

PROPOSITION M
(Adopted by the Voters of Los Angeles at the Election on March 7, 2017)

ORDINANCE NO. 184841

An ordinance amending the Los Angeles Municipal Code regarding the enforcement, taxation and regulation of cannabis related activity in the City of Los Angeles.

WHEREAS, the Compassionate Use Act (CUA), adopted by the voters in 1996, and the Medical Marijuana Program Act (MMPA), enacted by the State Legislature in 2003, provided California's qualified patients and their primary caregivers with limited immunities to specified criminal prosecutions under state law, including to ensure that qualified patients and their primary caregivers who obtain and use cannabis for medical purposes are not subject to state criminal prosecution;

WHEREAS, commencing in 2007, according to local media reports and neighborhood observations and complaints, hundreds of medical cannabis establishments, including self-named collectives, caregivers and dispensaries, (Businesses) opened, closed and reopened storefront shops in the City without land use approval under the Los Angeles Municipal Code (LAMC);

WHEREAS, the proliferation of cannabis Businesses led to increased crime and negative secondary impacts in neighborhoods, including but not limited to violent crimes, robberies, the distribution of tainted marijuana, and the diversion of marijuana;

WHEREAS, beginning in August 2007, the City enacted a series of ordinances designed to curb the rampant increase in cannabis dispensaries, which resulted in an explosion of lawsuits against the City;

WHEREAS, at the municipal election held on March 8, 2011, the voters of the City of Los Angeles passed Measure M and thereby enacted Los Angeles Municipal Code Section 21.50, which imposed a tax of \$50 for every \$1,000 of revenues generated by Medical Marijuana Collectives;

WHEREAS, on May 21, 2013, the voters of the City of Los Angeles passed Proposition D, adding Article 5.1 of Chapter IV of the Los Angeles Municipal Code, providing potential limited immunity from enforcement to approximately 135 cannabis dispensaries that had potentially complied with the City's 2007 Interim Control Ordinance, 2011 Temporary Urgency Ordinance and 2011 Measure M, and also met other specified requirements, and increasing the tax to \$60 for every \$1,000 of revenues generated by Medical Marijuana Collectives;

WHEREAS, since the passage of Proposition D, the City Attorney's Office has initiated over 1,700 criminal filings against individuals and entities regarding non-

immunized cannabis Businesses and shut down over 800 non-immunized medical cannabis Businesses;

WHEREAS, despite this aggressive enforcement by the City Attorney's Office, with the passage of Proposition D, an unknown number of medical cannabis Businesses, including growers, delivery apps and delivery services continue to open, close, and reopen in Los Angeles, with no regulatory authorization from the City;

WHEREAS, because large profits can be earned by operating medical cannabis Businesses, it is necessary to have commensurate monetary penalties to prevent persons and entities from opening and operating non-immunized or illegal medical cannabis Businesses and to discourage property owners from renting to these kind of medical cannabis Businesses;

WHEREAS, medical cannabis Businesses require sustained police enforcement, because they are attractive targets for criminals as well as to individuals who buy cannabis and resell it to minors and others who cannot purchase it for themselves. These secondary sales further damage blighted areas of the City and are a drain on police resources. Large monetary sanctions are a rational way to discourage the proliferation of illegal businesses which generate these negative secondary impacts;

WHEREAS, in 2015, the Legislature and Governor enacted the Medical Cannabis Regulation and Safety Act ("MCRSA") consisting of three separate bills, creating a state licensing system for the commercial cultivation, manufacture, retail sale, transport, distribution, delivery, and testing of medical cannabis. Licenses under MCRSA are not expected to be available until 2018;

WHEREAS, on November 8, 2016, the voters of the State of California will be asked to vote on Proposition 64, an initiative also known as the Adult Use of Marijuana Act (AUMA). Under AUMA, personal possession of an ounce or less of cannabis and/or up to eight grams of concentrated cannabis would be legal. Retail sales of nonmedical cannabis may only take place pursuant to a state license, scheduled to become available in 2018;

WHEREAS, the potential approval of AUMA would impose new challenges for local governments to properly legislate the commercialization of nonmedical cannabis and medical cannabis, including their derivative products and services;

WHEREAS, it is the belief of the City that the circumstances in which cannabis activity should be allowed or not should be the subject of a robust, deliberative process that includes comprehensive public discussion and debate, and to that end, the City Council retains the legislative power and authority to determine the extent to which any such activity should be allowed in the City;

WHEREAS, in order to protect the public and consumers of medical and nonmedical cannabis, and reduce the negative secondary impacts on the City's

communities, the City Council intends to receive public input, deliberate and then enact by ordinance a comprehensive regulatory and enforcement system related to medical and nonmedical cannabis activity; and that in order to enact a comprehensive regulatory and enforcement system, cannabis lawmaking authority must be retained by the City Council and Mayor;

WHEREAS, so that medical marijuana is available to patients in need of it, medical marijuana Businesses that have been operating in compliance with the limited immunity and tax provisions of Los Angeles Municipal Code Sections 45.19.6.3 and 21.50 at the one location identified in the Business’s business tax registration certificate on file with the City should continue to operate until City licenses or permits are available, and, thereafter, priority in the processing of applications for a City license or permit should be given to those Businesses;

WHEREAS, the City also wishes to impose and obtain voter approval of a gross receipts tax regime of various rates on those who engage in the commercialization of nonmedical and medical cannabis, including their derivative products and services to the extent allowed by any comprehensive regulatory system established by the City; and

WHEREAS, the tax regime proposed would assist the City in raising revenue, improve access, measure the commercial growth of the cannabis industry and assess the need for further rules or regulations to prevent access by minors, improve access to those who are medically in need, and protect public safety, public health and the environment;

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. This ordinance shall be known and may be cited as the “Los Angeles Cannabis Enforcement, Taxation, and Regulation Act (CETRA).”

Sec. 2. A new section 21.51 is added to Article 1 of Chapter II the Los Angeles Municipal Code to read as follows:

SEC. 21.51. TAXATION OF CANNABIS.

Nothing in this Section shall be construed as requiring the City to allow, permit, license, authorize, or otherwise regulate cannabis, cannabis products or any business related to cannabis and/or cannabis products.

(a) For the purpose of this Section, the following words and phrases shall be defined as follows:

1. "Cannabis" shall mean 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, resin, separated resin, 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, or industrial hemp, as defined by Section 11018.5 of the Health and Safety Code.

2. "Cannabis products" shall mean any product that includes cannabis that has undergone a process whereby the plant material has been transformed into a concentrate or such other form in order to enhance or deliver the cannabinoid active ingredient.

3. "Cultivating" shall mean to plant, grow, harvest, dry, cure, grade, or trim cannabis.

4. "Gross receipts" shall have the same meaning as set forth in Section 21.00(a) of this Article and shall include without limitation, membership dues, value of in kind contributions, reimbursements, the amount of any tax imposed by the state, county or rapid transit district whether imposed upon the retailer or the consumer, and any other property received by the business in its ordinary course.

5. "License" shall consist of (i) a state license issued under Division 10 of the California Business and Professions Code, Chapter 3.5 of Division 8 of the California Business and Professions Code, or such other applicable cannabis related provisions under state law, and (ii) any such other applicable City authorization, permit, or license (not including a business tax registration certificate which shall not be construed as a permit in any way).

6. "Manufacturing" shall mean to compound, blend, extract, infuse, or otherwise make, process, or prepare cannabis or cannabis products.

7. "Testing" shall mean to perform a test of cannabis and/or cannabis products in a testing laboratory that is accredited by an accrediting body that is independent from all other persons involved in commercial or medical cannabis, and registered with the State Department of Public Health.

8. "Testing laboratory" shall mean a facility, entity, or site in the City of Los Angeles that offers or performs testing.

9. "Transporting" shall mean to transfer cannabis and/or cannabis products from the location of one person with a license to the location of another person with a license.

(b) For purposes of this Section, the business tax to be imposed shall be as follows:

1. Every person with a license that is engaged in business of conducting the sale of cannabis and/or cannabis products shall pay a business tax of \$100.00 for each \$1,000.00 of gross receipts or fractional part thereof. The sale of medical cannabis shall be taxed as provided under Section 21.52 of this Article.

2. Every person with a license that is engaged in business of transporting cannabis and/or cannabis products shall pay a business tax of \$10.00 for each \$1,000.00 of gross receipts or fractional part thereof.

3. Every person with a license that is engaged in business of testing cannabis and/or cannabis products shall pay a business tax of \$10.00 for each \$1,000.00 of gross receipts or fractional part thereof.

4. Every person with a license that is engaged in business of researching cannabis and/or cannabis products shall pay a business tax of \$10.00 for each \$1,000.00 of gross receipts or fractional part thereof.

5. Every person with a license that is engaged in business of manufacturing or cultivating cannabis and/or cannabis products shall pay a business tax of \$20.00 for each \$1,000.00 of gross receipts or fractional part thereof.

6. Every person with a license that is engaged in business relating to the commercialization of cannabis and/or cannabis products not specifically taxed under this Section shall pay a business tax of \$20.00 for each \$1,000.00 of gross receipts or fractional part thereof.

(c) The Office of Finance shall file quarterly reports summarizing the amount of business taxes collected from the persons described in subsection (b) of this Section with the City Council, Mayor, Controller, and City Administrative Officer beginning April 1, 2018.

(d) All business taxes shall be due and payable quarterly as provided under Section 21.04(b) of this Article beginning July 1, 2018, which shall include any taxes owed from January 1, 2018, and then monthly as provided under Section 21.04(c) of this Article beginning July 1, 2019.

(e) The Office of Finance shall prescribe and implement a reasonable process, including set times and secure conditions, whereby every person subject to business tax under this Section is allowed to pay, in cash, the amount of business tax reported on their written statement, as prescribed under Section 21.14 of this Article.

(f) The Director of Finance may prescribe such additional requirements or conditions, as provided under Section 21.15(h) of this Article, when granting a business tax registration certificate under Section 21.08 of this Article with respect to a person subject to this Section, which may include an affidavit of compliance and/or proof of license. Any person who makes a false statement or misrepresentation in any required affidavit under this Section is guilty of a misdemeanor.

(g) It shall be a misdemeanor for any person operating a nonmedical cannabis business to maintain or display a business tax registration certificate for any classification other than that set forth herein for nonmedical cannabis business activity or to maintain or display an expired, suspended or otherwise invalid business tax registration certificate.

(h) No business tax registration certificate issued for purposes of this Section or the payment of any tax required under this Section shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Section implies or authorizes that any activity in connection with cannabis and/or cannabis products is legal unless otherwise authorized by federal and any other applicable law.

(i) Every person subject to this Section must pay the full tax imposed by this Section regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in the Municipal Code, except as required by state or federal law. No provision in the Municipal Code shall lower the tax rate set forth in this Section or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

(j) The City Council may impose the tax authorized by this Section at a lower rate and may establish exemptions, incentives or other reductions as otherwise allowed by the Charter and state law. No action by the Council under this paragraph shall prevent it from later increasing the tax or removing any exemption, incentive, or reduction and restoring up to the maximum tax specified in this Section.

(k) The provisions of this Section shall be effective January 1, 2018.

Sec. 3. A new Section 21.52 is added to Article 1 of Chapter II the Los Angeles Municipal Code to read as follows:

SEC. 21.52 TAXATION OF MEDICAL CANNABIS.

Nothing in this Section shall be construed as requiring the City to allow, permit, license, authorize, or otherwise regulate medical cannabis or any business related to medical cannabis.

(a) For the purpose of this Section, the following words and phrases shall be defined as follows:

1. "Cannabis" shall have the same meaning as set forth in Section 21.51(a)(1) of this Article.
2. "Cannabis products" shall have the same meaning as set forth in Section 21.51(a)(2) of this Article.
3. "Gross receipts" shall have the same meaning as set forth in Section 21.51(a)(4) of this Article.
4. "License" shall have the same meaning as set forth in Section 21.51(a)(5) of this Article.
5. "Medical cannabis" shall mean a product containing cannabis or cannabis products sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996, found at Section 11362.5 of the California Health and Safety Code.

(b) For purposes of this Section, the business tax to be imposed shall be as follows:

1. Every person with a license engaged in business of conducting the sale of medical cannabis shall pay a business tax of \$50.00 for each \$1,000.00 of gross receipts or fractional part thereof.

(c) The Office of Finance shall file quarterly reports summarizing the amount of business taxes collected from the persons described in subsection (b) of this Section with the City Council, Mayor, Controller, and City Administrative Officer beginning April 1, 2018.

(d) All business taxes shall be due and payable quarterly as provided under Section 21.04(b) of this Article beginning July 1, 2018, which shall include any taxes owed from January 1, 2018, and then monthly as provided under Section 21.04(c) of this Article beginning July 1, 2019.

(e) The Office of Finance shall prescribe and implement a reasonable process, including set times and secure conditions, whereby every person subject to business tax under this Section is allowed to pay, in cash, the amount

of business tax reported on their written statement, as prescribed under Section 21.04 of this Article.

(f) The Director of Finance may prescribe such additional requirements or conditions, as provided under Section 21.15(h), as may be necessary when granting a business tax registration certificate under Section 21.08 of this Article with respect to a business subject to this Section, which may include an affidavit of compliance and proof of License. Any person who makes a false statement or misrepresentation in any required affidavit under this Section is guilty of a misdemeanor.

(g) It shall be a misdemeanor for any person operating a medical cannabis business to maintain or display a business tax registration certificate for any classification other than that set forth herein for medical cannabis business activity or to maintain or display an expired, suspended or otherwise invalid business tax registration certificate.

(h) No business tax registration certificate issued for purposes of this Section or the payment of any tax required under this Section shall be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Section implies or authorizes that any activity in connection with cannabis and/or cannabis products is legal unless otherwise authorized by federal and any other applicable law.

(i) Every person subject to this Section must pay the full tax imposed by this Section regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in the Municipal Code, except as required by state or federal law. No provision in the Municipal Code shall lower the tax rate set forth in this Section or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

(j) The City Council may impose the tax authorized by this Section at a lower rate and may establish exemptions, incentives or other reductions as otherwise allowed by the Charter and state law. No action by the Council under this paragraph shall prevent it from later increasing the tax or removing any exemption, incentive, or reduction and restoring up to the maximum tax specified in this Section.

(k) The provisions of this Section shall be effective January 1, 2018, at which time the language of this Section shall govern in the event of any conflict between this Section and Section 21.50 regarding taxation of medical marijuana collectives.

Sec. 4. A new Article 5.2 is added to Chapter IV of the Los Angeles Municipal Code to read as follows:

ARTICLE 5.2

CANNABIS REGULATION AND ENFORCEMENT

SEC. 45.19.7.1. REPEAL OF PROPOSITION D (MEDICAL MARIJUANA).

The voters of the City of Los Angeles adopted Article 5.1 of Chapter IV of the Los Angeles Municipal Code regarding medical marijuana (Sections 45.19.6 through 45.19.6.9) as part of Proposition D, a referendum submitted to the voters by the City Council at the election held on May 21, 2013. The Council shall adopt an ordinance repealing these provisions of Proposition D (Sections 45.19.6 through 45.19.6.9) effective January 1, 2018, unless the Council adopts a Resolution, by majority vote, specifying another date for the repeal. The Council retains and possesses authority to amend, by ordinance, these provisions of Proposition D prior to its repeal.

SEC. 45.19.7.2. COUNCIL AUTHORITY TO REGULATE CANNABIS RELATED ACTIVITY AFTER PUBLIC HEARINGS AND PRIORITY OF DISPENSARIES COMPLIANT WITH PROPOSITION D.

A. **Council Authority.** The City retains and possesses complete authority to regulate all aspects of cannabis related activity, including, without limitation, the authority of the Council to adopt ordinances amending any of the provisions of this Article and/or any other provision of City law regarding cannabis related activity, other than taxation provisions to the extent that voter approval of any changes to taxation provisions is required under the State Constitution.

B. **Public Hearings.** The City intends to adopt a comprehensive regulatory process and structure for all cannabis related activity by September 30, 2017. Prior to the creation of a comprehensive regulatory process and structure for cultivation, processing, distribution, sale and other cannabis related activity, including enforcement of any licensing and related oversight (*i.e.*, the “commercialization” of cannabis), the Council shall convene public hearings in the City involving all stakeholders in the process of developing the rules, regulations and ordinances necessary to regulate the safe commercialization of cannabis, including, but not limited to, Neighborhood Councils, police officers, school officials, probation officers, civic and service organizations, chambers of commerce, cannabis related industries and others. The public hearings shall include consideration and attempted resolution of matters including:

1. Rules concerning who may qualify to operate in any of the phases of commercialization of cannabis;

2. Penalties, fines, and other enforcement tools needed to ensure strict compliance with licensing to avoid the unlawful conduct of cannabis related activities in the City;
3. Regulation of transportation of cannabis products within the City;
4. Siting of all buildings and facilities involved in all phases of commercialization of cannabis;
5. Preventing the over-concentration of businesses involved in commercialization of cannabis;
6. Determinations of any necessary land use requirements such as distances to schools, parks, libraries, residences, liquor stores, stores selling candy to children, and other such matters affecting the locations of stores and facilities involved in commercialization of cannabis;
7. Constitutional and appropriate measures regarding advertising commercialization of cannabis in such a way as to prohibit exposure to anyone under the age of 21;
8. Updated training and protocols to enable police officers to enforce laws against driving while under the influence of cannabis;
9. Requirements for auto rental agencies, particularly at airports, to advise visitors to the City regarding the rules concerning driving while under the influence, and other cannabis regulations, of which visitors may not be aware;
10. Historical issues of social equity and social justice related to the commercialization of cannabis;
11. Issues regarding how the City addresses compliance, complaints, and civil or criminal proceedings related to Proposition D medical marijuana dispensaries; and
12. Any and all other issues that may arise regarding the commercialization of cannabis in the City.

C. Priority of Proposition D Compliant Dispensaries. An existing medical marijuana dispensary (“EMMD”) that is operating in compliance with the limited immunity provisions (Los Angeles Municipal Code Section 45.19.6.3) and tax provisions (Los Angeles Municipal Code Section 21.50) of Proposition D, may continue to operate within the City at the one location identified in its original or amended business tax registration certificate until such time that the EMMD

applies for and receives a final response to its application for a City permit or license for commercial cannabis activity being conducted at that location. The City's designated licensing or permitting agency shall give priority in processing applications of EMMDs that can demonstrate to the City's designated licensing or permitting agency that the EMMD has operated in compliance with the limited immunity and tax provisions of Proposition D. To avail itself of the terms of this Section, including the priority processing, an EMMD must apply for a City permit or license within sixty calendar days of the first date that applications are made available for commercial cannabis activity. If the City issues the EMMD a license or permit for commercial cannabis activity, the EMMD shall continue to operate at its location within the City in accordance with the rules and regulations set forth by the City.

SEC. 45.19.7.3. ENFORCEMENT, PENALTIES AND DISCONNECTION OF UTILITIES FOR UNLAWFUL CANNABIS RELATED ACTIVITY.

A. This Section is effective January 1, 2018 and applies to all entities and persons engaging in medical and/or nonmedical cannabis related activity, who are legally required to, but do not have, a City issued license, permit or authorization ("Establishment").

B. It is unlawful to: (1) Own, set up or operate an Establishment, (2) Participate as an employee, contractor, agent or volunteer or in any other capacity in an Establishment, (3) Use any portion or portion of any parcel of land as an Establishment, or to (4) Lease, rent to, or otherwise allow an Establishment to occupy any parcel or portion of parcel of land.

C. A violation of subsection B is a public nuisance and may be abated by the City or by the City Attorney, on behalf of the people of the State of California, as a nuisance by means of a restraining order, injunction or any other order or judgment in law or equity issued by a court of competent jurisdiction. The City or the City Attorney, on behalf of the people of the State of California, may seek injunctive relief to enjoin violations of, or to compel compliance with this Section or seek any other relief or remedy available at law or equity. Each day that a violation continues is deemed to be a new and separate offense and subject to a maximum civil penalty of \$20,000 for each and every offense.

D. Any person violating subsection B shall be guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or by imprisonment in the County Jail for a period of not more than six months, or by both a fine and imprisonment. Each day that a violation continues is deemed to be a new and separate offense.

E. The Department of Water and Power is authorized to disconnect utilities for Establishments. The circumstances and manner in which

disconnection shall occur shall be specified by the City Council after receiving input from the Department of Water and Power.

F. The remedies specified in this Section are cumulative and in addition to any other remedies available under state or local law for a violation of this Code.

G. Nothing in this Section shall be construed as requiring the City to allow, permit, license, authorize or otherwise regulate medical or nonmedical cannabis, or as abridging the City's police power with respect to enforcement regarding medical or nonmedical cannabis.

Sec. 5. Nothing in this ordinance is intended to be in conflict with state law or to abrogate local police power and/or charter city authority derived from the California Constitution.

Sec. 6. Future Amendment. The City retains and possesses complete authority to regulate all aspects of cannabis related activity, including, without limitation, the authority of the Council to adopt ordinances amending any of the provisions of this ordinance, any of the provisions of Article 5.1 of Chapter IV of the Los Angeles Municipal Code regarding medical marijuana adopted by the voters as part of Proposition D at the election held on May 21, 2013 (Sections 45.19.6 through 45.19.6.9) prior to the repeal of those provisions, and/or any other provision of City law regarding cannabis related activity, other than taxation provisions to the extent that voter approval of any changes to taxation provisions is required under the State Constitution.

Sec. 7. Competing Measures. In the event that this measure and any other measure relating in any way to the regulation of cannabis in the City of Los Angeles are submitted to the voters of the City of Los Angeles on the same ballot, all of the provisions of the other measure shall be deemed to be in complete and total conflict with this measure. In the event that this measure receives a greater number of affirmative votes than the other measure, the provisions of this measure shall prevail in their entirety over all of the provisions of the other measure, and the other measure shall be null and void.

Sec. 8. Severability. If any section, subsection, subdivision, clause, sentence, phrase or portion of this measure is held unconstitutional or invalid or unenforceable by any court or tribunal of competent jurisdiction, the remaining sections, subsections, subdivisions, clauses, sentences, phrases or portions of this measure shall remain in full force and effect, and to this end the provisions of this measure are severable. In addition, the voters declare that they would have passed all sections, subsections, subdivisions, clauses, sentences, phrases or portions of this measure without the section, subsection, subdivision, clause, sentence, phrase or portion held unconstitutional or invalid.