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SAN BERNARDINO REGULATE MARIJUANA ACT OF 2016

The People of the City of San Bernardino do ordain as follows:

SECTION 1: TITLE

This initiative shall be known as and may be cited as the San Bernardino Regulate Marijuana Act of 2016.

SECTION 2: FINDINGS AND DECLARATIONS

We the people of the City of San Bernardino do find and declare the following:

- A. The people of the State of California have enacted Proposition 215, the Compassionate Use Act of 1996 ("CUA") (codified in Health and Safety Code Section 11362.5 et seq.), which allows for the possession and cultivation of marijuana for use by certain qualified persons.
- B. In 2004, the State of California enacted Senate Bill 420, the Medical Marijuana Program Act ("MMPA") (codified in California Health and Safety Code section 11362.7 et seq.), which purports to clarify the scope of the CUA and which also recognized the right of cities and other governing bodies to adopt and enforce rules and regulations consistent with the MMPA.
- C. In 2015, the State of California passed the Medical Marijuana Regulation and Safety Act ("MMRSA") to provide a State framework for licensure and regulation of medical marijuana within the State, while continuing to recognize the authority of local governments to regulate medical marijuana related activity within their respective jurisdictions.
- D. Without regulation, the cultivation and manufacturing of marijuana, and its subsequent transportation, distribution, and dispensation has potential adverse effects to the health and safety of the community. By creating a fair and reasonable regulatory environment for marijuana businesses, the City will be able to maintain order while avoiding undue burdens on its financial resources.
- E. Bringing marijuana into a regulated and legitimate market will create a transparent and accountable system. City revenues from a legal and regulated market can cover not only the cost of administering the new law, but can also be used to invest in many programs, including but not limited to; public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law; invest in the community to reduce the illicit market and create job opportunities.

SECTION 3: PURPOSE AND INTENT

It is the intent of the people of the City of San Bernardino in enacting this measure to:

- A. Provide for a means of cultivation, production, manufacturing, testing, transportation, distribution, dispensing, acquisition and use of marijuana by persons who qualify to obtain, possess, and use marijuana for purposes consistent with State law.

B. Protect public health and safety through reasonable limitations on marijuana businesses as they relate to noise, air and water quality, food safety, community safety, security, nuisance conditions and other health and safety concerns.

C. Promote lively street life and high quality neighborhoods by limiting the concentration of marijuana businesses in the City.

D. Impose fees to cover the cost to the City of regulating marijuana businesses in an amount sufficient for the City to recover its related costs, and to help mitigate against possible adverse secondary effects.

E. Adopt a mechanism to monitor compliance with the provisions of this City Code and State law.

F. Create regulations that address the particular needs of the residents and businesses of the City and coordinate with laws and regulations that have been or may be enacted by the State regarding the same, including but not limited to marijuana for medical or recreational use.

G. Facilitate the implementation of State law without going beyond the authority granted to the City by the State.

H. Allow marijuana businesses only by persons that have demonstrated an intent and ability to comply with this City Code and State law.

I. Protect public safety by limiting the locations in the City where marijuana businesses may operate.

SECTION 4: AMMENDMENT OF DEVELOPMENT CODE

Section 19.02.060(1), Establishment of Zoning Districts, is hereby amended to add Marijuana Business Overlay 1 (M-B Overlay 1) and Marijuana Business Overlay 2 (M-B Overlay 2).

SECTION 5: ADDITION OF CHAPTER 19.420, "MARIJUANA BUSINESS OVERLAY ZONES (M-B OVERLAY)," TO TITLE 19 OF THE CITY OF SAN BERNARDINO MUNICIPAL CODE

Chapter 19.420, entitled, Marijuana Business Overlay Zones (M-B Overlay), of Title 19, entitled Zoning, of the City of San Bernardino Municipal Code is added to read as follows:

CHAPTER 19.420 MARIJUANA BUSINESS OVERLAY ZONES (M-B OVERLAY)

19.420.010 Intent and purpose.

It is the intent and purpose of the marijuana business overlay zones (hereinafter zone "M-B Overlay 1" and zone "M-B Overlay 2") to allow marijuana businesses in portions of the commercial and industrial zones where such uses would be consistent with the general plan, compatible with surrounding commercial and industrial uses and not materially detrimental to adjacent properties; it is the further intent of this chapter to regulate the location, cultivation, production, manufacturing, testing, transportation, distribution, dispensing, acquisition and use of marijuana in a manner that is consistent with the State Compassionate Use Act ("CUA"), the State Medical Marijuana Program Act ("MMPA"), and the State Medical Marijuana Regulation and Safety Act ("MMRSA"), as well as with laws and

regulations that have been or may be enacted by the State regarding the same, including but not limited to marijuana for medical or recreational use; it is the further intent of this chapter to regulate marijuana businesses which, unless closely regulated, have the potential of causing serious adverse secondary effects upon the community. This chapter is intended to minimize this potential impact. To do so, the following regulations:

A. Provide for a means of cultivation, production, manufacturing, testing, transportation, distribution, dispensing, acquisition and use by persons who qualify to obtain, possess, and use marijuana for purposes consistent with State law.

B. Protect public health and safety through reasonable limitations on marijuana businesses as they relate to noise, air and water quality, food safety, community safety, security, nuisance conditions and other health and safety concerns;

C. Promote lively street life and high quality neighborhoods by limiting the concentration of marijuana businesses in the City;

D. Impose fees to cover the cost to the City of regulating marijuana businesses in an amount sufficient for the City to recover its related costs, and to help mitigate against possible adverse secondary effects;

E. Adopt a mechanism to monitor compliance with the provisions of this Chapter and State law;

F. Create regulations that address the particular needs of the residents and businesses of the City and coordinate with laws and regulations that have been or may be enacted by the State regarding the same, including but not limited to marijuana for medical or recreational use;

G. Facilitate the implementation of State law without going beyond the authority granted to the City by them;

H. Allow marijuana businesses only by persons that have demonstrated an intent and ability to comply with this Chapter and State law;

I. Protect public safety by limiting the locations in the City where marijuana businesses may operate.

19.420.020 Definitions.

"Assessor's Parcel Number" or "(APN)" means the Assessor's Parcel Number as assigned by the San Bernardino County Assessor and relates to the real property which it identified as of January 1, 2016.

"Building" means any structure having a roof supported by columns or by walls and designed for the shelter or housing of any person, chattel or property of any kind.

"Bureau" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means the Bureau of Medical Marijuana Regulation within the Department of Consumer Affairs.

"Canopy" means the area of floor space covered by any part of a marijuana plant when viewed from above.

"Cannabis" has the same meaning as cannabis or marijuana as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, Cannabis

means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this chapter, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"City" means City of San Bernardino, California.

"City council" shall mean the city council of the City of San Bernardino, California.

"Code" means City of San Bernardino municipal code, including development code.

"Commercial cannabis activity" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of marijuana or a marijuana product, except as set forth in Section 19319, related to qualifying individuals.

"Conviction" means a plea or verdict of guilty, or a conviction following a plea of nolo contendere.

"Cultivation" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Cultivation Site" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means a facility where marijuana 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.

"Delivery" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means the commercial transfer of marijuana or marijuana 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 individuals to arrange for or facilitate the commercial transfer by a licensed dispensary of marijuana or marijuana products.

"Dispensary" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means a facility where marijuana, marijuana products, or devices for the use of marijuana or marijuana products are offered, either individually or in any combination, for retail sale, including an establishment that delivers, pursuant to express authorization by local ordinance, marijuana and marijuana products as part of a retail sale.

"Dispensing" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means any activity involving the retail sale of marijuana or marijuana products from a dispensary.

"Distribution" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this chapter.

"Distributor" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means a person licensed under this chapter to engage in the business of purchasing marijuana from a licensed cultivator, or marijuana products from a licensed manufacturer, for sale to a licensed dispensary.

"Director" means the City of San Bernardino Planning Director, or his/her designee.

"Greenhouse" means a building, typically constructed of a translucent building material in which plants are grown in a controlled environment. For the purposes of this chapter a cultivation site within a Greenhouse is considered to be an indoor cultivation site.

"Indoor" means situated, conducted, or used within a building or under cover.

"Licensee" means a person issued a state marijuana business license under State law.

"Manufacturer" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means a person that conducts the production, preparation, propagation, or compounding of manufactured marijuana, as described in subdivision (ae), or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or relabels its container, that holds a valid state license pursuant to this chapter, and that holds a valid local license or permit.

"Manufactured cannabis" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it 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.

"Manufacturing site" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means a location that produces, prepares, propagates, or compounds manufactured marijuana or marijuana 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.

"Marijuana" has the same meaning as cannabis.

"Medical marijuana" has the same meaning as marijuana.

"Nursery" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.

"Permit" means a marijuana business permit issued by the City that authorizes a person to conduct commercial marijuana activity, pursuant to this chapter.

"Permittee" means a person issued a permit under this chapter to engage in commercial marijuana activity.

"Person" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it 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.

"Premise" means a distinct and definite location, which may include a building, a part of a building, a room or any other defined contiguous area.

"Parcel" means a contiguous quantity of land, in the possession of, or owned by, or recorded as the property of the same claimant or person.

"State law" means the State Compassionate Use Act ("CUA"), the State Medical Marijuana Program Act ("MMPA"), and the State Medical Marijuana Regulation and Safety Act ("MMRSA"), as well as with laws and regulations that have been or may be enacted by the State regarding the same, including but not limited to marijuana for medical or recreational use, as it existed as of January 1, 2016.

"Transport" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means the transfer of marijuana or marijuana 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.

"Transporter" has the same meaning as the term as provided in MMRSA at this time, but if that definition is amended by State law in the future, as amended. Currently under MMRSA, it means a person issued a state license by the bureau to transport marijuana or marijuana products in an amount above a threshold determined by the bureau between facilities that have been issued a state license pursuant to this chapter.

"Zoning code" means Title 19 (zoning) of the Code.

19.420.040 Location, type, and numerical limits requirements.

To provide for safe, convenient access for the citizens and patients of San Bernardino:

A. Marijuana businesses shall only be located within the M-B Overlay 1 or M-B Overlay 2, and shall not be located:

1. Within the distance restrictions of the uses as described in Business and Professions Code Section 19322 as of January 1, 2016; or

2. Within 600 feet from any property zoned RE, RL, RS, RU, RM, RMH, or RH as of January 1, 2016.

The distances specified in this section shall be measured in a straight line, without regard to intervening structures, from the nearest point of the property line of the premises in which the proposed marijuana business is to be established to the nearest point of the property line of a use or zoning classification listed above.

Non-conforming residential uses are not sensitive uses.

The subsequent establishment of a sensitive use or sensitive zone as outlined in this section shall not disqualify an existing marijuana business.

B. Only the following marijuana business state license types: Cultivation (1A, 1B, 2A, 2B, and 4); Manufacturing (6, 7); Testing (8); Dispensary (10, 10a); Transportation (11); and Distribution (12) as defined in the State law will be allowed within the M-B Overlay zones as follows:

Table 1:

State License Types Allowed by M-B Overlay zones

M-B Overlay zone	State License Type
M-B Overlay 1	1A, 1B, 2A, 2B, 4, 6, 7, 8, 11 and 12
M-B Overlay 2	1A, 6, 8, 10, 10A, 11 and 12

C. Assignment of M-B Overlay 1 and M-B Overlay 2 on Specific Parcels. Table 2 (Assignment of M-B Overlay 1 and M-B Overlay 2 by Parcel) lists every parcel within the City that is included in either M-B Overlay 1 or M-B Overlay 2.

Table 2:

Assignment of M-B Overlay 1 and M-B Overlay 2 by Parcel.

APN	Overlay Zone	APN	Overlay Zone
0136-462-01	M-B Overlay 1	0136-451-12	M-B Overlay 1
0136-462-02	M-B Overlay 1	0136-451-13	M-B Overlay 1
0136-462-03	M-B Overlay 1	0136-451-14	M-B Overlay 1
0136-462-04	M-B Overlay 1	0136-451-16	M-B Overlay 1
0136-462-05	M-B Overlay 1	0136-451-17	M-B Overlay 1
0136-462-06	M-B Overlay 1	0136-441-22	M-B Overlay 1
0136-462-07	M-B Overlay 1	0136-441-02	M-B Overlay 1
0136-462-08	M-B Overlay 1	0136-441-03	M-B Overlay 1
0136-462-09	M-B Overlay 1	0136-441-04	M-B Overlay 1
0136-462-10	M-B Overlay 1	0136-411-01	M-B Overlay 1
0136-462-11	M-B Overlay 1	0136-411-02	M-B Overlay 1
0136-462-12	M-B Overlay 1	0136-411-03	M-B Overlay 1
0136-462-13	M-B Overlay 1	0136-411-04	M-B Overlay 1
0136-462-14	M-B Overlay 1	0136-411-05	M-B Overlay 1
0136-462-16	M-B Overlay 1	0136-411-06	M-B Overlay 1
0136-452-01	M-B Overlay 1	0136-411-07	M-B Overlay 1
0136-452-02	M-B Overlay 1	0136-411-08	M-B Overlay 1
0136-452-03	M-B Overlay 1	0136-411-09	M-B Overlay 1
0136-452-04	M-B Overlay 1	0136-411-10	M-B Overlay 2
0136-452-05	M-B Overlay 1	0136-411-11	M-B Overlay 1

0136-452-06	M-B Overlay 1	0136-411-12	M-B Overlay 1
0136-452-07	M-B Overlay 1	0136-411-13	M-B Overlay 1
0136-452-08	M-B Overlay 1	0136-411-14	M-B Overlay 1
0136-452-10	M-B Overlay 1	0136-411-15	M-B Overlay 1
0136-452-11	M-B Overlay 1	0136-421-01	M-B Overlay 1
0136-452-12	M-B Overlay 1	0136-421-02	M-B Overlay 1
0136-452-13	M-B Overlay 1	0136-421-03	M-B Overlay 1
0136-452-14	M-B Overlay 1	0136-421-04	M-B Overlay 1
0136-452-15	M-B Overlay 1	0136-421-05	M-B Overlay 1
0136-452-16	M-B Overlay 1	0136-421-06	M-B Overlay 1
0136-452-17	M-B Overlay 1	0136-421-07	M-B Overlay 1
0136-452-18	M-B Overlay 1	0136-421-08	M-B Overlay 1
0136-452-19	M-B Overlay 1	0136-421-09	M-B Overlay 1
0136-452-23	M-B Overlay 1	0136-412-01	M-B Overlay 1
0136-452-24	M-B Overlay 1	0136-412-02	M-B Overlay 1
0136-452-25	M-B Overlay 1	0136-412-03	M-B Overlay 1
0136-452-26	M-B Overlay 1	0136-412-04	M-B Overlay 1
0136-442-01	M-B Overlay 1	0136-412-05	M-B Overlay 1
0136-442-02	M-B Overlay 1	0136-412-06	M-B Overlay 1
0136-442-03	M-B Overlay 1	0136-412-07	M-B Overlay 1
0136-442-04	M-B Overlay 1	0136-412-08	M-B Overlay 1
0136-442-05	M-B Overlay 1	0136-412-09	M-B Overlay 1
0136-442-06	M-B Overlay 1	0136-412-10	M-B Overlay 1
0136-442-07	M-B Overlay 1	0136-412-11	M-B Overlay 1
0136-442-08	M-B Overlay 1	0136-412-12	M-B Overlay 1
0136-431-14	M-B Overlay 1	0136-412-14	M-B Overlay 1
0136-431-15	M-B Overlay 1	0136-412-28	M-B Overlay 1
0136-431-33	M-B Overlay 1	0136-422-01	M-B Overlay 1
0136-431-34	M-B Overlay 1	0136-422-02	M-B Overlay 1
0136-461-01	M-B Overlay 1	0136-422-03	M-B Overlay 1
0136-461-02	M-B Overlay 1	0136-422-04	M-B Overlay 1
0136-461-03	M-B Overlay 1	0136-422-05	M-B Overlay 1
0136-461-04	M-B Overlay 1	0136-422-06	M-B Overlay 1
0136-461-05	M-B Overlay 1	0136-422-07	M-B Overlay 1
0136-461-06	M-B Overlay 1	0136-422-08	M-B Overlay 1
0136-461-07	M-B Overlay 1	0136-422-09	M-B Overlay 1
0136-461-08	M-B Overlay 1	0136-422-10	M-B Overlay 1
0136-461-09	M-B Overlay 1	0136-422-11	M-B Overlay 1
0136-461-10	M-B Overlay 1	0266-362-25	M-B Overlay 1
0136-461-11	M-B Overlay 1	0266-362-10	M-B Overlay 1
0136-461-12	M-B Overlay 1	0266-362-07	M-B Overlay 1
0136-461-13	M-B Overlay 1	0266-362-06	M-B Overlay 1
0136-461-14	M-B Overlay 1	0266-362-01	M-B Overlay 1
0136-461-15	M-B Overlay 1	0266-362-24	M-B Overlay 1
0136-461-16	M-B Overlay 1	0266-362-05	M-B Overlay 1
0136-461-17	M-B Overlay 1	0266-362-03	M-B Overlay 1

0136-451-01	M-B Overlay 1	0266-362-04	M-B Overlay 1
0136-451-02	M-B Overlay 1	0266-362-20	M-B Overlay 1
0136-451-03	M-B Overlay 1	0266-362-19	M-B Overlay 1
0136-451-04	M-B Overlay 1	0266-362-18	M-B Overlay 1
0136-451-07	M-B Overlay 1	0266-362-17	M-B Overlay 1
0136-451-08	M-B Overlay 1	0266-362-16	M-B Overlay 1
0136-451-09	M-B Overlay 1	0266-721-04	M-B Overlay 1
0136-451-10	M-B Overlay 1	0266-721-01	M-B Overlay 1
0136-451-11	M-B Overlay 1	0266-721-02	M-B Overlay 1
0154-241-38	M-B Overlay 2	0266-363-33	M-B Overlay 1
0149-191-24	M-B Overlay 2	0266-363-34	M-B Overlay 1
0150-323-05	M-B Overlay 2	0266-363-63	M-B Overlay 1
0285-176-01	M-B Overlay 2	0266-363-62	M-B Overlay 1
0144-201-61	M-B Overlay 2	0146-241-16	M-B Overlay 2
0146-241-12	M-B Overlay 2	0138-081-19	M-B Overlay 2
0138-081-18	M-B Overlay 2	0141-222-24	M-B Overlay 2
0141-222-26	M-B Overlay 2	0135-081-34	M-B Overlay 2
0135-081-20	M-B Overlay 2	0135-081-22	M-B Overlay 2
0135-081-21	M-B Overlay 2	0135-081-28	M-B Overlay 2
0141-412-38	M-B Overlay 2	0142-541-37	M-B Overlay 2
0136-142-01	M-B Overlay 2	0280-172-10	M-B Overlay 2

D. Should a lot be split or a different Assessor's Parcel Number (APN) be assigned, for any reason, in whole or in part, to any real property listed in the table above, all rights, permissions, and restrictions granted by the establishment of the overlay zone shall run with the real property as identified by the APN in Table 2 of this Chapter as of January 1, 2016.

E. No more than a total of five (5) marijuana business dispensaries may operate within the City at any one time.

19.420.050 Development Standards.

The following development standards shall apply to:

- A. All marijuana businesses
1. No marijuana business shall be located in any temporary or portable structure.
 2. Trash dumpsters shall be enclosed by a screening enclosure so as not to be accessible to the public.
 3. No exterior door or window on the premises shall be propped or kept open at any time while the business is open, and all exterior windows shall be covered with opaque covering at all times.
 4. Permanent barriers shall be installed and maintained to screen the interior of the premises from public view for each door used as an entrance or exit to the business.
 5. The entire exterior grounds, including the parking lot, shall be lighted in such a manner that all areas are clearly visible at all times.
 6. Signage shall conform to the standards established for the zone and shall not contain marijuana oriented photographs, silhouettes or other marijuana oriented pictorial representations.

7. All entrances to marijuana businesses shall be clearly and legibly posted by a notice indicating that minors are prohibited from entering the premises.
 8. No residential structure shall be converted for use as a marijuana business.
 9. No marijuana business shall be operated in any manner that permits the observation of any persons or material depicting, describing or related to specified marijuana activities inside the premises, from any public way or from any location outside the building or area of such establishment. This provision shall apply to any merchandise, display, decoration, sign, show window or other opening.
 10. All exterior areas of the marijuana business, including buildings, landscaping, and parking areas shall be maintained in a clean and orderly manner at all times.
 11. Any business license or permit required by this Code shall be kept current at all times
 12. Shall install and maintain a fully operational digital video surveillance and camera recording system that monitors no less than the front and rear of the Premises, all points of ingress and egress at the marijuana business. The video and surveillance system shall, at a minimum meet the following requirements:
 - a. Capture a full view of the public right-of-ways and any parking lot under the control of the marijuana businesses;
 - b. Be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on or adjacent to the exterior of the property;
 - c. Record and maintain video for a minimum of fourteen (14) days.
 13. Install and use a fire and burglar alarm system that is monitored by a company that is staffed twenty-four hours (24) a day, seven (7) days a week.
 14. Shall not maintain more marijuana on the premises than is permitted under applicable State law.
 15. Report to the proper authorities any diversion, theft, or loss as required by State law.
 16. Shall be ventilated so that the odor of marijuana cannot be detected at any property adjoining the parcel on which the marijuana business is located.
 17. Shall operate in a manner consistent with State law governing the activities of their marijuana business license type.
- B. Marijuana business dispensaries
1. Shall not operate or be open between the hours of 12:00 a.m. (midnight) - and 6:00 a.m.
 2. Shall install and use a safe for storage of any processed marijuana and cash on the property when the business is closed to the public. For marijuana-infused products that must be kept refrigerated or frozen, the business shall lock the refrigerated container or freezer in place.
 3. No person, other than a qualified patient, qualified customer, permittee, licensee, employee, contractor or individual authorized by State law, shall be in the marijuana business dispensary.
 4. Consultations by medical professionals shall not be permitted within the marijuana business dispensary.
 5. Smoking Prohibition. Smoking of Tobacco in all workplaces, including marijuana dispensaries is, prohibited. However, recognizing that some qualified patients may have an immediate medical need, consumption of edible marijuana products, marijuana tinctures, smoking of marijuana and/or vaporizing of marijuana is permitted, provided such consumption occurs within the dispensary and is not visible from any public place.

19.420.060 Permitted zone classification.

Premises may be used for marijuana businesses only in zones M-B Overlay 1 and M-B Overlay 2 in accordance with section 19.420.040 of this chapter.

19.420.070 Marijuana business permit—Required.

No marijuana business shall be established until an application for a marijuana business permit is approved by the director pursuant to the procedures set forth in this chapter.

19.420.080 Marijuana business permit—Application.

Applications for a marijuana business permit or marijuana business permit renewal shall be filed, with a director, on a form supplied by the city. An application for a marijuana business permit or renewal shall be filed in a manner consistent with the requirements contained in Chapter 19.32 (Applications and Fees).

Such application shall contain:

- A. The name and address of the applicant;
- B. Evidence that the applicant:
 - 1. Is the owner of the premises involved, or
 - 2. Has the permission of such owner to make such application, or
 - 3. Is or will be the plaintiff in an action in eminent domain to acquire the premises involved;
- C. The legal description of, and if there is a street address, the street address, otherwise a description of, the premises upon which the requested use is to be maintained;
- D. If the applicant is not the owner, the name and address of the owner, and the nature of the applicant's interest in the premises involved;
- E. A detailed site plan showing, at a minimum, the proposed location of all buildings and structures, landscaped areas, parking areas, driveways and means of ingress and egress;
- F. A statement detailing the uses for each building and structure as shown on the site plan;
- G. A detailed facility floor plan showing, at a minimum, the proposed uses of the floor area depicted on the floor plan. The floor plan need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- H. Three copies of white background prints of a map drawn to scale specified by the city engineer, showing the location of the property concerned, and the location of all highways, streets and alleys and all lots and parcels of land within a distance of six hundred feet from the exterior boundaries of the proposed use;
- I. One copy of the map referred to in subsection H of this section shall show the use to which each and every lot and parcel of land is put;
- J. A plan for ventilation of the marijuana business that describes the ventilation system that will be used to prevent any odor of marijuana off the premises of the business.

K. Live Scan fingerprints of the applicant to enable the San Bernardino Police Department to perform a background check on the applicant.

L. A fully legible copy of one valid government issued form of photo identification, such as a State Driver's License or Identification Card showing that the applicant is 21 years of age or older.

M. A signed statement by the applicant that he/she certifies under penalty of perjury that all information contained in the application is true and correct.

19.420.090 Application fee.

When a marijuana business permit application is filed, it shall be accompanied by a filing fee in the amount of two hundred fifty dollars (\$250.00).

19.420.100 Permit application and renewal—Review and approval.

A. Within 30 days after the application has been submitted, the director shall review the application, cause the property to be inspected as he or she deems appropriate, and shall approve, or deny the application under the following conditions:

1. The director will issue the marijuana business permit if all applicable requirements of this chapter and this Code are satisfied.

2. If the director finds that any of the applicable requirements of this chapter or this code are not satisfied, or finds that the applicant has been previously found guilty of a felony within the last 10 years, or finds evidence that the applicant has provided materially false information, the application will be denied.

19.420.110 Permit fee.

A. When a marijuana business permit application is approved or renewed, permittee shall remit to the City a permit fee in the amount of set forth by State issued license type below:

1. Marijuana business cultivation - Any and all State License Type 1A, 1B, 2A, and 2B marijuana businesses shall pay an annual fee of five dollars (\$5.00) per square foot of canopy as defined in this Code.

2. Marijuana business manufacturing - Any and all State License Type 6, and 7 marijuana businesses shall pay an annual fee of five dollars (\$5.00) per square foot of the premises occupied by such businesses.

3. Marijuana business testing - Any and all State License Type 8 marijuana businesses shall pay an annual fee of five dollars (\$5.00) per square foot of the premises occupied by such businesses.

4. Marijuana business distribution - Any and all State License Type 11 marijuana businesses shall pay an annual fee of one hundred dollars (\$100.00) per transportation and distribution vehicles and five dollars (\$5.00) per square foot of the premises in which their offices and marijuana storage facilities occupy.

5. Marijuana business transportation - Any and all State License Type 12 marijuana businesses shall pay an annual fee of one hundred dollars (\$100.00) per transportation and distribution vehicle and five dollars (\$5.00) per square foot of the premises in which their offices and marijuana storage facilities occupy.

6. Marijuana business dispensaries - Any and all State License Type 10, and 10A marijuana businesses shall pay an annual fee of five dollars (\$5.00) per square foot of the premises occupied by such businesses.

7. Marijuana business nurseries – Any and all State License Type 4 marijuana businesses shall pay an annual fee of one dollar (\$1.00) per square foot of canopy as defined in this Code.

B. The permit fees generated shall be deposited into the general fund and the City Council shall consider the following priorities before distributing the funds:

1. Enforcement of this provision.
2. Mitigating possible adverse effects on local area youth through support of after school programs, drug education, and at risk youth programs
3. Infrastructure improvements within the City limits.
4. Funding of City employee pension obligations.

C. The City Council may impose the fees authorized by this section at a lower rate. No action by the City Council under this subsection shall prevent the City Council from subsequently increasing the fee rate for marijuana business permits to the maximum rates specified in section 19.420.110.

19.420.115 Delivery.

Retail delivery of marijuana within the City of San Bernardino shall only be permitted by marijuana businesses that hold a valid state issued dispensary license and a valid marijuana business permit issued by the City of San Bernardino.

19.420.120 Conflicts.

In the event any provision of this Chapter 19.420 conflicts with any provision of the San Bernardino Municipal Code, including the Development Code, now or hereinafter enacted, the provisions of this Chapter shall prevail over the conflicting Municipal Code or Development Code provision.

19.420.130 Compliance with applicable State law

Except as may be provided otherwise in this Chapter, any law or regulation adopted by the State governing the cultivation, production, manufacture, possession, transport, testing, or distribution of marijuana shall also apply to marijuana businesses in the City. This includes, but is not limited to State laws and regulations regarding: use of childproof product containers; labeling; patient confidentiality; quality control; laboratory testing; edible and infused products standards and testing; employee training; delivery; and odor control. Noncompliance with any applicable State law or regulation is unlawful and shall be grounds for revocation or suspension or any permit under this Chapter.

19.420.140 Suspensions or revocations.

The director may suspend or revoke a marijuana business permit if he/she finds that one or more of the following conditions exist:

A. The marijuana business does not comply with, and fails to remedy such non-compliance in a timely manner, any of the requirements outlined in Section 19.420.050 of this Chapter;

B. The business owner, its employee, agent or manager has been convicted in a court of competent jurisdiction of:

1. Any violation of any statute, or any other ordinance arising from any act performed in the exercise of any rights granted by the permit, the revocation of which is under consideration, or

2. Any offense involving the maintenance of a nuisance caused by any act performed in the exercise of any rights granted by the permit the revocation of which is now under consideration;

C. The business owner, its employee, agent or manager has knowingly made any false, misleading or fraudulent statement of material fact in the application for a permit.

19.420.150 Appeals.

Any person aggrieved by a decision of the director made under this chapter has the right to appeal such decision as follows:

A. Notice of Appeal. Any decision of the director made under this chapter will become final within ten days from the date such notice is served, unless within that ten-day period an appeal is filed with the city clerk, including payment of the applicable fee established by city council resolution. The appeal notice must state, with specificity, the factual and legal basis of the appeal.

B. Scheduling of Appeal Hearing. The city clerk will expeditiously schedule a hearing before a hearing officer and notify the appellant, in writing, of the day, time and location of the hearing, which may be held no later than thirty days after the notice of appeal is received by the city; provided, however, the hearing may be held after such thirty-day period upon the request or concurrence of the appellant. The time for compliance of any original order will be stayed during the pendency of the appeal hearing.

C. Hearing by Hearing Officer. The hearing officer will consider the testimony of the appellant, city staff or agents, and any other testimony or evidence relevant to the decision. The hearing officer must provide the appellant with a written decision within ten days from the date of the conclusion of the hearing. The decision of the hearing officer will be final and conclusive.

D. Any person dissatisfied with the hearing officer's decision may seek prompt judicial review of such decision pursuant to California Code of Civil Procedure Section 1094.8.

19.420.160 Severability

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

SECTION 6: REPEAL OF EXISTING CITY OF SAN BERNARDINO CODE

A. Chapter 5.05 of Title 5 of the City of San Bernardino Municipal Code is hereby repealed.

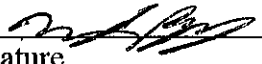
B. Section 19.06.026 of Chapter 19.06 of Title 19 of the City of San Bernardino Municipal Code is hereby repealed.

Withdrawal of Initiative

RECEIVED - CITY CLERK

2016 APR -7 PM 8:37

Pursuant to California Elections Code 9604 Paragraph D, I, Vincent Guzman, wish to withdraw the initiative submitted to the San Bernardino City Clerk on April 6, 2016 and entitled **San Bernardino Regulate Marijuana Act of 2016**.



Signature

Dated this 7 day of April, 2016

Letter of Authorization

RECEIVED - CITY OF SAN BERNARDINO

2016 APR -7 PM 3:37

I, Vincent Guzman, the proponent of the Regulate Marijuana Act initiative submitted to the City of San Bernardino on April 7th, 2016, do hereby authorize Craig Beresh and his agents to act on my behalf for the purposes of contact, correspondence, filing of documents, negotiations, and acquisition of voter data with the City of San Bernardino and/or County of San Bernardino.

Mr. Craig Beresh's contact information is as follows:

Mr. Craig Beresh
393 N. Central Ave.
Upland, CA 91786
(909) 920-6031



Signature

Vincent Guzman


Printed Name

Notice of Intent to Circulate Petition

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2016 APR -7 PM 3:37

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of San Bernardino, CA for the purpose of regulating the marijuana industry. A statement of the reasons of the proposed action as contemplated in the petition is as follows:

- Protect the public health and safety through reasonable limitations on marijuana businesses.
- Create regulations that address the particular needs of the residents and businesses of the City and coordinate with laws and regulations that have been or may be enacted by the State.
- Provide for a means of cultivation, production, manufacturing, testing, transportation, distribution, dispensing, acquisition and use of marijuana by persons who qualify to obtain, possess, and use marijuana for purposes consistent with State law.
- Bring 800+ living wage jobs to the City of San Bernardino.
- Provide annual revenue of between 15 and 21 million dollars to the City of San Bernardino's General Fund.




Vincent Guzman
San Bernardino, CA

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2016 APR -7 PM 8:37

Acknowledgement of Proponent

I, Vincent Guzman, acknowledge that it is a misdemeanor under state
(Print Name)
law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures
on an initiative petition to be used for any purpose other than qualification of the
proposed measure for the ballot. I certify that I will not knowingly or willfully allow the
signatures for this initiative to be used for any purpose other than qualification of the
measure for the ballot.

Signature 

Dated this 7 day of April, 20 16

Request that a Ballot Title and Summary be prepared by the City Attorney

I, Vincent Guzman, a resident of the City of San Bernardino and a
(Print Name)
proponent of the Regulate Marijuana Act submitted to the City Clerk of San Bernardino
today, April 7, 2016, request that the City Attorney of San Bernardino
prepare a Ballot Title and Summary for the proposed measure.

Print Name: Vincent Guzman

Signature: 

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2016 APR - 7 PM 3:37

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Proponent(s) proposing Marijuana Dispensary Initiative

Name	Address	City	State	Zip
Vincent Gorman	5727 Sierra Mesa Rd.	San Bernardino	Ca.	92407