be signed and given by the director or an authorized employee of the department and may be made personally or in the manner prescribed by Section 1013 of the Code of Civil Procedure.

19306. (a) The bureau may convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this chapter, including best practices and guidelines to ensure qualified patients have adequate access to medical cannabis and medical cannabis products. The advisory committee members shall be determined by the chief.

(b) The advisory committee members may include, but not be limited to, representatives of the medical marijuana industry, representatives of medical marijuana cultivators, appropriate local and state agencies, appropriate local and state law enforcement, physicians, environmental and public health experts, and medical marijuana patient advocates.

19307. A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this chapter.

19308. For any hearing held pursuant to this chapter, the director, or 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.

19309. In any hearing before a licensing authority pursuant to this chapter, 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.

19310. The department 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.

Article 3. Enforcement

19311. Grounds for disciplinary action include:

- (a) Failure to comply with the provisions of this chapter or any rule or regulation adopted pursuant to this chapter.
- (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 chapter.
- (d) Failure to comply with any state law, except as provided for in this chapter or other California law.

19312. 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.

19313. Each licensing authority may take disciplinary action against a licensee for any violation of this chapter when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial cannabis activity.

19313.5. Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities and the Department of Food and Agriculture.

19314. All accusations against licensees shall be filed by the licensing authority within five years after the performance of the act or omission alleged as the ground for disciplinary action; provided, however, that the foregoing provision shall not constitute a defense to an accusation alleging fraud or misrepresentation as a ground for disciplinary action. The cause for disciplinary action in such case shall not be deemed to have accrued until discovery, by the licensing authority, of the facts constituting the fraud or misrepresentation, and, in such case, the accusation shall be filed within five years after such discovery.

19315. (a) Nothing in this chapter shall be interpreted to supersede or limit existing local authority for law enforcement activity, enforcement of local zoning requirements or local ordinances, or enforcement of local permit or licensing requirements.

(b) Nothing in this chapter shall be interpreted to require the Department of Consumer Affairs to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) Nothing in this chapter shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority under the Fish and Game Code, the Water Code, the Food and Agricultural Code, or the Health and Safety Code.

19316. (a) Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity. Any standards, requirements, and regulations regarding health and safety, fire, and other public health and safety protections established by the state shall be the minimum standards for

all licensees statewide.

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

(c) Nothing in this chapter, or any regulations promulgated thereunder, shall be deemed to limit the authority or remedies of a city, county, or city and county under any provision of law, including, but not limited to, Section 7 of Article XI of the California Constitution.

19317. (a) The actions of a licensee, its employees, and its agents that are (1) permitted pursuant to both a state license and a license or permit issued by the local jurisdiction following the requirements of the applicable local ordinances, and (2) conducted in accordance with the requirements of this chapter and regulations adopted pursuant to this chapter, 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 both a state license and a local license or permit following the requirements of the 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.

19318. (a) A person engaging in commercial cannabis activity without a license 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 court may order the destruction of medical cannabis 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 Medical Cannabis Fines and Penalties Account established pursuant to Section 19351.

(b) If an action for civil penalties is brought against a licensee pursuant to this chapter by the Attorney General on behalf of the people, the penalty collected shall be deposited into the Medical Cannabis Fines and Penalties Account established pursuant to Section 19351. 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 engaging in commercial 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.

Article 4. Licensing

19320. (a) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance.

(b) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other authorization. Local authorities shall notify the bureau upon revocation of a

local license. The bureau shall inform relevant licensing authorities.

(c) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license. Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport, or any equipment that is not currently transporting medical cannabis or medical cannabis products, permanently resides.

(d) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(e) Nothing in this chapter shall be construed to supersede or limit state agencies, including the State Water Resources Control Board and Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

19321. (a) The Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health shall promulgate regulations for implementation of their respective responsibilities in the administration of this chapter.

(b) A license issued pursuant to this section shall be valid for 12 months from the date of issuance. The license shall be renewed annually. Each licensing authority shall establish procedures for the renewal of a license.

(c) Notwithstanding subdivision (a) of Section 19320, a facility or entity that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this chapter. In issuing licenses, the licensing authority shall prioritize any facility or entity that can demonstrate to the authority's satisfaction that it was in operation and in good standing with the local jurisdiction by January 1, 2016.

(d) Issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D or local zoning law, in court or in any other context or forum.

Article 5. Medical Marijuana Regulation

19326. (a) A person other than a licensed transporter shall not transport medical cannabis or medical cannabis products from one licensee to another licensee, unless otherwise specified in this chapter.

(b) All licensees holding cultivation or manufacturing licenses shall send all medical cannabis and medical cannabis products cultivated or manufactured to a distributor, as defined in Section 19300.5, for quality assurance and inspection by the Type 11 licensee and for a batch testing by a Type 8 licensee prior to distribution to a dispensary. Those licensees holding a Type 10A license in addition to a cultivation license or a manufacturing license shall send all medical cannabis and medical cannabis products to a Type 11 licensee for presale inspection and for a batch testing by a Type 8 licensee prior to dispensing any product. The licensing authority shall fine a licensee who violates this subdivision in an amount determined by the licensing authority to be reasonable.

(c) (1) Upon receipt of medical cannabis or medical cannabis products by a holder of a cultivation or manufacturing license, the Type 11 licensee shall first inspect the product to ensure the identity and quantity of the product and then ensure a random sample of the medical cannabis or medical cannabis product is tested by a Type 8 licensee prior to distributing the batch of medical cannabis or medical cannabis products.

(2) Upon issuance of a certificate of analysis by the Type 8 licensee that the product is fit for manufacturing or retail, all medical cannabis and medical cannabis products shall undergo a quality assurance review by the Type 11 licensee prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state. Licensed cultivators and manufacturers shall package or seal all medical cannabis and medical cannabis products in tamper-evident packaging and use

tracking medical cannabis or medical cannabis products. Medical cannabis and medical cannabis products shall be labeled as required by Section 19347. All packaging and sealing shall be completed prior to medical cannabis or medical cannabis products being transported or delivered to a licensee, qualified patient, or caregiver.

(3) This section does not limit the ability of licensed cultivators, manufacturers, and dispensaries to directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. However, a Type 11 licensee responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a Type 8 licensee, as well as applicable state or local taxes and fees.

(d) Medical cannabis and medical cannabis products shall be tested by a registered testing laboratory, prior to retail sale or dispensing, as follows:

(1) Medical cannabis from dried flower shall, at a minimum, be tested for concentration, pesticides, mold, and other contaminants.

(2) Medical cannabis extracts shall, at a minimum, be tested for concentration and purity of the product.

(3) This chapter shall not prohibit a licensee from performing on-site testing for the purposes of quality assurance of the product in conjunction with reasonable business operations. On-site testing by the licensee shall not be certified by the State Department of Public Health.

(e) All commercial cannabis activity shall be conducted between licensees, when these are available.

19327. (a) A licensee shall keep accurate records of commercial cannabis activity.

(b) All records related to commercial cannabis 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 chapter. 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 chapter.

(f) If a licensee or an 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 thirty thousand dollars (\$30,000) per individual violation.

19328. (a) A licensee may only hold a state license in up to two separate license categories, as follows:

(1) Type 1, 1A, 1B, 2, 2A, or 2B licensees may also hold either a Type 6 or 7 state license.

(2) Type 6 or 7 licensees, or a combination thereof, may also hold either a Type 1, 1A, 1B, 2, 2A, or 2B state license.

(3) Type 6 or 7 licensees, or a combination thereof, may also hold a Type 10A state license.

(4) Type 10A licensees may also hold either a Type 6 or 7 state license, or a combination thereof.

(5) Type 1, 1A, 1B, 2, 2A, or 2B licensees, or a combination thereof, may also hold a Type 10A state license.

(6) Type 10A licensees may apply for Type 1, 1A, 1B, 2, 2A, or 2B state license, or a combination thereof.

(7) Type 11 licensees shall apply for a Type 12 state license, but shall not apply for any other type of state license.

(9) A Type 10A licensee may apply for a Type 6 or 7 state license and hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid. All cultivation pursuant to this section shall comply with local ordinances. This paragraph shall become inoperative on January 1, 2026.

(b) Except as provided in subdivision (a), a person or entity that holds a state license is prohibited from licensure for any other activity authorized under this chapter, and is prohibited from holding an ownership interest in real property, personal property, or other assets associated with or used in any other license category.

(c) (1) In a jurisdiction that adopted a local ordinance, prior to July 1, 2015, allowing or requiring qualified businesses to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single qualified business, upon licensure that business shall not be subject to subdivision (a) if it meets all of the following conditions:

(A) The business was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on July 1, 2015, and has continuously done so since that date.

(B) The business has been in full compliance with all applicable local ordinances at all times prior to licensure.

(C) The business is registered with the State Board of Equalization.

(2) A business licensed pursuant to paragraph (1) is not required to conduct all cultivation or manufacturing within the bounds of a local jurisdiction, but all cultivation and manufacturing shall have commenced prior to July 1, 2015, and have been in full compliance with applicable local ordinances.

(d) This section shall remain in effect only until January 1, 2026, and as of that date is repealed.

19329. A licensee shall not also be licensed as a retailer of alcoholic beverages pursuant to Division 9 (commencing with Section 23000).

19330. This chapter and Article 2 (commencing with Section 11357) and Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code shall not interfere with an employer's rights and obligations to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of cannabis in the workplace or affect the ability of employers to have policies prohibiting the use of cannabis by employees and prospective employees, or prevent employers from complying with state or federal law.

Article 7. Licensed Distributors, Dispensaries, and Transporters

19334. (a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1) "Dispensary," as defined in this chapter. This license shall allow for delivery pursuant to Section 19340.

(2) "Distributor," for the distribution of medical cannabis and medical cannabis products from manufacturer to dispensary. A Type 11 licensee shall hold a Type 12, or transporter, license and register each location where product is stored for the purposes of distribution. A Type 11 licensee shall not hold a license in a cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, a facility licensed in those categories other than a security interest, lien, or encumbrance on property that is used by a licensee. A Type 11 licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3) "Transport," for transporters of medical cannabis or medical cannabis products between licensees. A Type 12 licensee shall be bonded and insured at a minimum level established by the licensing authority.

(4) "Special dispensary status" for dispensers who have no more than three licensed dispensary facilities. This license shall allow for delivery where expressly authorized by local ordinance.

(b) The bureau shall establish minimum security requirements for the commercial transportation and delivery of medical cannabis and products.

(c) A licensed dispensary shall implement sufficient security measures to both deter and prevent unauthorized access to the dispensary.

entrance into areas containing medical cannabis or medical cannabis products and theft of medical cannabis or medical cannabis products at the dispensary. These security measures shall include, but not be limited to, all of the following:

- (1) Preventing individuals from remaining on the premises of the dispensary if they are not engaging in activity expressly related to the operations of the dispensary.
- (2) Establishing limited access areas accessible only to authorized dispensary personnel.
- (3) Storing all finished medical cannabis and medical cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes, samples, or immediate sale.
- (d) A dispensary shall notify the licensing authority and the appropriate law enforcement authorities within 24 hours after discovering any of the following:
 - (1) Significant discrepancies identified during inventory. The level of significance shall be determined by the bureau.
 - (2) Diversion, theft, loss, or any criminal activity involving the dispensary or any agent or employee of the dispensary.
 - (3) The loss or unauthorized alteration of records related to cannabis, registered qualifying patients, primary caregivers, or dispensary employees or agents.
 - (4) Any other breach of security.

Article 9. Delivery

19340. (a) Deliveries, as defined in this chapter, can only be made by a dispensary and in a city, county, or city and county that does not explicitly prohibit it by local ordinance.

(b) Upon approval of the licensing authority, a licensed dispensary that delivers medical cannabis or medical cannabis products shall comply with both of the following:

- (1) The city, county, or city and county in which the licensed dispensary is located, and in which each delivery is made, do not explicitly by ordinance prohibit delivery, as defined in Section 19300.5.
- (2) All employees of a dispensary delivering medical cannabis or medical cannabis products shall carry a copy of the dispensary's current license authorizing those services with them during deliveries and the employee's government-issued identification, and shall present that license and identification upon request to state and local law enforcement, employees of regulatory authorities, and other state and local agencies enforcing this chapter.

(c) A county shall have the authority to impose a tax, pursuant to Article 11 (commencing with Section 19348), on each delivery transaction completed by a licensee.

(d) During delivery, the licensee shall maintain a physical copy of the delivery request and shall make it available upon request of the licensing authority and law enforcement officers. The delivery request documentation shall comply with state and federal law regarding the protection of confidential medical information.

(e) The qualified patient or primary caregiver requesting the delivery shall maintain a copy of the delivery request and shall make it available, upon request, to the licensing authority and law enforcement officers.

(f) A local jurisdiction shall not prevent carriage of medical cannabis or medical cannabis products on public roads by a licensee acting in compliance with this chapter.

Article 10. Licensed Manufacturers and Licensed Laboratories

19341. The State Department of Public Health shall promulgate regulations governing the licensing of cannabis manufacturers and testing laboratories. Licenses to be issued are as follows:

- (a) "Manufacturing level 1" for manufacturing sites that produce medical cannabis products using nonvolatile

solvents.

(b) "Manufacturing level 2," for manufacturing sites that produce medical cannabis products using volatile solvents. The State Department of Public Health shall limit the number of licenses of this type.

(c) "Testing," for testing of medical cannabis and medical cannabis products. Testing licensees shall have their facilities licensed according to regulations set forth by the division. A testing licensee shall not hold a license in another license category of this chapter and shall not own or have ownership interest in a facility licensed pursuant to this chapter.

19342. (a) For the purposes of testing medical cannabis or medical cannabis products, licensees shall use a licensed testing laboratory that has adopted a standard operating procedure using methods consistent with general requirements for the competence of testing and calibration activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test medical cannabis and medical cannabis products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangement.

(b) An agent of a licensed testing laboratory shall obtain samples according to a statistically valid sampling method for each lot.

(c) A licensed testing laboratory shall analyze samples according to either of the following:

(1) The most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(2) Scientifically valid methodology that is demonstrably equal or superior to paragraph (1), in the opinion of the accrediting body.

(d) If a test result falls outside the specifications authorized by law or regulation, the licensed testing laboratory shall follow a standard operating procedure to confirm or refute the original result.

(e) A licensed testing laboratory shall destroy the remains of the sample of medical cannabis or medical cannabis product upon completion of the analysis.

19343. A licensed testing laboratory shall not handle, test, or analyze medical cannabis or medical cannabis products unless the licensed testing laboratory meets all of the following:

(a) Is registered by the State Department of Public Health.

(b) Is independent from all other persons and entities involved in the medical cannabis industry.

(c) Follows the methodologies, ranges, and parameters that are contained in the scope of the accreditation for testing medical cannabis or medical cannabis products. The testing lab shall also comply with any other requirements specified by the State Department of Public Health.

(d) Notifies the State Department of Public Health within one business day after the receipt of notice of any kind that its accreditation has been denied, suspended, or revoked.

(e) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the licensed testing laboratory for testing.

19344. (a) A licensed testing laboratory shall issue a certificate of analysis for each lot, with supporting data, to report both of the following:

(1) Whether the chemical profile of the lot conforms to the specifications of the lot for 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).

(H) Any other compounds required by the State Department of Public Health.

(2) That the presence of contaminants does not exceed the levels that are the lesser of either the most current version of the American Herbal Pharmacopoeia monograph or the State Department of Public Health. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals.

(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.

(D) Whether the batch is within specification for odor and appearance.

(b) Residual levels of volatile organic compounds shall be below the lesser of either the specifications set by the United States Pharmacopeia (U.S.P. Chapter 467) or those set by the State Department of Public Health.

19345. (a) Except as provided in this chapter, a licensed testing laboratory shall not acquire or receive medical cannabis or medical cannabis products except from a licensed facility in accordance with this chapter, and shall not distribute, sell, deliver, transfer, transport, or dispense medical cannabis or medical cannabis products, from which the medical cannabis or medical cannabis products were acquired or received. All transfer or transportation shall be performed pursuant to a specified chain of custody protocol.

(b) A licensed testing laboratory may receive and test samples of medical cannabis or medical cannabis products from a qualified patient or primary caregiver only if he or she presents his or her valid recommendation for cannabis for medical purposes from a physician. A licensed testing laboratory shall not certify samples from a qualified patient or caregiver for resale or transfer to another party or licensee. All tests performed by a licensed testing laboratory for a qualified patient or caregiver shall be recorded with the name of the qualified patient or caregiver and the amount of medical cannabis or medical cannabis product received.

(c) The State Department of Public Health shall develop procedures to ensure that testing of cannabis occurs prior to delivery to dispensaries or any other business, specify how often licensees shall test cannabis and that the cost of testing shall be borne by the licensed cultivators, and require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the State Department of Public Health, unless remedial measures can bring the cannabis into compliance with quality assurance standards as promulgated by the State Department of Public Health.

(d) The State Department of Public Health shall establish a licensing fee, and laboratories shall pay a fee to be licensed. Licensing fees shall not exceed the reasonable regulatory cost of the licensing activities.

19347. (a) Prior to delivery or sale at a dispensary, medical cannabis products shall be labeled and in a tamper-evident package. Labels and packages of medical cannabis products shall meet the following requirements:

(1) Medical cannabis packages and labels shall not be made to be attractive to children.

(2) All medical cannabis product labels shall include the following information, prominently displayed and in a clear and legible font:

(A) Manufacture date and source.

(B) The statement "SCHEDULE I CONTROLLED SUBSTANCE."

(C) The statement "KEEP OUT OF REACH OF CHILDREN AND ANIMALS" in bold print.

- (E) The statement "THE INTOXICATING EFFECTS OF THIS PRODUCT MAY BE DELAYED BY UP TO TWO HOURS."
- (F) The statement "THIS PRODUCT MAY IMPAIR THE ABILITY TO DRIVE OR OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."
- (G) For packages containing only dried flower, the net weight of medical cannabis in the package.
- (H) A warning if nuts or other known allergens are used.
- (I) 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.
- (J) Clear indication, in bold type, that the product contains medical cannabis.
- (K) Identification of the source and date of cultivation and manufacture.
- (L) Any other requirement set by the bureau.
- (M) Information associated with the unique identifier issued by the Department of Food and Agriculture pursuant to Section 11362.777 of the Health and Safety Code.
- (b) Only generic food names may be used to describe edible medical cannabis products.

Article 14. Reporting

19353. Beginning on March 1, 2023, and on or before March 1 of each following year, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the following information for the previous fiscal year:

- (a) The amount of funds allocated and spent by the licensing authority for medical cannabis licensing, enforcement, and administration.
- (b) The number of state licenses issued, renewed, denied, suspended, and revoked, by state license category.
- (c) The average time for processing state license applications, by state license category.
- (d) The number and type of enforcement activities conducted by the licensing authorities and by local law enforcement agencies in conjunction with the licensing authorities or the bureau.
- (e) The number, type, and amount of penalties, fines, and other disciplinary actions taken by the licensing authorities.

19354. The bureau shall contract with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, to develop a study that identifies the impact that cannabis has on motor skills.

Article 15. Privacy

19355. (a) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the office or licensing authorities for the purposes of administering this chapter are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter, or a local ordinance.

(b) Information identifying the names of patients, their medical conditions, or the names of their primary caregivers received and contained in records kept by the bureau for the purposes of administering this chapter shall be maintained in accordance with Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code, Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code, and other state and federal laws relating to confidential patient information.

(c) Nothing in this section precludes the following:
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- (1) Employees of the bureau or any licensing authorities notifying state or local agencies about information submitted to the agency that the employee suspects is falsified or fraudulent.
- (2) Notifications from the bureau or any licensing authorities to state or local agencies about apparent violations of this chapter or applicable local ordinance.
- (3) Verification of requests by state or local agencies to confirm licenses and certificates issued by the regulatory authorities or other state agency.
- (4) Provision of information requested pursuant to a court order or subpoena issued by a court or an administrative agency or local governing body authorized by law to issue subpoenas.
- (d) Information shall not be disclosed by any state or local agency beyond what is necessary to achieve the goals of a specific investigation, notification, or the parameters of a specific court order or subpoena.

SEC. 5. Section 9147.7 of the Government Code is amended to read:

9147.7. (a) For the purpose of this section, "eligible agency" means any agency, authority, board, bureau, commission, conservancy, council, department, division, or office of state government, however denominated, excluding an agency that is constitutionally created or an agency related to postsecondary education, for which a date for repeal has been established by statute on or after January 1, 2011.

(b) The Joint Sunset Review Committee is hereby created to identify and eliminate waste, duplication, and inefficiency in government agencies. The purpose of the committee is to conduct a comprehensive analysis over 15 years, and on a periodic basis thereafter, of every eligible agency to determine if the agency is still necessary and cost effective.

(c) Each eligible agency scheduled for repeal shall submit to the committee, on or before December 1 prior to the year it is set to be repealed, a complete agency report covering the entire period since last reviewed, including, but not limited to, the following:

- (1) The purpose and necessity of the agency.
- (2) A description of the agency budget, priorities, and job descriptions of employees of the agency.
- (3) Any programs and projects under the direction of the agency.
- (4) Measures of the success or failures of the agency and justifications for the metrics used to evaluate successes and failures.
- (5) Any recommendations of the agency for changes or reorganization in order to better fulfill its purpose.

(d) The committee shall take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency shall be eliminated unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency. No eligible agency shall be extended in perpetuity unless specifically exempted from the provisions of this section. The committee may recommend that the Legislature extend the statutory sunset date for no more than one year to allow the committee more time to evaluate the eligible agency.

(e) The committee shall be comprised of 10 members of the Legislature. The Senate Committee on Rules shall appoint five members of the Senate to the committee, not more than three of whom shall be members of the same political party. The Speaker of the Assembly shall appoint five members of the Assembly to the committee, not more than three of whom shall be members of the same political party. Members shall be appointed within 15 days after the commencement of the regular session. Each member of the committee who is appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve during that committee member's term of office or until that committee member no longer is a Member of the Senate or the Assembly, whichever is applicable. A vacancy on the committee shall be filled in the same manner as the original appointment. Three Assembly Members and three Senators who are members of the committee shall constitute a quorum for the conduct of committee business. Members of the committee shall receive no compensation for their work with the committee.

(f) The committee shall meet not later than 30 days after the first day of the regular session to choose a chairperson and to establish the schedule for eligible agency review provided for in the statutes governing the

eligible agencies. The chairperson of the committee shall alternate every two years between a Member of the Senate and a Member of the Assembly, and the vice chairperson of the committee shall be a member of the opposite house as the chairperson.

(g) This section shall not be construed to change the existing jurisdiction of the budget or policy committees of the Legislature.

(h) This section shall not apply to the Bureau of Medical Marijuana Regulation.

SEC. 6. Section 11362.775 of the Health and Safety Code is amended to read:

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

(b) This section shall remain in effect only until one year after the Bureau of Medical Marijuana Regulation posts a notice on its Internet Web site that the licensing authorities have commenced issuing licenses pursuant to the Medical Marijuana Regulation and Safety Act (Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code), and is repealed upon issuance of licenses.

SEC. 7. Section 147.5 is added to the Labor Code, to read:

147.5. (a) By January 1, 2017, 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 facilities issued a license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(b) By July 1, 2017, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By July 1, 2017, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

SEC. 8. Section 31020 is added to the Revenue and Taxation Code, to read:

31020. The board, in consultation with the Department of Food and Agriculture, shall adopt a system for reporting the movement of commercial cannabis and cannabis products throughout the distribution chain. The system shall not be duplicative of the electronic database administered by the Department of Food and Agriculture specified in Section 19335 of the Business and Professions Code. The system shall also employ secure packaging and be capable of providing information to the board. This system shall capture, at a minimum, all of the following:

(a) The amount of tax due by the designated entity.

(b) The name, address, and license number of the designated entity that remitted the tax.

(c) The name, address, and license number of the succeeding entity receiving the product.

(d) The transaction date.

(e) Any other information deemed necessary by the board for the taxation and regulation of marijuana and marijuana products.

SEC. 9. 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. 10. The Legislature finds and declares that Section 4 of this act, which adds Section 19355 to the Business and Professions Code, thereby imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to justify the limitation and the need for protecting that interest:

The limitation imposed under this act is necessary for purposes of compliance with the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code).

SEC. 11. If the Commission on State Mandates determines that this act contains 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. 12. This act shall become operative only if Senate Bill 643 and Assembly Bill 243 of the 2015–16 Regular Session are also enacted and become operative.



California
LEGISLATIVE INFORMATION

SB-643 Medical marijuana. (2015-2016)

Senate Bill No. 643

CHAPTER 719

An act to amend Sections 144, 2220.05, 2241.5, and 2242.1 of, to add Sections 19302.1, 19319, 19320, 19322, 19323, 19324, and 19325 to, to add Article 25 (commencing with Section 2525) to Chapter 5 of Division 2 of, and to add Article 6 (commencing with Section 19331), Article 7.5 (commencing with Section 19335), Article 8 (commencing with Section 19337), and Article 11 (commencing with Section 19348) to Chapter 3.5 of Division 8 of, the Business and Professions Code, relating to medical marijuana.

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

LEGISLATIVE COUNSEL'S DIGEST

SB 643, McGuire. Medical marijuana.

(1) Existing law, the Compassionate Use Act of 1996, an initiative measure enacted by the approval of Proposition 215 at the November 6, 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 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, among other things, set forth standards for a physician and surgeon prescribing medical cannabis and require the Medical Board of California to prioritize its investigative and prosecutorial resources to identify and discipline physicians and surgeons that have repeatedly recommended excessive cannabis to patients for medical purposes or repeatedly recommended cannabis to patients for medical purposes without a good faith examination, as specified. The bill would require the Bureau of Medical Marijuana to require an applicant to furnish a full set of fingerprints for the purposes of conducting criminal history record checks. The bill would prohibit a physician and surgeon who recommends cannabis to a patient for a medical purpose from accepting, soliciting, or offering any form of remuneration from a facility licensed under the Medical Marijuana Regulation and Safety Act. The bill would make a violation of this prohibition a misdemeanor, and by creating a new crime, this bill would impose a state-mandated local program.

This bill would require the Governor, under the Medical Marijuana Regulation and Safety Act, to appoint, subject to confirmation by the Senate, a chief of the Bureau of Medical Marijuana Regulation. The act would require the Department of Consumer Affairs to have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation and storage, unrelated to manufacturing, of medical marijuana, and would authorize the department to collect fees for its regulatory activities and impose specified duties on this department in this regard. The act would require the Department of Food and Agriculture to administer the provisions of the act related to, and associated with, the cultivation, and transportation of, medical cannabis

and would impose specified duties on this department in this regard. The act would require the State Department of Public Health to administer the provisions of the act related to, and associated with, the manufacturing and testing of medical cannabis and would impose specified duties on this department in this regard.

This bill would authorize counties to impose a tax upon specified cannabis-related activity.

This bill would require an applicant for a state license pursuant to the act to provide a statement signed by the applicant under penalty of perjury, thereby changing the scope of a crime and imposing a state-mandated local program.

This bill would set forth standards for the licensed cultivation of medical cannabis, including, but not limited to, establishing duties relating to the environmental impact of cannabis and cannabis products. The bill would also establish state cultivator license types, as specified.

(2) This bill would provide that its provisions are severable.

(3) 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.

(4) Existing constitutional provisions require that a statute that limits the right of access to the meeting of public bodies or the writings of public bodies or the writings of public officials and agencies be adopted with finding demonstrating the interest protected by the limitation and the need for protecting that interest. The bill would make legislative findings to that effect.

(5) The bill would become operative only if AB 266 and AB 243 of the 2015–16 Regular Session are enacted and take effect on or before January 1, 2016.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

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

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.

- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Medical Marijuana Regulation.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

SEC. 2. Section 2220.05 of the Business and Professions Code is amended to read:

2220.05. (a) In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians and surgeons representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a priority basis, as follows, with the highest priority being given to cases in the first paragraph:

(1) Gross negligence, incompetence, or repeated negligent acts that involve death or serious bodily injury to one or more patients, such that the physician and surgeon represents a danger to the public.

(2) Drug or alcohol abuse by a physician and surgeon involving death or serious bodily injury to a patient.

(3) Repeated acts of clearly excessive prescribing, furnishing, or administering of controlled substances, or repeated acts of prescribing, dispensing, or furnishing of controlled substances without a good faith prior examination of the patient and medical reason therefor. However, in no event shall a physician and surgeon prescribing, furnishing, or administering controlled substances for intractable pain consistent with lawful prescribing, including, but not limited to, Sections 725, 2241.5, and 2241.6 of this code and Sections 11159.2 and 124961 of the Health and Safety Code, be prosecuted for excessive prescribing and prompt review of the applicability of these provisions shall be made in any complaint that may implicate these provisions.

(4) Repeated acts of clearly excessive recommending of cannabis to patients for medical purposes, or repeated acts of recommending cannabis to patients for medical purposes without a good faith prior examination of the patient and a medical reason for the recommendation.

(5) Sexual misconduct with one or more patients during a course of treatment or an examination.

(6) Practicing medicine while under the influence of drugs or alcohol.

(b) The board may by regulation prioritize cases involving an allegation of conduct that is not described in subdivision (a). Those cases prioritized by regulation shall not be assigned a priority equal to or higher than the priorities established in subdivision (a).

(c) The Medical Board of California shall indicate in its annual report mandated by Section 2312 the number of temporary restraining orders, interim suspension orders, and disciplinary actions that are taken in each priority category specified in subdivisions (a) and (b).

SEC. 3. Section 2241.5 of the Business and Professions Code is amended to read:

2241.5. (a) A physician and surgeon may prescribe for, or dispense or administer to, a person under his or her treatment for a medical condition dangerous drugs or prescription controlled substances for the treatment of pain or a condition causing pain, including, but not limited to, intractable pain.

(b) No physician and surgeon shall be subject to disciplinary action for prescribing, dispensing, or administering dangerous drugs or prescription controlled substances in accordance with this section.

(c) This section shall not affect the power of the board to take any action described in Section 2227 against a physician and surgeon who does any of the following:

(1) Violates subdivision (b), (c), or (d) of Section 2234 regarding gross negligence, repeated negligent acts, or incompetence.

(2) Violates Section 2241 regarding treatment of an addict.

(3) Violates Section 2242 or 2525.3 regarding performing an appropriate prior examination and the existence of a medical indication for prescribing, dispensing, or furnishing dangerous drugs or recommending medical cannabis.

(4) Violates Section 2242.1 regarding prescribing on the Internet.

(5) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) or controlled substances scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Sec. 801 et seq.), or pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these controlled substances or dangerous drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal or the dispensing of the drugs to the person, and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(6) Writes false or fictitious prescriptions for controlled substances listed in the California Uniform Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(7) Prescribes, administers, or dispenses in violation of this chapter, or in violation of Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code.

(d) A physician and surgeon shall exercise reasonable care in determining whether a particular patient or condition, or the complexity of a patient's treatment, including, but not limited to, a current or recent pattern of drug abuse, requires consultation with, or referral to, a more qualified specialist.

(e) Nothing in this section shall prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon pursuant to Sections 809.05, 809.4, and 809.5.

SEC. 4. Section 2242.1 of the Business and Professions Code is amended to read:

2242.1. (a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized

(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars (\$25,000) per occurrence.

(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).

(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Contingent Fund of the Medical Board of California.

(e) If the person or entity that is the subject of an action brought pursuant to this section is not a resident of this state, a violation of this section shall, if applicable, be reported to the person's or entity's appropriate professional licensing authority.

(f) Nothing in this section shall prohibit the board from commencing a disciplinary action against a physician and surgeon pursuant to Section 2242 or 2525.3.

SEC. 5. Article 25 (commencing with Section 2525) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 25. Recommending Medical Cannabis

2525. (a) It is unlawful for a physician and surgeon who recommends cannabis to a patient for a medical purpose to accept, solicit, or offer any form of remuneration from or to a facility issued a state license pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8, if the physician and surgeon or his or her immediate family have a financial interest in that facility.

(b) For the purposes of this section, "financial interest" shall have the same meaning as in Section 650.01.

(c) A violation of this section shall be a misdemeanor punishable by up to one year in county jail and a fine of up to five thousand dollars (\$5,000) or by civil penalties of up to five thousand dollars (\$5,000) and shall constitute unprofessional conduct.

2525.1. The Medical Board of California shall consult with the California Marijuana Research Program, known as the Center for Medicinal Cannabis Research, authorized pursuant to Section 11362.9 of the Health and Safety Code, on developing and adopting medical guidelines for the appropriate administration and use of medical cannabis.

2525.2. An individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California shall not recommend medical cannabis to a patient, unless that person is the patient's attending physician, as defined by subdivision (a) of Section 11362.7 of the Health and Safety Code.

2525.3. Recommending medical cannabis to a patient for a medical purpose without an appropriate prior examination and a medical indication constitutes unprofessional conduct.

2525.4. It is unprofessional conduct for any attending physician recommending medical cannabis to be employed by, or enter into any other agreement with, any person or entity dispensing medical cannabis.

2525.5. (a) A person shall not distribute any form of advertising for physician recommendations for medical cannabis in California unless the advertisement bears the following notice to consumers:

NOTICE TO CONSUMERS: The Compassionate Use Act of 1996 ensures that seriously ill Californians have the right to obtain and use cannabis for medical purposes where medical use is deemed appropriate and has been
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recommended by a physician who has determined that the person's health would benefit from the use of medical cannabis. Recommendations must come from an attending physician as defined in Section 11362.7 of the Health and Safety Code. Cannabis is a Schedule I drug according to the federal Controlled Substances Act. Activity related to cannabis use is subject to federal prosecution, regardless of the protections provided by state law.

(b) Advertising for attending physician recommendations for medical cannabis shall meet all of the requirements in Section 651. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discounts, premiums, gifts, or statements of a similar nature.

SEC. 6. Section 19302.1 is added to the Business and Professions Code, to read:

19302.1. (a) The Governor shall appoint a chief of the bureau, subject to confirmation by the Senate, at a salary to be fixed and determined by the director with the approval of the Director of Finance. The chief shall serve under the direction and supervision of the director and at the pleasure of the Governor.

(b) Every power granted to or duty imposed upon the director under this chapter may be exercised or performed in the name of the director by a deputy or assistant director or by the chief, subject to conditions and limitations that the director may prescribe. In addition to every power granted or duty imposed with this chapter, the director shall have all other powers and duties generally applicable in relation to bureaus that are part of the Department of Consumer Affairs.

(c) The director may employ and appoint all employees necessary to properly administer the work of the bureau, in accordance with civil service laws and regulations.

(d) The Department of Consumer Affairs shall have the sole authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of medical marijuana within the state and to collect fees in connection with activities the bureau regulates. The bureau may create licenses in addition to those identified in this chapter that the bureau deems necessary to effectuate its duties under this chapter.

(e) The Department of Food and Agriculture shall administer the provisions of this chapter related to and associated with the cultivation of medical cannabis. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this chapter. The State Department of Public Health shall administer the provisions of this chapter related to and associated with the manufacturing and testing of medical cannabis.

SEC. 7. Section 19319 is added to the Business and Professions Code, to read:

19319. (a) A qualified patient, as defined in Section 11362.7 of the Health and Safety Code, who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person is not thereby engaged in commercial cannabis activity and is therefore exempt from the licensure requirements of this chapter.

(b) A primary caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code, is exempt from the licensure requirements of this chapter.

SEC. 8. Section 19320 is added to the Business and Professions Code, to read:

19320. (a) Licensing authorities administering this chapter may issue state licenses only to qualified applicants engaging in commercial cannabis activity pursuant to this chapter. Upon the date of implementation of regulations by the licensing authority, no person shall engage in commercial cannabis activity without possessing both a state license and a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following

the requirements of the applicable local ordinance.

(b) Revocation of a local license, permit, or other authorization shall terminate the ability of a medical cannabis business to operate within that local jurisdiction until the local jurisdiction reinstates or reissues the local license, permit, or other required authorization. Local authorities shall notify the bureau upon revocation of a local license. The bureau shall inform relevant licensing authorities.

(c) Revocation of a state license shall terminate the ability of a medical cannabis licensee to operate within California until the licensing authority reinstates or reissues the state license. Each licensee shall obtain a separate license for each location where it engages in commercial medical cannabis activity. However, transporters only need to obtain licenses for each physical location where the licensee conducts business while not in transport, or any equipment that is not currently transporting medical cannabis or medical cannabis products, permanently resides.

(d) In addition to the provisions of this chapter, local jurisdictions retain the power to assess fees and taxes, as applicable, on facilities that are licensed pursuant to this chapter and the business activities of those licensees.

(e) Nothing in this chapter shall be construed to supersede or limit state agencies, including the State Water Resources Control Board and Department of Fish and Wildlife, from establishing fees to support their medical cannabis regulatory programs.

SEC. 9. Section 19322 is added to the Business and Professions Code, to read:

19322. (a) A person or entity shall not submit an application for a state license issued by the department pursuant to this chapter unless that person or entity has received a license, permit, or authorization by a local jurisdiction. An applicant for any type of state license issued pursuant to this chapter shall do all of the following:

(1) Electronically submit to the Department of Justice fingerprint images and related information required by the Department of Justice for the purpose of obtaining information as to the existence and content of a record of state or federal convictions and arrests, and information as to the existence and content of a record of state or federal convictions and arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance, pending trial or appeal.

(A) The Department of Justice shall provide a response to the licensing authority pursuant to paragraph (1) of subdivision (p) of Section 11105 of the Penal Code.

(B) The licensing authority shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for applicants.

(C) The Department of Justice shall charge the applicant a fee sufficient to cover the reasonable cost of processing the requests described in this paragraph.

(2) Provide documentation issued by the local jurisdiction in which the proposed business is operating certifying that the applicant is or will be in compliance with all local ordinances and regulations.

(3) Provide evidence of the legal right to occupy and use the proposed location. For an applicant seeking a cultivator, distributor, manufacturing, or dispensary license, provide a statement from the owner of real property or their agent where the cultivation, distribution, manufacturing, or dispensing commercial medical cannabis activities will occur, as proof to demonstrate the landowner has acknowledged and consented to permit cultivation, distribution, manufacturing, or dispensary activities to be conducted on the property by the tenant applicant.

(4) If the application is for a cultivator or a dispensary, provide evidence that the proposed location is located beyond at least a 600-foot radius from a school, as required by Section 11362.768 of the Health and Safety Code.

(5) Provide a statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

(6) (A) For an applicant with 20 or more employees, provide a statement that the applicant will enter into, or

(B) For the purposes of this paragraph, "employee" does not include a supervisor.

(C) For purposes of this paragraph, "supervisor" means an individual having authority, in the interest of the licensee, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(7) Provide the applicant's seller's permit number issued pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code or indicate that the applicant is currently applying for a seller's permit.

(8) Provide any other information required by the licensing authority.

(9) For an applicant seeking a cultivation license, provide a statement declaring the applicant is an "agricultural employer," as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law.

(10) For an applicant seeking licensure as a testing laboratory, register with the State Department of Public Health and provide any information required by the State Department of Public Health.

(11) Pay all applicable fees required for licensure by the licensing authority.

(b) For applicants seeking licensure to cultivate, distribute, or manufacture medical cannabis, 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) Inventory procedures.

(5) Quality control procedures.

SEC. 10. Section 19323 is added to the Business and Professions Code, to read:

19323. (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 chapter.

(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 chapter or any rule or regulation adopted pursuant to this chapter, including but not limited to, any requirement imposed to protect natural resources, instream flow, and water quality pursuant to subdivision (a) of Section 19332.

(2) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 2 (commencing with Section 480) of Division 1.5.

(3) A local agency has notified the licensing authority that a licensee or applicant within its jurisdiction is in violation of state rules and regulation relating to commercial cannabis activities, and the licensing authority, through an investigation, has determined that the violation is grounds for termination or revocation of the license. The licensing authority shall have the authority to collect reasonable costs, as determined by the licensing authority, for investigation from the licensee or applicant.

(4) The applicant has failed to provide information required by the licensing authority.

(5) 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 felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.
- (B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
- (C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
- (D) A felony conviction involving fraud, deceit, or embezzlement.
- (6) The applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code.
- (7) 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 Section 12025 or 12025.1 of the Fish and Game Code.
- (8) 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 unlicensed commercial medical cannabis activities or has had a license revoked under this chapter in the three years immediately preceding the date the application is filed with the licensing authority.
- (9) 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.

SEC. 11. Section 19324 is added to the Business and Professions Code, to read:

19324. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing. Within 30 days of service of the notice, the applicant may file a written petition for a license with the licensing authority. Upon receipt of a timely filed petition, the licensing authority shall set the petition for hearing. The hearing 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.

SEC. 12. Section 19325 is added to the Business and Professions Code, to read:

19325. 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 Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

SEC. 13. 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.

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.

19332.5. (a) Not later than January 1, 2020, the Department of Food and Agriculture in conjunction with the bureau, shall make available a certified organic designation and organic certification program for medical marijuana, if permitted under federal law and the National Organic Program (Section 6517 of the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.

(b) The bureau may establish appellations of origin for marijuana grown in California.

(c) It is unlawful for medical marijuana to be marketed, labeled, or sold as grown in a California county when the medical marijuana was not grown in that county.

(d) It is unlawful to use the name of a California county in the labeling, marketing, or packaging of medical marijuana products unless the product was grown in that county.

19333. An employee engaged in commercial cannabis cultivation activity shall be subject to Wage Order 4-2001 of the Industrial Welfare Commission.

SEC. 14. Article 7.5 (commencing with Section 19335) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 7.5. Unique Identifier and Track and Trace Program

19335. (a) The Department of Food and Agriculture, in consultation with the bureau, shall establish a track and trace program for reporting the movement of medical marijuana items throughout the distribution chain that utilizes a unique identifier pursuant to Section 11362.777 of the Health and Safety Code and secure packaging and is capable of providing information that captures, at a minimum, all of the following:

(1) The licensee receiving the product.

(2) The transaction date.

(3) The cultivator from which the product originates, including the associated unique identifier, pursuant to Section 11362.777 of the Health and Safety Code.

(b) (1) The Department of Food and Agriculture shall create an electronic database containing the electronic shipping manifests which shall include, but not be limited to, the following information:

(A) The quantity, or weight, and variety of products shipped.

(B) The estimated times of departure and arrival.

(C) The quantity, or weight, and variety of products received.

(D) The actual time of departure and arrival.

(E) A categorization of the product.
Mt. Shasta City Council Regular Meeting Agenda
February 8, 2016

(F) The license number and the unique identifier pursuant to Section 11362.777 of the Health and Safety Code issued by the licensing authority for all licensees involved in the shipping process, including cultivators, transporters, distributors, and dispensaries.

(2) (A) The database shall be designed to flag irregularities for all licensing authorities in this chapter to investigate. All licensing authorities pursuant to this chapter may access the database and share information related to licensees under this chapter, including social security and individual taxpayer identifications notwithstanding Section 30.

(B) The Department of Food and Agriculture shall immediately inform the bureau upon the finding of an irregularity or suspicious finding related to a licensee, applicant, or commercial cannabis activity for investigatory purposes.

(3) Licensing authorities and state and local agencies may, at any time, inspect shipments and request documentation for current inventory.

(4) The bureau shall have 24-hour access to the electronic database administered by the Department of Food and Agriculture.

(5) The Department of Food and Agriculture shall be authorized to enter into memoranda of understandings with licensing authorities for data sharing purposes, as deemed necessary by the Department of Food and Agriculture.

(6) Information received and contained in records kept by the Department of Food and Agriculture or licensing authorities for the purposes of administering this section are confidential and shall not be disclosed pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), except as necessary for authorized employees of the State of California or any city, county, or city and county to perform official duties pursuant to this chapter or a local ordinance.

(7) Upon the request of a state or local law enforcement agency, licensing authorities shall allow access to or provide information contained within the database to assist law enforcement in their duties and responsibilities pursuant to this chapter.

19336. (a) Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the bureau's collection of the fees, civil fines, and penalties imposed pursuant to this chapter.

(b) Chapter 8 (commencing with Section 55381) of Part 30 of Division 2 of the Revenue and Taxation Code shall apply with respect to the disclosure of information under this chapter.

SEC. 15. Article 8 (commencing with Section 19337) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 8. Licensed Transporters

19337. (a) A licensee authorized to transport medical cannabis and medical cannabis products between licenses shall do so only as set forth in this chapter.

(b) Prior to transporting medical cannabis or medical cannabis products, a licensed transporter of medical cannabis or medical cannabis products shall do both of the following:

(1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest must include the unique identifier, pursuant to Section 11362.777 of the Health and Safety Code, issued by the Department of Food and Agriculture for the original cannabis product.

(2) Securely transmit the manifest to the bureau and the licensee that will receive the medical cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 19335.

(c) During transportation, the licensed transporter shall maintain a physical copy of the shipping manifest and make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.

(d) The licensee receiving the shipment shall maintain each electronic shipping manifest and shall make it available upon request to agents of the Department of Consumer Affairs and law enforcement officers.

available upon request to the Department of Consumer Affairs and any law enforcement officers.

(e) Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment.

(f) Transporting, or arranging for or facilitating the transport of, medical cannabis or medical cannabis products in violation of this chapter is grounds for disciplinary action against the license.

19338. (a) This chapter shall not be construed to authorize or permit a licensee to transport or cause to be transported cannabis or cannabis products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of medical cannabis or medical cannabis products on public roads by a licensee transporting medical cannabis or medical cannabis products in compliance with this chapter.

SEC. 16. Article 11 (commencing with Section 19348) is added to Chapter 3.5 of Division 8 of the Business and Professions Code, to read:

Article 11. Taxation

19348. (a) (1) A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant to this chapter.

(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.

SEC. 17. 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. 18. The Legislature finds and declares that Section 14 of this act, which adds Section 19335 to the Business and Professions Code, thereby imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The limitation imposed under this act is necessary for purposes of compliance with the federal Health Insurance Act.
February 8, 2016

Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.), the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code).

SEC. 19. 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. 20. This act shall become operative only if Assembly Bill 266 and Assembly Bill 243 of the 2015-16 Session are enacted and take effect on or before January 1, 2016.

City Council Agenda Item # 10

Date: February 8, 2016
To: Mayor and City Council
From: Kristen Maze, City Planner
Subject: Zone Amendment 2016-02 Planning Commission Reduction

<input checked="" type="checkbox"/>	Regular
<input type="checkbox"/>	Consent
<input type="checkbox"/>	Closed
<input type="checkbox"/>	Presentation

Recommendation:

City staff respectfully recommends that the City Council review and approve the proposed zone amendment 2016-02 to reduce the size of Planning Commission from seven members to five members and simplify the appointment process.

Background & Summary:

The seven (7) members of Planning Commission serve at the pleasure of the City Council. The Commission consists of a minimum of five (5) members who reside within the City limits of the City of Mt. Shasta and two (2) members who reside outside of the City limits. The Commission serves as an advisory body to the Mt. Shasta City Council regarding matters related to City Planning. The Planning Commission has had a vacancy since September 1, 2015. The City advertised the Planning Commission vacancy on three occasions and received only two applicants.

The size of Planning Commission is usually established by ordinance. According to the City of Mt. Shasta Municipal Code;

Chapter 2.12 Section 2.12.020 (A) The City Planning Commission shall consist of seven members to be appointed by majority vote of the City Council, and serve for a term of four years, or until removed by majority vote of the City Council. Not more than two Planning Commission members may reside outside the City.

The Planning Commission currently has one opening with that term ending on January 31, 2017 and two other Planning Commission terms will end January 31, 2016. Beginning September 1, 2015 the City began advertising for three Planning Commission vacancies. The City advertised on our website, in the local newspaper, on Craigslist and word of mouth/email via staff, Planning Commission and City Council. The City Council recently interviewed two Planning Commissioners that are requesting to continue their membership. Based on the lack of response for a third candidate staff is proposing that the Planning Commission be reduce from seven members to five members.

On January 19, 2016 the Planning Commission held a public hearing to reduce the Planning Commission size. The Planning Commission voted unanimously to maintain the seven member Commission and simplify the interview and appointment process, but to change the number of members allow from outside the City limits from two to three as long as the person maintains a

Mt. Shasta, 96067 zip code. Three members would be allowed outside the City limits while the other four members would be from inside the City limits.

Staff has completed a query of several nearby cities to establish the Commission size of each agency;

- Weed 5 Planning Commissioners
- Dunsmuir 7 Planning Commissioners
- Yreka 7 Planning Commissioners
- Shasta Lake City 7 Planning Commissioners
- Anderson 5 Planning Commissioners

There are arguments for both a small and large size Planning Commission. The argument to maintain a seven member Planning Commission is for the basic numbers and the idea of always having a quorum, however with five members there will still be a quorum and with less Commissioners there may be more incentive to be committed to attend every meeting. In the past months attendance has not been an issue for our Planning Commission, although there have been times when at least three commissioners were not able to attend for various reasons.

According to the American Planning Association in which a survey of planning agencies was conducted regarding Planning Commissions and their size, planning agency staff members indicated a range from 4-5 members up to 20 members was considered optimum size. In general, planning agencies were either satisfied with the size of the Commission or would like to reduce it because they were too cumbersome or due to the lack of growth and development. This survey reported the largest Planning Commission size as 17 and the smallest as 3, so the range is wide. The City of Mt. Shasta would be considered one of the smaller size Commissions. Some of the agencies felt that the size of the community mattered for good representation although the small jurisdictions that were surveyed had a population of 50,000 or more.

The reality is that most planning agencies are happy to get a few interested, punctual, capable commission members. Therefore, whatever the size the Commission should be adequate to assure a reasonable chance to get several active members. The current concern of staff is that we do not have three individuals interested in becoming a Planning Commissioner. Therefore, by reducing the size to five Commission members it will be necessary to eliminate one position for a five member commission as opposed to continue to operate with a 6 member Commission with the possibility of a tie vote at some point.

In addition to the proposed Commission size reduction, the City proposes to simplify the appointment process. It is proposed that the City Council will interview the Planning Commission applicants prior to a regularly scheduled meeting, then make a decision and hold a vote at the following regularly scheduled meeting prior to the end of each term limit.

The proposed amendment will consist of the following;

2.12.020 Appointment of members – Terms.

(A) The City Planning Commission shall consist of ~~seven~~ five members, to be appointed by majority vote of the City Council, and to serve for a term of four years, or until removed by majority vote of the City Council. Not more than two Planning Commission members may reside outside of the City.

~~(B) Prior to the appointment of a Planning Commissioner, the Mayor shall appoint a Nominating Committee of three persons, consisting of a member of the Planning Commission, and two Council members, one of which may be the Mayor. The Nominating Committee shall recommend the person or persons whose names will be submitted to the City Council for appointment to fill whatever vacancies exist. If more than one such name is submitted, the entire list shall be made known to the City Council before it votes, but the Council shall vote on each name submitted, separately, and in the order specified by the Nominating Committee, until all vacancies have been filled. If not all positions are filled from those applying for the position, the Mayor shall appoint a new Nominating Committee, which shall meet and make further nominations.~~

~~(C) Not less than five days before the Nominating Committee convenes to consider nominations, notice shall be posted in a public place at City Hall to the effect that interested persons may apply to the Committee to be considered for the positions. The City Council may, by motion, direct City staff to take additional actions to advertise the vacancies.~~

~~(D) The Nominating Committee shall meet in the City Council Chambers, in open session, and prior notice of its meetings shall be posted at a public place at City Hall.~~

~~(E) No Planning Commissioner may serve on a Nominating Committee to consider his or her reappointment nor to appoint his or her successor. Instead, the Mayor shall *appoint another Commissioner to the Committee*. All members shall be appointed by the City Council, subject to approval of a majority of the Council members. (Ord. CCO-99-07, 2000; Ord. CCO-90-10, 1991; Ord. 350, 1978; Ord. 145 § 2, 1950) (Ord CCO-16-XX, 2016)~~

Financial Impact:

The proposed ordinance ZA 2016-02 would have no financial impact on the City of Mt. Shasta.

Compliance with the City Council’s 2014-2017 Strategic Plan:

The proposed amendment would meet the Strategic Plan Focus I -IV by maintaining a productive and effective Planning Commission.

Possible Actions:

1. Adopt Ordinance 16-03 approving the first reading for the proposed zone amendment to reduce the size of Planning Commission from seven members to five members and simplify the interview and appointment process and approve the exemption from CEQA pursuant to the CEQA Guidelines section 15305.

2. Adopt Ordinance 16-03 approving the first reading for the proposed zone amendment to maintain the seven member Planning Commission allowing four member inside the City limits and three members outside the City limits within the zip code of 96067 simplifying the interview and appointment process and approve the exemption from CEQA pursuant to the CEQA Guidelines section 15305.
3. Deny Ordinance 16-03 to reduce the size of Planning Commission from seven members to five members and simplify the interview and appointment process

Attachments:

- January 19, 2016 Draft PC Minutes
- Proposed Ordinances CCO 16-03

**Meeting Minutes of the Mt. Shasta Planning Commission
Regular Meeting Minutes**

Mt. Shasta Community Center, 629 Alder Street
Tuesday, January 19, 2016; 6:00 p.m.

Item
<p>1. Call to Order and Flag Salute At the hour of 6:00 p.m., Chair Higuera called the meeting to order and led the audience in the Pledge of Allegiance.</p>
<p>2. Roll call Commissioners Present: Findling, Wagner, Chair Higuera, and Pardee Commissioners Absent: Derby</p>
<p>3. Approval of Minutes: a. Minutes of November 17, 2015 Regular Planning Commission Meeting.</p> <p style="padding-left: 40px;">Motion to approve the Minutes of August 18, 2015. Motion by: Commissioner Findling Second by: Commissioner Wagner 4 – Ayes Findling, Pardee, Wagner and Higuera 0 – Noes 1- Abstain Clure</p>
<p>4. Correspondence from Public and Staff: None</p>
<p>5. Public Comment: Council woman Kathy Morter spoke regarding the invitation to be on a “First Impression” committee to form a team and improve the downtown. The Planning Commissioners were interested in her invitation and asked that she email them the information.</p>
<p>6. Consent Agenda: None</p>
<p>7. <u>Commission Action</u>: Medical Marijuana Cultivation and Delivery Regulations Zone Amendment 2016-01 Motion by Findling to recommend denial with the statement that the Planning Commission would like to regulate commercial medical marijuana cultivation and delivery. Second by Commissioner Clure 5 – Ayes Findling, Pardee, Clure, Wagner and Higuera 0 - Noes The public hearing was opened. Elizabeth Taylor stated that she is the owner/operator of one of the two local dispensaries in the City and she is currently working with lobbyists for medical marijuana in Sacramento. She suggested that the City put together an ad hoc committee to discuss the issues. She stated that she believes strongly in education on this matter. She also stated that because the County has prohibited medical marijuana commercial cultivation and delivery she could not and would not deliver in the County. She stated as a dispensary owner she would not deliver in the City because of the money and product that she would be carrying. She was not comfortable with delivering although she understood the need. Roslyn McCoy spoke about her mother in Colorado that has hip problems that enjoys her medical marijuana tootsie rolls.</p>

Steve Russ had questions about the ordinance and discussed his past issues with law enforcement concerning medical marijuana cultivation.

Commissioner Higuera had concerns about prohibiting the commercial marijuana cultivation and delivery in the City but understood the need to have an ordinance in place before the March 1, 2016 deadline so we can regulate the use locally. Commissioner Pardee also had concerns and suggested the matter be tabled. Commissioner Wagner asked who wrote the proposed ordinance and why the City staff decided to prohibit. Commissioner Wagner stated she felt this was not good business for the City. Commissioner Findling agreed and wanted an opportunity to rewrite the ordinance to regulate commercial marijuana cultivation and delivery. Discussion included whether this would impact the current dispensaries in the City. Staff indicated that this would in no way affect the dispensaries or the individual grows for patient and caregivers allowed by Senate Bill 215. Commissioner Clure suggested that we replace the word "prohibit" with regulate and pass the ordinance onto the City Council. All the Commissioners were not comfortable with the short time table to act on this ordinance.

8. Commission Action: Reduce the size of Planning Commission from seven (7) to five (5).

Zone Amendment 20167-02

Motion to approve by Commissioner Findling with changes to the proposed ordinance, to remain at 7 commissioners, however to allow 3 persons be outside the City limits within the Mt. Shasta zip code (96067) with the remaining 4 commissioner to be located inside the City limits.

Second by Commissioner Clure

5 – Ayes Findling, Pardee ,Clure, Wagner and Higuera

0 - Noes

Commissioner Higuera stated that she did not support the reduction in size of the planning commission. Commissioner Wagner asked where the City advertised for the planning commission members. Staff explained that we have been advertising since September 2015 for the vacancy position which was posted on the City website and in the local newspaper, the City also posted the two openings and the existing vacancy on Craigslist. Commissioner Wagner also asked about the interview process changes and agreed with a simplified interview process. All the Commissioners agreed the interview process would be better served if it were less onerous.

Commissioner Findling stated that she also did not support the reduction and believes it is important to have seven individuals on the commission for their opinions. Commissioner Pardee agreed that a seven member Planning Commission was important to the City planning process.

The public hearing was opened. Elizabeth Taylor, local medical marijuana dispensary owner asked about volunteering for Planning Commission and what it took to be a Commissioner. Commissioner Higuera told her that we already had two Commissioner from outside the City limits therefore it wasn't possible for her to be on the Commission at this time.

There was discussion about increasing the number of people eligible and the Commission stated that if the boundary and number of people outside the City limits was increased that would encourage more interest in membership.

9. Commission and Staff Comments

Staff reported on the City Council public hearing regarding the proposed short term rental in the R-1 zone district with an administrative use permit. Staff informed the Commission of the 3 to 2 vote to deny the proposed ordinance for allow with and Administrative use permit short term rentals in the R-1 zone district. Commissioner Wagner stated that it was primarily because the Council did not want to negatively affect the existing businesses that are permitted to operate on a short-term basis such as the existing Bed and Breakfast and motels in the area.

Staff gave an overview of the priorities that the Planning Department was working on and what the

Planning Commission would be involved with.

Commissioner Findling reported about the need for additional members on the Active Transportation Committee. Commissioner Findling also asked about recent closure of the Rockfellow house that is managed by the Opportunity Center for developmental disabled persons. Findling would like the City to look into the possibility of creating an affordable housing unit at that site. Staff stated that the City would fully support the site being affordable housing, however it is privately owned therefore it would require the owners to make any transitions or changes to the existing housing situation.

10. Adjourn: Next regular meeting to be held Tuesday February 16, 2016.

There being no further business before the Planning Commission, the meeting was adjourned at the hour of 7:55 p.m.

ORDINANCE NO. 16-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MT. SHASTA
AMENDING CHAPTER 2.12, SECTION 2.12.020 TO THE MT. SHASTA MUNICIPAL
CODE APPOINTMENT OF PLANNING COMMISSION MEMBERS - TERMS**

The City Council of the City of Mt. Shasta does hereby ordain as follows:

Section 1. Findings and Purpose.

The City Council finds and declares as follows:

A. The proposed zoning code text is generally consistent with the goals, policies and objectives of the General Plan.

B. The proposed code amendment promotes public health, safety and general welfare and serves the goals and purposes of the zoning code.

C. The proposed code amendment will create a complete Planning Commission without vacancies.

D. The Planning Commission held a duly noticed public hearing on January 19, 2016 at which time it considered all evidence presented, both written and oral and at the end of the hearing voted to adopt a resolution recommending that the City Council adopt this ordinance.

E. The City Council held a duly noticed public hearing on this ordinance on February 8, 2016, at which time it considered all evidence presented, both written and oral.

Section 2. Enactment. The Mt. Shasta Municipal Code Chapter 2.12 Section 2.12.020 is hereby amended to read as follows:

Chapter 2.12

Planning Commission

2.12.020 Appointment of members – Terms.

(A) The City Planning Commission shall consist of seven members, to be appointed by majority vote of the City Council, and to serve for a term of four years, or until removed by majority vote of the City Council. Not more than ~~two~~ three Planning Commission members may reside outside of the City within the Mt Shasta 96067 zip code.

(B) All members shall be appointed by the City Council, subject to approval of a majority of the Council members. (Ord. CCO-99-07, 2000; Ord. CCO-90-10, 1991; Ord. 350, 1978; Ord. 145 § 2, 1950) (Ord CCO-16-03, 2016)

Section 3. Nothing in this Ordinance shall be interpreted to mean that the City's zoning scheme allows any other use not specifically listed therein.

Section 4. CEQA. This ordinance is exempt from CEQA pursuant to CEQA Guidelines section 15305, minor alterations in land use limitations in areas with an average slope of less than 20% that do not result in any changes in land use or density and section 15061(b)(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and CEQA does not apply where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment.

Section 5. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

Section 6. To the extent the provisions of the Mt. Shasta Municipal Code as amended by this Ordinance are substantially the same as the provisions of that Code as they read immediately prior to the adoption of this Ordinance, then those provisions shall be construed as continuations of the earlier provisions and not as new enactments.

Section 7. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of adoption and shall post a certified copy of this Ordinance, including the vote for and against same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 8th day of February, 2016.

AYES:

NOES:

ABSENT:

Jeffrey Collings, Mayor

ATTEST:

Larisa Proulx, Deputy City Clerk

APPROVED AS TO FORM:

John Sullivan Kenny, City Attorney

City Council Agenda Item # 11
Staff Report

Meeting Date: February 8, 2016

To: Mayor and City Council

From: Paul Eckert, City Manager and Parish Cross, Police Chief

Subject: Update Regarding Mitigation Efforts at The Nest Housing Complex

x	Regular
	Consent
	Closed
	Presentation

Recommendation:

City staff respectfully recommends the City Council consider and accept the staff presentation regarding the current City mitigation efforts to minimize public health and safety and nuisance mitigation concerns at The Nest housing complex.

Background:

City staff will present background, including photos at the January 25th City Council meeting. Neighbors will be invited to attend the meeting. In summary, our community continues to suffer as a result of long-term deficiencies and gross negligence at 305 Old McCloud Road in Mt. Shasta, CA, commonly referred to as “The Nest.” The property’s deficiencies have resulted in significant City staff time at tax payer expense including: Police calls for service; code enforcement actions; building code compliance checks; legal fees; and significant administrative staff time responding to public complaints. Our City Attorney is currently engaged in the process and is working to achieve compliance.

Our past communication efforts have included dozens of contacts with The Nest owner, Mr. Edelson and Mr. Edelson’s property manager. The City has received a consistent flow of complaints regarding the public safety and health and blight at Mr. Edelson’s property at 305 Old McCloud Road. His Property Manager, Glenn Schneider, an employee of Mount Shasta Hotels LLC, is very familiar with the complaints shared by area residents. Mr. Schneider is also well aware of the public safety and health issues the City has repeatedly identified.

Financial Impact:

There are no direct fiscal impacts associated with this update to the City Council regarding mitigation efforts at The Nest housing complex.

Compliance with the City Council’s 2014-2017 Strategic Plan:

The City Council’s efforts to mitigate the adverse impacts of a blighted and potentially unsafe property falls under: Strategic Focus I – Enhance and Expand Quality of Life and Strategic Focus and Strategic Focus IV – Grow Mt. Shasta Pride and Quality.

Attachments:

None