City of Novato
Youth Access, Land Use and Taxes & Fees
CITY OF NOVATO
Core Values - Community Priorities

Public Safety
Environmental Protection
Neighborhood and Land Use Protection
Access by Youth
YOUTH, COMMUNITY AND NEIGHBORHOODS

Community Goals:

- Manage underage exposure to cannabis, prevent underage access to and use of product
- Prevent adult use disorders and associated with cannabis and abuse of product by adults
- Promote public health and public safety
YOUTH, COMMUNITY AND NEIGHBORHOODS (Cont’d)

- Protect the environment
- Establish Proper Buffer Zones
- Prevent unlawful production, distribution and sales of cannabis
Concerns triggered by cannabis legalization

- Broader availability of legal cannabis will make it easier for youth to access it
- Legalization could also lead youth to believe that cannabis is completely safe, which could result in higher rates of youth cannabis use over time
- Adverse changes in the brain affecting learning and memory
Strategies to Address Increased Youth Access

- In 2015, 80% of 12th graders in the United States reported that cannabis is “fairly easy” or “very easy” to obtain.
- Reality is less than 20% polled really say they use it.
- Successful strategies tend to focus on density, buffer zones and limiting hours of operation.
WHAT’S LEGAL?

KNOW THE RULES
State Regulations re: Conduct of Licensees

- Licensed retailers cannot sell cannabis to persons under 21
- Licensed retailers cannot allow persons under 21 on the licensed premises
- Licensed retailers and may not employ persons under 21
- Cities can establish routine inspections to enforce underage sales
State Regulations re: Conduct of Licensees

- Consumers must present a valid, government-issued ID card showing the consumer’s age prior to purchase. Sales without ID are prohibited.

- Police are authorized by state law to use persons under 21 years of age to purchase or attempt to purchase cannabis or cannabis products for the purpose of enforcing age restriction laws
Addressing Community Concerns Through Regulations
Sales to Minors
Strategies for reducing sales to minors include:

- Requiring training and education for cannabis retail employees, particularly those who engage directly with customers ("budtenders")
- Requiring the use of technology that improves the accuracy of age verification processes
- Routine enforcement efforts (using minors who attempt to buy cannabis as part of a compliance check) and sufficient penalties to deter sales to minors
Advertising

- Advertising can strongly influence young people to consume certain products. This is supported by numerous studies evaluating the effects of youth exposure to alcohol and tobacco advertising.
- For this reason, state law expressly prohibits advertising that is geared to be appealing to children.
### NOVATO ZONING DISTRICTS

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>BPO</td>
<td>Business and Professional Office</td>
</tr>
<tr>
<td>CDB</td>
<td>Downtown Core Business</td>
</tr>
<tr>
<td>CDR</td>
<td>Downtown Core Retail</td>
</tr>
<tr>
<td>CG</td>
<td>General Commercial</td>
</tr>
<tr>
<td>CI</td>
<td>Commercial/Industrial</td>
</tr>
<tr>
<td>CN</td>
<td>Neighborhood Commercial</td>
</tr>
<tr>
<td>LIO</td>
<td>Light Industrial/Office</td>
</tr>
</tbody>
</table>
Expressly protects local licensing practices, zoning ordinances, and local actions taken under police powers.

LEGISLATION PROTECTS LOCAL CONTROL
Strategies to Address Increased Youth Access

- **Limiting Hours of Retail Operations:** In the context of alcohol, research is mixed about whether access to and problems associated with alcohol decrease when retail sales are restricted to certain hours or days. Such restrictions could limit youth access, but care must be taken not to stimulate black market activity.
Challenge of enacting precise restrictions:

- “Attractive to children” is not defined in the law, state regulations will hopefully provide clarity
- Local ordinances establishing advertising rules more restrictive than state law may be difficult to implement
- Overly broad restrictions or bans on advertising may be subject to legal challenge
Advertising – Strategies for Cities

- Adopt an ordinance consistent with state law, prohibiting advertising “attractive to children” or intended to encourage youth use (bans on cartoon or branded characters or celebrity endorsements)

- Establish sufficient penalties for violating advertising restrictions, up to and including permit revocation

- Advertising placed in broadcast, cable, radio, print, and digital media is restricted to audiences where at least 71.65% of audience members are 21 or older
Challenge of enacting precise restrictions:

- State law prohibits advertising within 1,000 feet of schools, day cares, youth centers, and playgrounds.
- But it does not address on-site marketing or other forms of advertising which youth may frequently encounter.
- Cities can limit advertising at retail locations including posters, billboards, window coverings.
State Mandated Buffer Zone

- Cannabis businesses cannot be located within 600 feet of a “sensitive use,” defined as a school, day care center, or youth center. This rule includes private schools, but not those in private homes.

- **Day Care Center**: Includes preschools but not home day cares with less than 14 children.
Strategies to Address Increased Youth Access

- **Buffer Zones:** Research on alcohol and tobacco show that creating buffers or “safe zones” around areas that youth frequent has association with lower levels of youth substance abuse. Similar strategies can be implemented for cannabis retailers to minimize youth exposure and opportunity.
State Mandated Buffer Zone

- **Youth center:** Currently this term is poorly defined in state law, causing cities some difficulty.
- Cities can address this by providing their own detailed definition of a youth center in their ordinances, including what is excluded.
Strategies to Address Increased Youth Access

- **Density:** Studies show that concentration of alcohol retailers can increase abuse of alcohol by youth. Cities can control the density of cannabis retailers by requiring them to be located a minimum specified distance from one another.
State Mandated Buffer Zone and Local Rules

- Cities can designate a greater or lesser buffer zone than 600 feet, but it should be codified in an ordinance. The state will defer to such rules.
- Per state law, distances must be measured from parcel to parcel, boundary line to boundary line – not structure to structure.
POTENTIAL PUBLIC CONCERNS
## PUBLIC SAFETY RISK ASSESSMENT

<table>
<thead>
<tr>
<th>REGULATED CANNABIS ALLOWS POLICE TO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Monitor business practices</td>
</tr>
<tr>
<td>• Conduct background checks</td>
</tr>
<tr>
<td>• Approve security plans</td>
</tr>
<tr>
<td>• Offset resource cost for staffs time</td>
</tr>
<tr>
<td>• Regulate time, place, and manner requirements</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>UNREGULATED ILLEGAL SALE OF CANNABIS:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Reduces police power due to limited search and seizure laws under Prop 64</td>
</tr>
<tr>
<td>• Makes it difficult to gather intelligence information</td>
</tr>
<tr>
<td>• Encourages black market sales</td>
</tr>
<tr>
<td>• Creates a reliance on public safety resources with no mechanism for cost recovery</td>
</tr>
<tr>
<td>• No control regarding sales to youth</td>
</tr>
</tbody>
</table>
PUBLIC SAFETY CONCERNS

• Bad actors
• Black market diversion/inversion
• Illegal cultivation activities
• Illegal business activities
• Driving while impaired
• Increased traffic from Retailers

PUBLIC HEALTH CONCERNS

• Bad odors
• Pollutants/Air Quality
• Overdose Response Calls
• Access by youth in homes/illegal sales
PERSONAL USE PUBLIC SAFETY & WELFARE

- Grants person right to cultivate (indoor) up to six (6) plants
- Can be subject to reasonable local regulations
- Can prohibit outdoor cultivation
- The primary use of the property must be for a residence
- Must comply with building and construction code
- Use of gas products or generators for cultivation are prohibited
- Any structure used must be secure and fully enclosed
- Must have written consent of the property owner
FEES AND TAXES

✓ Initial Application Fee
✓ Annual Regulatory Fee
✓ Cannabis Tax
✓ Sales Tax
WHO IS SUBJECT TO THE CANNABIS TAX?

A Commercial Cannabis Tax is a tax on the business entity who is authorized to conduct these activities and holds a Commercial Cannabis Permit.

This is **not** a tax on the consumer.
RATE OF TAX

• High enough to generate proceeds to offset costs
• Low enough to avoid over-taxing and ensure sustainability
• Ability to match tax rates with neighboring jurisdictions
• Encourage licenses in short supply
• Three year freeze on tax increase to stabilize market
• Flexibility options
  – City Council may increase or decrease rate
  – Index for inflation
  – Minimum and Maximum rates
  – Tax other categories not currently permitted in the City such as Testing Labs, Distribution facilities and unlawful commercial activity
THINGS TO CONSIDER IN DEVELOPING TAX

- Adult Use Marijuana Act (AUMA) 15% Excise Tax Effective tax rate.
- Cultivation Excise Tax $9.25 per oz. (Flower)
- Cultivation Excise Tax $2.75 on (Leaves)
- Distribution and processing cost of 15% to 30%.
- State permit cost to be implemented.
- City regulatory permit fees which may be charged to offset staff costs to manage the program.
**CANNABIS STATE AND LOCAL TAX RATES**

**State Cannabis Excise Tax**
(Appplies to medical and non-medical)
- **Retail Tax**
  - 15%
  - Gross Receipts of Retail Sales
- **Cultivation Tax**
  - $9.25/oz. Flowers
  - $2.75/oz. Leaves

**Sales and Use Tax:**
7.25% +
- Adult-Use Subject to Tax
- Medicinal May be Subject to Tax

**City Cannabis Tax**
(Medicinal /Adult –Use)
- XX% of Gross Receipts
- $XX Per Square Feet
- $XX Flat Rate
- $XX Per Weight

**City Cost Recovery Fees**
(Prop 26)
(Medicinal/Adult-Use)
- $XX Application Fee
- $XX License Fee
- $XX Renewal Fee
- $XX Administration Fee

- State General Fund (3.9375%)
- Local Public Safety Fund (.50%)
- Local Revenue Fund (1.5625%)
- County Transportation Fund (.25%)
- City/County Operations Fund (1.00%)
SQUARE FOOTAGE TAX OPTIONS FOR CULTIVATION

- $XX sq. ft. (Fixed Rate)
- $XX sq. ft. w/initial tax with a not to exceed amount
- $XX sq. ft. w/initial tax with a not to exceed amount and then a CPI thereafter
- $XX sq. ft. w/CPI annual adjustment
- $XX sq. ft. on first XX sq. ft. and then reduce amount for additional sq. ft.
- $XX for total sq. ft. authorized based on permit type (i.e. Type 1A Permit 5,000 sq. ft.)
- Stacking prohibited vs stacking permitted (State may calculate this activity in the rules)
- No rate increase for three years
GROSS RECEIPTS TAX OPTIONS

- Gross Receipts (Flat rate)
- Gross Receipts (Initial rate then automatically adjusted annually up to the not to exceed limit)
- Gross Receipts (Initial rate then adjusted only if authorized by the City Council up to the not to exceed limit)
- No Rate Increase for the first three years
<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
<th>Increase</th>
<th>Cumulative Price</th>
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<tbody>
<tr>
<td>Producer Price</td>
<td>$1,000</td>
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<td>$1,000</td>
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<tr>
<td>State Cultivation Tax</td>
<td>$9.25/oz</td>
<td>$148</td>
<td>$1,148</td>
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<tr>
<td>Local Tax</td>
<td>2.50%</td>
<td>$25</td>
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<tr>
<td>Batch Testing</td>
<td>$50/lb, + 0.50%</td>
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<td>$1,228</td>
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<tr>
<td>Wholesale Price w/ Taxes</td>
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<td>$1,228</td>
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<td>Total Tax at Wholesale</td>
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<td>$228</td>
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<tr>
<td>Tax as %</td>
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<td>22.80%</td>
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<tr>
<td>Manufacturer Markup</td>
<td>20.00%</td>
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<td>$1,474</td>
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<tr>
<td>Local Tax</td>
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<td>$1,533</td>
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<td>Total Manufacturer Price</td>
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<tr>
<td>Total Taxes at Manufacturer</td>
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<td>$287</td>
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<tr>
<td>Total Tax as %</td>
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<td>18.72%</td>
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<tr>
<td>Distributor Markup</td>
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<td>Local Tax</td>
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<td>Total Distributor Price</td>
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<td>Total Taxes at Distributor</td>
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<td>Total Tax as %</td>
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<td>16.90%</td>
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<tr>
<td>Retailer Markup</td>
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<td>Local Tax</td>
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<td>$4,309</td>
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<tr>
<td>State Excise Tax</td>
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<tr>
<td>Total Retailer Price</td>
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<td>$4,925</td>
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<tr>
<td>Total Taxes at Retail</td>
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<td>$1,168</td>
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<tr>
<td>Total Tax as %</td>
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<td>23.71%</td>
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<tr>
<td>CA Sales Tax</td>
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<tr>
<td>Local Sales Tax</td>
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<td>$5,344</td>
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<tr>
<td>Total Taxes at Retail</td>
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<td>$1,586</td>
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<tr>
<td>Total Tax as %</td>
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<td>29.68%</td>
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<tr>
<td>Total Local Tax</td>
<td>7.45%</td>
<td>$398.17</td>
<td>$398.17</td>
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</table>
Thank you!

<table>
<thead>
<tr>
<th>NAME</th>
<th>EMAIL</th>
<th>PHONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>David McPherson</td>
<td><a href="mailto:dmcpherson@hdlcompanies.com">dmcpherson@hdlcompanies.com</a></td>
<td>909-861-4335</td>
</tr>
<tr>
<td>Cannabis Compliance Director</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Matt Eaton</td>
<td><a href="mailto:meaton@hdlcompanies.com">meaton@hdlcompanies.com</a></td>
<td>909-861-4335</td>
</tr>
<tr>
<td>Cannabis Compliance Manager</td>
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<tr>
<td>Tim Cromartie</td>
<td><a href="mailto:tcromartie@hdlcompanies.com">tcromartie@hdlcompanies.com</a></td>
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</tr>
<tr>
<td>Cannabis Senior Advisor</td>
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