

## Article 2: Health Regulated Businesses and Activities

### Division 13: Marijuana 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.)*

#### §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 *marijuana*, 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.)*

**§42.1302 Definitions**

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

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

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

*Marijuana 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 *marijuana*, at or before the time he or she assumed responsibility for assisting with medical *marijuana*.

*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 *marijuana* 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 *marijuana* in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which *marijuana* 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, O<sub>2</sub> or H<sub>2</sub>, 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.)*

**§42.1303 Smoking and Vaping Marijuana or Marijuana Products**

Smoking, *vaping*, and ingesting of *marijuana* or *marijuana 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.)*

**§42.1304 Marijuana Cultivation**

- (a) Personal indoor *marijuana* cultivation is subject to the following regulations:
  - (1) Indoor *marijuana* 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 *marijuana* 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 (CO<sub>2</sub>), methane, or any other flammable or non-flammable gas, for *marijuana* cultivation or *marijuana processing* is prohibited.
- (b) No person shall plant, cultivate, harvest, dry, or process *marijuana* 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.)*