

Article 2: Health Regulated Businesses and Activities

Division 13: Cannabis Regulations

(“San Diego Medical Cannabis Voluntary Verification Card Program” added 2-25-2002 by O-19036 N.S.)

(Retitled to “Medical Marijuana Regulations: Patients and Caregivers” and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

(Retitled to “Marijuana Regulations” on 2-22-2017 by O-20794 N.S.; effective 3-24-2017.)

(Retitled from “Marijuana Regulations” to “Cannabis Regulations” on 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)

§42.1301 Purpose and Intent

- (a) It is the intent of the Council to adopt regulations consistent with California Health and Safety Code section 11362.5 (Compassionate Use Act), California Health and Safety Code sections 11362.7-11362.83 (Medical Marijuana Program), the Medical Cannabis Regulation and Safety Act, and the Adult Use of Marijuana Act (Proposition 64) to protect public health, safety, and welfare.
- (b) Nothing in this Division is intended to override a peace officer’s judgment and discretion based on a case-by-case evaluation of the totality of the circumstances, or to interfere with a peace officer’s sworn duty to enforce applicable law.
- (c) Nothing in this Division is intended to reduce the rights of a *qualified patient* or *primary caregiver* otherwise authorized by California Health and Safety Code sections 11362.5(d) and 11362.765, or of individuals twenty-one years of age or older, as authorized by the Adult Use of Marijuana Act.
- (d) This Division shall be interpreted in a manner consistent with state law. Nothing in this Division is intended to authorize the sale, distribution, possession, planting, cultivation, harvesting, drying, processing, manufacturing, compounding, converting, producing, deriving, or preparing of *cannabis*, or any other transaction, in violation of state law.

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

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

(Amended 2-22-2017 by O-20794 N.S.; effective 3-24-2017.)

(Amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)

§42.1302 Definitions

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

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

Cannabis processing means the creation or manufacturing of *cannabis* concentrate or an edible or topical product containing concentrated *cannabis* and other ingredients.

Cannabis products has the same meaning as in California Health and Safety Code section 11018.1.

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

Private residence has the same meaning as in California Health and Safety Code section 11362.2(b)(5).

Qualified patient means a California resident having the right to obtain and use *cannabis* for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of *cannabis* in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which *cannabis* provides relief in accordance with state law, including California Health and Safety Code section 11362.5.

Vaping has the same meaning as in section 43.1001 of this Code.

Volatile solvents means volatile organic compounds, including explosive gases, such as butane, propane, xylene, styrene, gasoline, kerosene, O₂ or H₂, and dangerous poisons, toxins or carcinogens, such as methanol, iso-propyl alcohol, methylene chloride, acetone, benzene, toluene, and trichloro-ethylene.

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

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

(Amended 2-22-2017 by O-20794 N.S.; effective 3-24-2017.)

(Amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)

§42.1303 Smoking and Vaping Cannabis or Cannabis Products

Smoking, *vaping*, and ingesting of *cannabis* or *cannabis products* is prohibited in any public place or in any place open to the public. Any person who violates this section is guilty of an infraction.

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

(Renumbered from former Section 42.1304, retitled from “Smoking” to “Smoking and Vaping Marijuana or Marijuana Products” and amended 2-22-2017 by O-20794 N.S.; effective 3-24-2017. Former Section 42.1303 “State Identification Card Holders: Permissible Amounts of Marijuana” repealed.)

(Retitled from “Smoking and Vaping Marijuana or Marijuana Products” to “Smoking and Vaping Cannabis or Cannabis Products” and amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)

§42.1304 Cannabis Cultivation

(a) Personal indoor *cannabis* cultivation is subject to the following regulations:

- (1) Indoor *cannabis* cultivation for personal use, in a manner and amount consistent with state law, may occur in an area of no more than 64 square feet.
- (2) For purposes of this section, indoor *cannabis* cultivation includes cultivation in a fully enclosed and secure accessory structure to a *private residence* located upon the grounds of a *private residence*, consistent with state law.
- (3) The use of gas products or *volatile solvents*, including carbon dioxide (CO₂), methane, or any other flammable or non-flammable gas, for *cannabis* cultivation or *cannabis processing* is prohibited.

(b) No person shall plant, cultivate, harvest, dry, or process *cannabis* plants outdoors in anything other than a secured structure upon the grounds of a *private residence*.

(“Marijuana Cultivation” added 2-22-2017 by O-20794 N.S.; effective 3-24-2017. Former Section 42.1304 “Smoking” amended, retitled, and renumbered to Section 42.1303.)

(Retitled from “Marijuana Cultivation” to “Cannabis Cultivation” and amended 1-8-2020 by O-21163 N.S.; effective 2-9-2020.)