The Regular Electronic Meeting of the West Valley City Council will be held on Tuesday, November 12, 2019, at 6:30 PM, in the City Council Chambers, West Valley City Hall, 3600 Constitution Boulevard, West Valley City, Utah. Members of the press and public are invited to attend.

**A G E N D A**

1. Call to Order

2. Roll Call

3. Opening Ceremony: Councilmember Fitisemanu

4. Special Recognitions

5. Approval of Minutes:

   A. October 22, 2019

6. Awards, Ceremonies and Proclamations:

   A. Employee of the Month Award, November 2019- Tyson Emmett, IT Department

   B. Presentation of the CAFR (Comprehensive Annual Financial Report) and PAFR (Popular Annual Financial Report) Awards

7. Comment Period:

   *(The comment period is limited to 30 minutes. Any person wishing to comment shall limit*

- West Valley City does not discriminate on the basis of race, color, national origin, gender, religion, age or disability in employment or the provision of services.
- If you are planning to attend this public meeting and, due to a disability, need assistance in understanding or participating in the meeting, please notify the City eight or more hours in advance of the meeting and we will try to provide whatever assistance may be required. The person to contact for assistance is Nichole Camac.
- Electronic connection may be made by telephonic or other means. In the event of an electronic meeting, the anchor location is designated as City Council Chambers, West Valley City Hall, 3600 Constitution Boulevard, West Valley City, Utah.

*their comments to five minutes. Any person wishing to comment during the comment period shall request recognition by the Mayor. Upon recognition, the citizen shall approach the microphone. All comments shall be directed to the Mayor. No person addressing the City Council during the comment period shall be allowed to comment more than once during that comment period. Speakers should not expect any debate with the Mayor, City Council or City Staff; however, the Mayor, City Council or City Staff may respond within the 30-minute period.)*

A. Public Comments

B. City Manager Comments

C. City Council Comments

8. Public Hearings:

A. Accept Public Input Regarding Application GPZ-5-2019, Filed by Ruben Salazar, Requesting a General Plan Change from Rural Residential (1 to 2 Units/Acre) to Large Lot Residential (2 to 3 Units/Acre) and a Zone Change from A (Agriculture, Minimum Lot Size ½ Acre) to R-1-7 (Single Unit Dwelling Residential, Minimum Lot Size 7,000 Sq. Ft.) for Property Located at 2545 South Lester Street

Action: Consider Ordinance 19-43, Amend the General Plan to Show a Change of Land from Rural Residential (1 to 2 Units/Acre) to Large Lot Residential (2 to 3 Units/Acre) for Property Located at 2545 South Lester Street

Action: Consider Ordinance 19-44, Amend the Zoning Map to Show a Change of Zone for Property Located at 2545 South Lester Street from A (Agriculture, Minimum Lot Size ½ Acre) to R-1-7 (Single Unit Dwelling Residential, Minimum Lot Size 7,000 Sq. Ft.)

Action: Consider Resolution 19-142, Authorize the City to Enter into a Development Agreement with Ruben Salazar for Approximately 0.89 Acres of Property Located at Approximately 2545 South Lester Street

B. Accept Public Input Regarding Application ZT-5-2019, Filed by West Valley City, Requesting a Zone Text Change to Amend Section 7-7-105.5 Regarding Cannabis Production Establishments and Medical Cannabis Pharmacies

Action: Consider Ordinance 19-45, Amend Section 7-7-105.5 of the West Valley City Municipal Code to Amend Regulations Governing Cannabis Production Establishments and Medical Cannabis Pharmacies

9. Resolutions:

A. 19-137: Authorize the Execution of an Agreement Between West Valley City and Keddington & Christensen, Certified Public Accountants, LLC to Provide Auditing Services to West Valley City for the Fiscal Year Ending June 30, 2019

B. 19-138: Authorize Change Order No. 1 to the Contract with Acme Construction for the 2700 West Improvements Project

C. 19-139: Approve the Purchase of Traffic Signal Equipment from the Utah Department of Transportation for the 2700 West Improvements Project

D. 19-140: Approve the Purchase of Streetlights from Mountain States Lighting for the 2700 West Improvements Project

10. Consent Agenda:

A. Reso. 19-141: Authorize the City to Enter into a Right of Way Contract and Accept an Underground Right of Way Easement With and From Anne Brown for Property Located at Approximately 5990 West 3500 South

11. Motion for Closed Session (if necessary)

12. Adjourn

**MINUTES OF COUNCIL REGULAR MEETING – OCTOBER 22, 2019**
**-1-**

THE WEST VALLEY CITY COUNCIL MET IN REGULAR SESSION ON TUESDAY, OCTOBER 22, 2019, AT 6:30 P.M. IN THE COUNCIL CHAMBERS, WEST VALLEY CITY HALL, 3600 CONSTITUTION BOULEVARD, WEST VALLEY CITY, UTAH. THE MEETING WAS CALLED TO ORDER AND CONDUCTED BY MAYOR BIGELOW.

THE FOLLOWING MEMBERS WERE PRESENT:

Ron Bigelow, Mayor
Don Christensen, Councilmember At-Large
Lars Nordfelt, Councilmember At-Large
Tom Huynh, Councilmember District 1
Steve Buhler, Councilmember District 2
Karen Lang, Councilmember District 3
Jake Fitisemanu, Councilmember District 4

STAFF PRESENT:

Wayne T Pyle, City Manager
Nichole Camac, City Recorder

Nicole Cottle, Assistant City Manager/General Counsel/ CED Director
Eric Bunderson, City Attorney
Jim Welch, Finance Director
Colleen Jacobs, Police Chief
John Evans, Fire Chief
Russell Willardson, Public Works Director
Willy Moon, Acting CPD Director
Nancy Day, Parks and Recreation Director
Sam Johnson, Strategic Communications Director
Jake Arslanian, Public Works Department
Steve Pastorik, CED

**OPENING CEREMONY**
Councilmember Karen Lang conducted the Opening Ceremony. He requested that members of the audience, City Staff, and the Council rise and recite the Pledge of Allegiance.

**APPROVAL OF MINUTES OF REGULAR MEETING HELD OCTOBER 15, 2019**
The Council considered the Minutes of the Regular Meeting held October 15, 2019. There were no changes, corrections or deletions.

DRAFT

Councilmember Huynh moved to approve the Minutes of the Regular Meeting held October 15, 2019. Councilmember Lang seconded the motion.

A voice vote was taken and all members voted in favor of the motion.

## AWARDS, CEREMONIES AND PROCLAMATIONS

### A. PROCLAMATION DECLARING NOVEMBER 1, 2019 AS "EXTRA MILE DAY" IN WEST VALLEY CITY

Councilmember Christensen read the proclamation declaring November 1, 2019 as Extra Mile Day in West Valley City.

## COMMENT PERIOD

### A. PUBLIC COMMENTS

Jim Vesock expressed concern regarding Layne Morris being the Administrative Law Judge. He stated that Layne has lied to the Council and has mistreated citizens. Mr. Vesock read an email aloud that he sent to members of the Council.

John Fuller stated that he is concerned about the proposed change to the Development Agreement scheduled on the agenda. He indicated that he feels this is a "bait and switch" and added that this change will bring too many people into the City. Mr. Fuller stated that he is concerned that the apartments will fall into disrepair and cause additional safety hazards.

Roger Thackery stated the he is also concerned about the proposed change to the Development Agreement. Mr. Thackery stated that there was drug use behind the Kmart building, a murdered body found in the storm drain, and other issues on the property. He stated that similar issues will continue with more apartments. Mr. Thackery expressed concern about the applicant not doing enough research prior to the original proposal and having to modify now. He stated traffic will increase and expressed concern that the City and the Council doesn't care about its citizens. Mr. Thackery indicated that he feels management doesn't know how to attract successful retail.

David McEwan stated that he found out about this proposed change to the Development Agreement on a Taylorsville website. He indicated that the Planning Commission and City Council went through many meetings before the original proposal was passed and changing that will breed mistrust between the community and the government. Mr. McEwan stated that he cares about the City but noted that West Valley is not exempt from homelessness. He stated that he fears these people will move into open space in the apartment area. Mr. McEwan expressed concern about the height of the townhomes next to existing homes, paying for parking stalls, traffic on 4100 South, and increased traffic in neighborhoods creating safety

concerns for children. Mr. McEwan stated this is a gateway to the City and should be something the City is proud of.

James Davis stated that he doesn't know a lot of changes proposed related to the Development Agreement. He stated that there is an irrigation ditch in the area and hopes that the City will take responsibility to ensure no problems arise with the construction of this development. Mr. Davis stated that when he turns the water on, he has to ensure that homeless people are not in the ditch and he has to remove drug paraphernalia. He detailed several issues related to parking in the area and expressed concern regarding an increase of this problem once this development is constructed.

Darrell Curtis stated that he likes permanence in the City. He stated he is generally against apartments but noted that there is a time when apartments are necessary. Mr. Curtis stated that apartments fall into despair and cause issues for the community. He stated that the builder is proposing something lesser before the project is even built. He expressed concern about an increase in traffic and crime. Mr. Curtis questioned if more officers will be hired and noted that there are already vacancies that the City cannot fill in the force. He stated that there are likely hundreds of vacancies in existing apartments in the City.

Earnest Burgess stated that he is on the Taylorsville City Council and is here representing citizens of his district. He indicated that there are many residents who are concerned about public safety, private property values, and traffic. Mr. Burgess indicated that any changes by the developer should enhance or improve the project and the current proposed options don't appear to do that.

Adam Lee stated that the area where the apartments will be located needs a larger grocery store. He indicated that he feels people would feel better and the stress level would decrease if a nicer, larger grocery store was available.

Katherine Stahl stated that she lives in apartments neighboring the proposed Sage Valley apartments. She indicated that a lot of neighbors struggle to pay rent and she is concerned that her apartments will raise their rent when these ones are built. Ms. Stahl added that she is also concerned about safety, more people crossing the street illegally, more accidents, and more problems in general.

Rich Day, the developer, stated that there is a required amount of lighting that will provide safety, there will be solar panels, green space, a concrete wall that will be well maintained and aesthetically pleasing, no charged parking, and more than 800 parking stalls which is more than what is required by the City. He indicated that the original proposal is less expensive than what is being proposed now so nothing is

lesser and noted that there many other qualities that are being added. Mr. Day stated that the market is demanding a high-quality product and the intent will be to target the median income. Mr. Day also noted that the existing Smith's has expressed an intent to convert to a larger Smith's Marketplace.

B. **CITY MANAGER COMMENTS**

Wayne Pyle, City Manager, stated that Mr. Vesock has made the same accusations as he has repeatedly done in the past. He indicated that the accusations have been looked into and are not true. Mr. Pyle noted that Mr. Vesock's opinions are his own and are not substantiated in any way.

C. **CITY COUNCIL COMMENTS**

Councilmember Buhler stated that the Administrative Law Judge would has always been, and will always be, an employee of the City. He indicated that this position would always be answerable to administration, would be beholden to the City, and would not be a third-party representative.

Mayor Bigelow stated that one misconception that he often hears is that elected officials don't listen or do what citizens tell them to do. He indicated that a challenge of an elected official is to determine and make choices regarding the overall plan and best interest of the entire City and not the want or request of individual people or a few loud voices. Mayor Bigelow stated that it can be difficult to determine whether a few voices represent the majority of the people and if it constitutes modifying the plan and direction of the City. He indicated that one term he has learned over his years in politics is "NIMBY" which stands for "not in my back yard". This means that many residents understand a need and even want many types of uses but they don't want those uses next to them. Mayor Bigelow stated that apartments have to go somewhere. Businesses have to go somewhere. And it's the job of the Council to determine the best location for each of these uses. He indicated that there is opposition to many subdivisions, commercial projects, apartments, etc. and if the Council had listened to all of the "no's" there never would have been growth or progress. Mayor Bigelow stated that there is always challenge but just because the Council may not do what the residents ask them to do, doesn't mean they aren't listening.

**RESOLUTION 19-117: AUTHORIZE THE EXECUTION OF AN AMENDMENT TO A DEVELOPMENT AGREEMENT WITH STAY WVC, LLC FOR PROPERTY LOCATED AT APPROXIMATELY 1776 WEST 4100 SOUTH**

Mayor Bigelow discussed proposed Resolution 19-117 that would authorize the execution of an amendment to a Development Agreement with Stay WVC, LLC for property located at approximately 1776 West 4100 South.

Written documentation previously provided to the City Council included information as follows:

> In April of 2018, the City Council approved a zone change and development agreement for a commercial and residential project on the northwest corner of 4100 South and Redwood Road (formerly Kmart). Rich Day, representing Stay WVC, LLC is requesting an amendment to this agreement for the residential portion of the project. The provisions relating to the commercial portion of the property would remain unchanged.
>
> A previous version of the proposed development agreement amendment was considered by the Council on 9/10 and continued. The applicant is now proposing an amendment with fewer changes as option 1. As an alternative to option 1, option 2 includes all of the same commitments as option 1 for the apartments but replaces the townhomes with open space. Included with this report is a table that compares the standards in the original agreement with those proposed in options 1 and 2. Below is a summary of the proposed changes to the development agreement that apply to option 1:
>
> - Reducing the height of the apartment building from 7 to 6 floors
> - Changing the architecture of the apartment building to include ground level units
> - Reducing the number of townhome units by 3
> - Changing the architecture of the townhomes to compliment the apartment building
> - Increasing the area of the townhomes by going from 2 to 3 stories
> - Changing the unit mix and unit sizes in the apartment building to increase the variety of unit types and to include more 2 and 3 bedroom units
> - Changing the 5 upper floors from concrete to wood construction with extra sound attenuation and fire rating on the wood

Councilmember Christensen noted he currently has access to voter information and he contacted many people in the surrounded area. He stated that the people he spoke with expressed concern about the irrigation ditches, wanting to keep the proposed project night, and keeping ownership options in the proposal. Councilmember Christensen stated that even though the size of the units has decreased, they are still larger than those at Fairbourne Station.

Councilmember Buhler stated that no one wants drug problems, homeless issues, or safety concerns on any property in the City. He indicated that even if this application were denied today, the applicant already owns this property and has the right, the current zoning, and

the proper approvals to build apartment units. Councilmember Buhler stated that the City does not own this property and cannot tell the property owner to build a grocery store or a movie theater or anything else. He stated that the proposal is planned to be better than any other apartment in the City and anything new should be better, so he is thankful that this appears to be a quality development. Councilmember Buhler stated that he prefers option one because it includes townhomes and he likes that this would promote ownership. He stated that wood is a good material to use in construction and is allow in Building Code. Councilmember Buhler stated that the applicant came back with an amended Development Agreement a month ago and the Council was not happy with what was proposed. He stated that the Council pushed back and the two options before them today are much better. He stated that the parking requirements meet and exceed the current ordinance which is all the City can ask for at this time.

Councilmember Lang stated that she is concerned with the reduction of one-bedroom units and the increase of 2- and 3-bedroom units. She indicated that she believes this change will cause an increase in parking problems. Councilmember Lang stated that the solar power panels sound great but noted that they are only proposed in the common areas so this doesn't create sustainable housing. She noted that she is happy to see that there won't be a charge for parking and noted that she would also be in favor of the townhome proposal but would like to see them be 2 story units and not 3. Councilmember Lang stated that people won't use transit for this development as much as one might hope so traffic and parking will be a concern.

Councilmember Fitisemanu stated that there is an option to deny this proposal. He indicated that he trusts the developer and knows them to have integrity and to produce quality projects. He stated that he still has confidence that the original proposal will be a solid development and changes aren't needed.

Councilmember Huynh asked how much vacant land is left in the City. Steve Pastorik, CED, replied approximately 10% and less than half of that is available for residential development. Councilmember Huynh clarified the sized comparison of the units with those at Fairbourne Station. Councilmember Huynh discussed a parking crisis with an apartment complex in Murray and noted that he is concerned with this happening in West Valley. He noted that the City would have to find a solution to this problem. Councilmember Huynh discussed the high rate of turnover in this area, talked about the Church and issues it has experienced in this community, and expressed his opposition to this proposal.

Councilmember Nordfelt asked if the parking requirement was adjusted when the number of bedroom units was modified. Steve replied yes.

Councilmember Huynh continued discussing turnover rates and parking concerns. He also noted that he is concerned that the Police Department will have an increase in issues.

Mayor Bigelow requested clarification at a future meeting on how much open space is left for residential development. He asked what will be provided for lighting in the project. Steve replied that existing apartments in the area were constructed when there were no requirements for lighting standards. He stated that this project will require a lighting plan that meets current City ordinances. Mayor Bigelow asked if issues with the irrigation ditch have been looked into. Steve replied that all engineering issues will be addressed at the conditional use phase of the project. Mayor Bigelow noted that a traffic study was done and asked what those results showed. Steve replied that the study indicated that a successful commercial development at this location would generate more trips. Mayor Bigelow stated that large complexes are being built all across the valley and safety issues are often a concern that is brought up. He asked if all apartment complexes experience these problems. Steve replied that not all apartments are created equal and stated that one significant factor is how the complex is managed. He added that one tool the City now requires as part of the Development Agreement are management standards. Mayor Bigelow clarified that these standards have not changed with this new proposal. Steve replied that these have remained the same. Mayor Bigelow noted that appreciates all the public comments and thankful when residents attend.

Councilmember Huynh shared a story regarding the Somerset Apartments near these proposed apartments. He indicated these apartments are very bad.

Councilmember Nordfelt thanked the audience for attending. He stated that he was upset about the amendment when he first saw it. Councilmember Nordfelt stated that the City Council and staff negotiated with the developer and worked hard to come up with a solution that he feels is actually better than what was originally proposed. He noted that there is an alley between the proposed townhomes that will help with the height and he feels that, after weighing the good and bad aspects, option 1 is a good choice for the community.

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

Councilmember Nordfelt moved to approve Resolution 19-117 subject to Option 1.

Councilmember Buhler seconded the motion.

Councilmember Christensen stated that safety and police calls are important and management matters. He indicated that there are some truly great people who live in apartments and some people live in apartments for years. Councilmember Christensen stated that he lives next to two apartment complexes in West Valley that are managed differently but he knows wonderful people in both.

Mayor Bigelow stated that he is not overwhelmed with this proposal being better or worse, but he feels the concept remains the same. He indicated that focusing on the general plan, finding a place for people to live, and looking at all the issues can be difficult and everyone has various opinions that will likely be reflected in the vote on this matter.

A roll call vote was taken:

| | |
|---|---|
| Mr. Fitisemanu | No |
| Ms. Lang | No |
| Mr. Buhler | Yes |
| Mr. Huynh | No |
| Mr. Christensen | Yes |
| Mr. Nordfelt | Yes |
| Mayor Bigelow | Yes |

Majority.

**CONSENT AGENDA**

A. **RESOLUTION 19-133: AUTHORIZE THE CITY TO ENTER INTO A RIGHT OF WAY CONTRACT AND ACCEPT AN UNDERGROUND RIGHT OF WAY EASEMENT WITH AND FROM BRIAN AND LORI CREIGHTON FOR PROPERTY LOCATED AT APPROXIMATELY 5954 WEST 3500 SOUTH**

Mayor Bigelow discussed proposed Resolution 19-133 that would authorize the City to enter into a Right of Way Contract and accept an Underground Right of Way Easement with and from Brian and Lori Creighton for property located at approximately 5954 West 3500 South

Written documentation previously provided to the City Council included information as follows:

> The Brian D. Creighton and Lori T. Creighton parcel located at 5954 West 3500 South is one of several parcels affected by this project and which require acquisitions Underground Right of Way Easements in favor of Rocky Mountain Power for the 3500 South Power Burial Project; approximately 5400 West to 6000 West. This project will be constructed in conjunction with the current phase of the Mountain View Corridor Project. As a Betterment to the Mountain View Corridor Project, West Valley City is paying for the burial of overhead power lines between approximately 5400 West and 6000 West. Compensation for the purchase of the Underground Right of Way Easement and improvements is $14,800.00 based upon the compensation estimate prepared by the DH Group, LLC.

B. **RESOLUTION 19-134: AUTHORIZE THE CITY TO ENTER INTO A RIGHT OF WAY CONTRACT AND ACCEPT AN UNDERGROUND RIGHT OF WAY EASEMENT WITH AND FROM CAROL WINKEMPLECK AND YOLANDA TAYLOR FOR PROPERTY LOCATED AT APPROXIMATELY 5966 WEST 3500 SOUTH**

Mayor Bigelow discussed proposed Resolution 19-134 that would authorize the City to enter into a Right of Way Contract and Accept an Underground Right of Way Easement with and from Carol Winkempleck and Yolanda Taylor for property located at approximately 5966 West 3500 South.

Written documentation previously provided to the City Council included information as follows:

> The Carol A. Winkempleck and Yolanda L. Taylor parcel located at 5966 West 3500 South is one of several parcels affected by this project and which require acquisitions Underground Right of Way Easements in favor of Rocky Mountain Power for the 3500 South Power Burial Project; approximately 5400 West to 6000 West. This project will be constructed in conjunction with the current phase of the Mountain View Corridor Project. As a Betterment to the Mountain View Corridor Project, West Valley City is paying for the burial of overhead power lines between approximately 5400 West and 6000 West. Compensation for the purchase of the Underground Right of Way Easement and improvements is $5,800.00 based upon the compensation estimate prepared by the DH Group, LLC.

C. **RESOLUTION 19-135: AUTHORIZE THE CITY TO ENTER INTO A RIGHT OF WAY CONTRACT AND ACCEPT AN UNDERGROUND RIGHT OF WAY EASEMENT WITH AND FROM OIL SLICK HOLDINGS LLC FOR PROPERTY LOCATED AT APPROXIMATELY 5534 WEST 3500 SOUTH**

Mayor Bigelow discussed proposed Resolution 19-135 that would authorize the City to enter into a Right of Way Contract and Accept an Underground Right of Way Easement with and from Oil Slick Holdings LLC for Property Located at Approximately 5534 West 3500 South.

Written documentation previously provided to the City Council included information as follows:

> The Oil Slick Holdings LLC parcel located at 5534 West 3500 South is one of several parcels affected by this project and which require acquisitions Underground Right of Way Easements in favor of Rocky Mountain Power for the 3500 South Power Burial Project; approximately 5400 West to 6000 West. This project will be constructed in conjunction with the current phase

of the Mountain View Corridor Project. As a Betterment to the Mountain View Corridor Project, is paying for the burial of overhead power lines between approximately 5400 West and 6000 West. Compensation for the purchase of the Underground Right of Way Easement and improvements is $1,700.00 based upon the compensation estimate prepared by the DH Group, LLC.

D. **RESOLUTION 19-136: AUTHORIZE THE CITY TO ENTER INTO A RIGHT OF WAY CONTRACT AND ACCEPT AN UNDERGROUND RIGHT OF WAY EASEMENT WITH AND FROM RUECO LLC FOR PROPERTY LOCATED AT APPROXIMATELY 3567 SOUTH 5600 WEST**
Mayor Bigelow discussed proposed Resolution 19-136 that would authorize the City to enter into a Right of Way Contract and Accept an Underground Right of Way Easement with and from RueCo LLC for Property Located at Approximately 3567 South 5600 West.

Written documentation previously provided to the City Council included information as follows:

> The RueCo L.L.C. parcel located at 3567 South 5600 West is one of several parcels affected by this project and which require acquisitions Underground Right of Way Easements in favor of Rocky Mountain Power for the 3500 South Power Burial Project; approximately 5400 West to 6000 West. This project will be constructed in conjunction with the current phase of the Mountain View Corridor Project. As a Betterment to the Mountain View Corridor Project, is paying for the burial of overhead power lines between approximately 5400 West and 6000 West. Compensation for the purchase of the Underground Right of Way Easement and improvements is $3,000.00 was negotiated based upon the compensation estimate prepared by the DH Group, LLC.

Upon inquiry by Mayor Bigelow there were no further questions from members of the City Council, and he called for a motion.

> Councilmember Buhler moved to approve Resolutions 19-133, 19-134, 19-135, and 19-136.
>
> Councilmember Huynh seconded the motion.
>
> A roll call vote was taken:
>
> | | |
> |---|---|
> | Mr. Fitisemanu | Yes |
> | Ms. Lang | Yes |

| | |
|---|---|
| Mr. Buhler | Yes |
| Mr. Huynh | Yes |
| Mr. Christensen | Yes |
| Mr. Nordfelt | Yes |
| Mayor Bigelow | Yes |

Unanimous.

**MOTION TO ADJOURN**
Upon motion by Councilmember Huynh, all voted in favor to adjourn.

THERE BEING NO FURTHER BUSINESS OF THE WEST VALLEY COUNCIL THE REGULAR MEETING OF TUESDAY, OCTOBER 22, 2019 WAS ADJOURNED AT 7:53 P.M. BY MAYOR BIGELOW.

I hereby certify the foregoing to be a true, accurate and complete record of the proceedings of the Regular Meeting of the West Valley City Council held Tuesday, October 22, 2019.

_____
Nichole Camac, CMC
City Recorder

DRAFT

# TYSON EMMETT – IT

In the Intel Unit of the Police Department, there are challenges with expanding space for evidentiary downloads. Each time Tyson is contacted, he works with various programs and their limitations to ensure that downloads that are needed can be accessed. Two weeks ago, the Police Information and Intelligence Unit was asked to perform a forensic data extraction of a cellular phone, with a time constraint. What seemed like a typical and straightforward task became a very atypical task quickly, when the employee performing the task encountered two network drives and a C drive that were completely full as well as issues with software required to perform the extraction. Attempt after attempt to perform the data extraction on this device failed. The issue wasn't as simple as "Just have I.T. add more space to the network." Tyson not only responded to this employee's calls and texts through the rest of the afternoon… he made himself available throughout the evening, night, and well into the early morning hours by phone. Tyson even assisted while running errands with family by "remoting in" to the problem computer and analyzing the issues. When he hadn't heard from the employee in a while, Tyson would be sure to check in and offer assistance and help until the download was complete.

Tyson made himself available to debrief the Sergeant and IIU on what happened, problems encountered, lessons learned, and suggested immediate hardware needs to prevent this from happening in the future. He came in the next Monday to speak with the Department regarding the space issues and talked about ways to proceed.

Ultimately Tyson was able to clear the way so this employee could do their job. Each time there was a hiccup, Tyson jumped in immediately and analyzed the issue. Throughout the entire night, a voicemail never had to be left and the employee never had to wait for a call back, which was crucial during this task.

Any department in the City would agree and say that Tyson consistently exemplifies total customer service and goes above and beyond to make sure every employee is able to get their jobs done, day or night.

**Item:** GPZ-5-2019
**Fiscal Impact:** N/A
**Funding Source:** N/A
**Account #:** N/A
**Neighborhood:** Chesterfield

**Budget Opening Required:** ☐

**ISSUE:**
Application #: GPZ-5-2019
Applicant: Ruben Salazar
Location: 2545 South Lester Street
Size: 0.89 acre

**SYNOPSIS:**
A General plan change from rural residential to large lot residential and a zone change from A to R-1-7

**BACKGROUND:**
The applicant is proposing to subdivide the property to build another home. Included with this report is a letter from the applicant providing background on and reasons for his request.

The applicant mentions in his letter that the lots around him are much smaller than his. There are 12 homes on the east side of Lester Street between Whitlock Avenue and Crystal Avenue. Mr. Salazar's property is the largest and widest on the block. Of the 12 homes on the block, only three meet the minimum lot area of ½ acre and the minimum lot width of 100' required in the A zone. The average lot size on the block is 0.33 acres and the average lot width is 76.3'. In terms of zoning, this section of Lester Street is the only portion zoned A. All of other portions are zoned R-1-6.

The reason the applicant is requesting the R-1-7 zone instead of R-1-8 or R-1-10 is due to the existing lot frontage and placement of the existing home. The R-1-7 zone has a minimum lot width of 70', which would allow the applicant to subdivide his property without impacting the existing home. The new lot would be close to 15,000 sq. ft. in area and the lot for the existing home would be about 24,000 sq. ft.

The zoning ordinance allows for a home with a two-car garage and reduced floor area on a lot under one acre that is large enough to be subdivided to create no more than one new lot. All other design standards, like exterior materials and architectural features, from Part 2 of Chapter 7-11 apply.

**RECOMMENDATION:**
The Planning Commission recommends approval.

**SUBMITTED BY:**
Steve Pastorik, Assistant CED Director/Planning Director

September 8, 2019

To whom it may concern,

Dear Sir:

My name is Ruben A. Salazar. I live on the property at 2545 So. Lester Street, and I have been here since 1990.

It is considered .89 percent of an Acre. I thought I was on .98 percent of an Acre, but oh well. I bought it to have horses, which I actually did. But my back and leg's would not allow me to handle them any longer. And the northern part of my property, has just been a vacant field.

This brings me to the point of deciding to build a new home on this side of my place to live it. My current home is old, and I would like to have something nicer to spend my old day's in. So, this is my request to you.

I would like to divide my place in half, from the norther and southern part. This can only happen with your approval. Please help me in this matter, and allow this to happen?

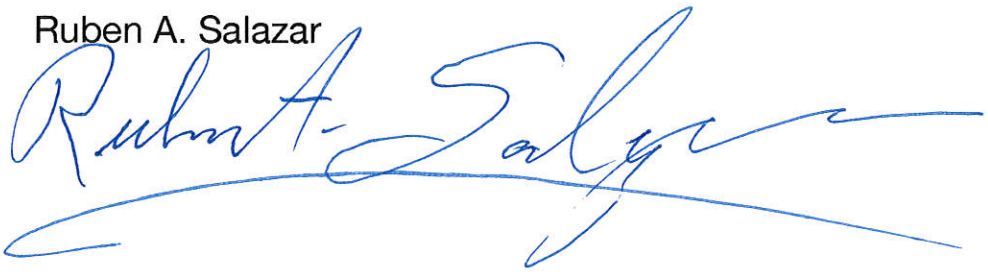
There are ~~hoses~~ "Lots" on the north side of my place and on the south side of my place, that are way smaller than the size of the two ~~houses~~ "Lots" that I would be having on each of my divided halves. Making it not take away from the look of the rest of my block, here on the east side of Lester Street.

I have submitted my forms and money to get this process started.

Thank you very much for you help!

Sincerely,

Ruben A. Salazar



**WEST VALLEY CITY, UTAH**

**ORDINANCE NO._____**

Draft Date: _____
Date Adopted: _____
Effective Date: _____

**AN ORDINANCE AMENDING THE GENERAL PLAN TO SHOW A CHANGE OF LAND USE FROM RURAL RESIDENTIAL (1 TO 2 UNITS/ACRE) TO LARGE LOT RESIDENTIAL (2 TO 3 UNITS/ACRE) FOR PROPERTY LOCATED AT 2545 SOUTH LESTER STREET ON 0.89 ACRE.**

**WHEREAS,** the West Valley City Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed General Plan amendment pursuant to Chapter 9 of Title 10, Utah Code Annotated 1953, as amended, and the West Valley City Zoning Ordinance; and

**WHEREAS,** a public hearing before the City Council of West Valley City was held after being duly advertised as required by law; and

**WHEREAS,** the City Council of West Valley City finds that such General Plan amendment should be made;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of West Valley City, Utah that the General Plan be amended as follows:

**SECTION 1. GENERAL PLAN AMENDMENT.**

The property described in Application #GPZ-5-2019, filed by Ruben Salazar, and located at 2545 South Lester Street within West Valley City, is hereby amended by reclassifying the following described property from Rural Residential (1 to 2 units per acre) to Large Lot Residential (2 to 3 units per acre). Said property is more particularly described as follows:

Parcel #: 15-22-407-007
THE N 3 FT OF LOT 23, ALL OF LOT 24 & THE S 81 FT OF LOT 25, BLK 14, CHESTERFIELD PLAT A

**SECTION 2. GENERAL PLAN MAP AMENDMENT.**

The West Valley City General Plan Map shall be amended to show the change.

**SECTION 3. EFFECTIVE DATE.**

This ordinance shall take effect immediately upon posting, as required by law.

**DATED** this _____ day of _____, 2019.

WEST VALLEY CITY

_____
MAYOR

ATTEST:

_____
CITY RECORDER

**WEST VALLEY CITY, UTAH**

**ORDINANCE NO. _____**

Draft Date: _____
Date Adopted: _____
Effective Date: _____

**AN ORDINANCE AMENDING THE ZONING MAP TO SHOW A CHANGE OF ZONE FOR PROPERTY LOCATED AT 2545 SOUTH LESTER STREET FROM A (AGRICULTURE, MINIMUM LOT SIZE ½ ACRE) TO R-1-7 (SINGLE UNIT DWELLING RESIDENTIAL, MINIMUM LOT SIZE 7,000 SQ. FT.).**

**WHEREAS,** the West Valley City Planning Commission has reviewed and made a recommendation to the City Council concerning the proposed zoning change pursuant to Chapter 9 of Title 10, Utah Code Annotated 1953, as amended, and the West Valley City Zoning Ordinance; and

**WHEREAS**, a public hearing before the City Council of West Valley City was held after being duly advertised as required by law; and

**WHEREAS,** the City Council of West Valley City finds that such zoning change should be made;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of West Valley City, Utah:

**SECTION 1. ZONING CHANGE.**

The property described in application #GPZ-5-2019, filed by Ruben Salazar and located at 2545 South Lester Street within West Valley City, is hereby classified from Zone A (Agriculture, Minimum Lot Size ½ Acre) to R-1-7 (Single Unit Dwelling Residential, Minimum Lot Size 7,000 Sq. Ft.), said property more particularly described as follows:

Parcel #: 15-22-407-007
THE N 3 FT OF LOT 23, ALL OF LOT 24 & THE S 81 FT OF LOT 25, BLK 14, CHESTERFIELD PLAT A

**SECTION 2. ZONING MAP AMENDMENT.**

The West Valley City Zoning Map shall be amended to show the change.

**SECTION 3. EFFECTIVE DATE.**

This ordinance shall take effect immediately upon posting, as required by law.

**DATED** this _____ day of _____, 2019.

WEST VALLEY CITY

_____
MAYOR

ATTEST:

_____
CITY RECORDER

Item: _____
Fiscal Impact: N/A
Funding Source: N/A
Account #: N/A
Neighborhood: Chesterfield
Budget Opening Required: ☐

**ISSUE:**

A resolution authorizing the City to enter into a development agreement with Ruben Salazar.

**SYNOPSIS:**

This resolution authorizes a development agreement between the City and Ruben Salazar to limit the number of lots at 2545 South Lester Street to two.

**BACKGROUND:**

An application (GPZ-5-2019) was submitted by Ruben Salazar on 0.89 acre to change the zoning from A (Agriculture, minimum lot size ½ acre) to R-1-7 (Single Unit Dwelling Residential, minimum lot size 8,000 SF) and to change the General Plan from Rural Residential (1 to 2 units/acre) to Large Lot Residential (2 to 3 units/acre). Mr. Salazar would like to subdivide the property to create one new lot.

During the Council study meeting on 10/22, the Council expressed concerns about the possibility of the property being further subdivided under the R-1-7 zone. The proposed development agreement limits the number of lots on the property to two.

**RECOMMENDATION:**

Staff recommends approval to the City Council.

**SUBMITTED BY:**

Steve Pastorik, Assistant CED Director/Planning Director

**WEST VALLEY CITY, UTAH**

**RESOLUTION NO. _____**

**A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A DEVELOPMENT AGREEMENT WITH RUBEN SALAZAR FOR APPROXIMATELY 0.89 ACRES OF PROPERTY LOCATED AT APPROXIMATELY 2545 SOUTH LESTER STREET.**

**WHEREAS**, Ruben Salazar (herein "Developer") owns real property within the limits of West Valley City, Utah, on which he proposes to build a residential development (herein the "Project"); and

**WHEREAS,** Developer has voluntarily represented to the West Valley City Council that he will enter into this binding development agreement (herein "Agreement"); and

**WHEREAS**, Developer is willing to design and develop the Project in a manner that is in harmony with the City's Master Plan and long-range development objectives, and which addresses the more specific planning issues set forth in this Agreement; and

**WHEREAS,** West Valley City, acting pursuant to its authority under §10-9a-101 *et seq.*, Utah Code Annotated 1953, as amended, and City ordinances and land-use policies, has made certain determinations with respect to the proposed Project, and in the exercise of its legislative discretion, has elected to approve this Agreement; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of West Valley City, Utah, that the Agreement between West Valley City and Developer is hereby approved in substantially the form attached, and that the Mayor is hereby authorized to execute said Agreement for and on behalf of the City, upon approval of the final form of the Agreement by the City Manager and the City Attorney's Office.

**PASSED, APPROVED and MADE EFFECTIVE** this _____day of_____, 2019.

WEST VALLEY CITY

_____
MAYOR

ATTEST:

_____
CITY RECORDER

## DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** (herein the "Agreement") is entered into this _____ day of _____, 20____, by and between Ruben Salazar, an individual, (herein "Developer") for the land to be included in or affected by the project located at approximately 2545 South Lester Street in West Valley City, Utah, and West Valley City, a municipal corporation and political subdivision of the State of Utah (herein the "City").

## RECITALS

**WHEREAS**, Developer owns approximately 0.89 acres of real property located at approximately 2545 South Lester Street in West Valley City, Utah, as described in Exhibit "A" (the "Property"), on which Developer proposes to establish minimum standards for a residential development (the "Project"); and

**WHEREAS**, Developer has voluntarily represented to the West Valley City Council that it will enter into this binding Agreement; and

**WHEREAS**, Developer is willing to restrict the property in a manner that is in harmony with the objectives of the City's master plan and long-range development objectives, and which addresses the more specific development issues set forth in this Agreement, and is willing to abide by the terms of this Agreement; and

**WHEREAS,** the City, acting pursuant to its authority under the Utah Municipal Land Use, Development, and Management Act, U.C.A. §10-9a-101, *et seq*., and its ordinances, resolutions, and regulations, and in furtherance of its land-use policies, has made certain determinations with respect to the proposed Project, and, in the exercise of its legislative discretion, has elected to approve this Agreement;

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. **Affected Property**. The legal description of the Property contained within the Project boundaries is attached as Exhibit "A." No additional property may be added to or removed from this description for the purposes of this Agreement except by written amendment to this Agreement executed and approved by Developer and the City.

2. **Reserved Legislative Powers**. Nothing in this Agreement shall limit the future exercise of police power by the City in enacting zoning, subdivision, development, transportation,

environmental, open space, and related land-use plans, policies, ordinances and regulations after the date of this Agreement, provided that the adoption and exercise of such power shall not restrict Developer's vested rights to develop the Project as provided herein. This Agreement is not intended to and does not bind the West Valley City Council in the independent exercise of its legislative discretion with respect to such zoning regulations.

3. **Compliance with City Design and Construction Standards**. Developer acknowledges and agrees that nothing in this Agreement shall be deemed to relieve it from the obligation to comply with all applicable laws and requirements of the City necessary for development of the Project, including the payment of fees, and compliance with the City's design and construction standards.

4. **Specific Design Conditions**. The Project shall be developed, constructed, and managed as set forth in the specific design conditions set forth in Exhibit "B". The Project shall also comply with all requirements set forth in the minutes of the Planning Commission and City Council hearings on this matter.

5. **Agreement to Run With the Land**. This Agreement shall be recorded in the Office of the Salt Lake County Recorder, shall be deemed to run with the Property, and shall encumber the same; and shall be binding on and inure to the benefit of all successors and assigns of Developer in the ownership or development of any portion of the Property.

6. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning also the responsibilities arising hereunder. This restriction on assignment is not intended to prohibit or impede the sale by Developer.

7. **No Joint Venture, Partnership or Third Party Rights**. This Agreement neither creates any joint venture, partnership, undertaking or business arrangement between the parties hereto nor conveys any rights or benefits to third parties, except as expressly provided herein.

8. **Integration, Modification, and Entire Agreement**. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and integrates all prior conversations, discussions, or understandings of whatever kind or nature and may only be modified by a subsequent writing duly executed and approved by the parties hereto. Exhibits "A" and "B" are hereby incorporated into this Agreement.

9. **Notices.** Any notices, requests, or demands required or desired to be given hereunder shall be in writing and should be delivered personally to the party for whom intended, or, if mailed by certified mail, return receipt requested, postage prepaid to the parties as follows:

| | |
|---|---|
| TO DEVELOPER: | Ruben Salazar<br>2545 South Lester St.<br>West Valley City, Utah 84119 |
| TO CITY: | West Valley City<br>Wayne Pyle, City Manager<br>3600 Constitution Blvd.<br>West Valley City, Utah 84119 |
| WITH A COPY TO: | West Valley City Attorney's Office<br>Attn: Brandon Hill<br>3600 Constitution Blvd.<br>West Valley City, Utah 84119 |

Any party may change its address by giving written notice to the other party in accordance with the provisions of this section.

10. **Choice of Law and Venue**. Any dispute regarding this Agreement shall be heard and settled under the laws of the State of Utah. Any Utah litigation regarding this Agreement shall be filed in the Third District Court in Salt Lake City, Utah. Any federal litigation regarding this Agreement shall be filed in the United States District Court for the District of Utah in Salt Lake City, Utah.

11. **Court Costs**. In the event of any litigation between the parties arising out of or related to this Agreement, the prevailing party shall be entitled to an award of reasonable court costs, including reasonable attorney's fees.

12. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall remain valid and binding upon the parties. One or more waivers of any term, condition, or other provision of this Agreement by either party shall not be construed as a waiver of a subsequent breach of the same or any other provision.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

**WEST VALLEY CITY**

_____
MAYOR

ATTEST:

_____
CITY RECORDER

APPROVED AS TO FORM
WVC Attorney's Office

By: _____

Date: _____

**DEVELOPER**

_____

State of _____)
:ss
County of _____)

On this _____ day of _____, 20___, personally appeared before me Ruben Salazar, whose identity is personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and he acknowledged to me that he executed the foregoing instrument.

_____
Notary Public

**EXHIBIT A**

**LEGAL DESCRIPTION**

Parcel #: 15-22-407-007
THE N 3 FT OF LOT 23, ALL OF LOT 24 & THE S 81 FT OF LOT 25, BLK 14, CHESTERFIELD PLAT A

## EXHIBIT B

## DEVELOPMENT STANDARDS

The maximum number of lots on the property shall be two.

**GPZ-5-2019 MINUTES**
**OCTOBER 9, 2019 PLANNING COMMISSION PUBLIC HEARING**

| | |
|---|---|
| Application #: | GPZ-5-2019 |
| Applicant: | Ruben Salazar |
| Address: | 2545 South Lester Street |
| Request: | General plan change from rural residential to large lot residential and zone change from A to R-1-7 |
| Property Size: | 0.89 acre |

Ruben Salazar has submitted a General Plan/zone change application for a 0.89 acre parcel located at 2545 South Lester Street. The property is currently zoned A (agriculture, minimum lot size ½ acre) with a General Plan designation of rural residential (1 to 2 units/acre). The proposed zone is R-1-7 (single unit dwelling residential, minimum lot size 7,000 sq. ft.) and the proposed General Plan designation is large lot residential (2 to 3 units/acre).

Surrounding zones include A to the north, east and south and R-1-6 (single unit dwelling residential, minimum lot size 6,000 sq. ft.) to the west. The property is surrounded by single unit dwellings. The subject property includes a home that was built in 1940.

The applicant is proposing to subdivide the property to build another home. Included with this report is a letter from the applicant providing background on and reasons for his request.

The applicant mentions in his letter that the lots around him are much smaller than his. There are 12 homes on the east side of Lester Street between Whitlock Avenue and Crystal Avenue. Mr. Salazar's property is the largest and widest on the block. Of the 12 homes on the block, only three meet the minimum lot area of ½ acre and the minimum lot width of 100' required in the A zone. The average lot size on the block is 0.33 acres and the average lot width is 76.3'. In terms of zoning, this section of Lester Street is the only portion zoned A. All of other portions are zoned R-1-6.

The reason the applicant is requesting the R-1-7 zone instead of R-1-8 or R-1-10 is due to the existing lot frontage and placement of the existing home. The R-1-7 zone has a minimum lot width of 70', which would allow the applicant to subdivide his property without impacting the existing home. The new lot would be close to 15,000 sq. ft. in area and the lot for the existing home would be about 24,000 sq. ft.

The zoning ordinance allows for a home with a two car garage and reduced floor area on a lot under one acre that is large enough to be subdivided to create no more than one new lot. All other design standards, like exterior materials and architectural features, from Part 2 of Chapter 7-11 apply.

**Staff Alternatives:**

1. Approval. This application should be approved subject to a development agreement that requires the housing standards in Part 2 of Chapter 7-11 including the exceptions allowed in Section 7-11-214 for a two-car garage and reduced floor area.

2. Continuance. This application should be continued for reasons determined during the public hearing.

3. Denial.

**Applicant**:
Ruben A. Salazar
2545 South Lester Street
West Valley City, Utah 84119

**Discussion**: Ruben Salazar said he has lived in the City for 40 years. Before West Valley City was incorporated, he was told his property was zoned for duplexes. He always thought he could build a duplex on his property. Now he has found he is only allowed to build single-family homes. Ruben Salazar said the home he lives in is very old, one part being at least 100 years old. He would like to build a new home for himself and eventually build a home for his daughter.

**Motion**: Commissioner McEwen to approve GPZ-5-2019. Commissioner Fuller seconded the motion.

**Vote**:

| | |
|---|---|
| Commissioner Fuller | Yes |
| Commissioner Lovato | Yes |
| Commissioner McEwen | Yes |
| Commissioner Meaders | Yes |
| Commissioner Porter | Yes |
| Commissioner Wood | Yes |
| Commissioner Woodruff | Yes |

**Unanimous – GPZ-5-2019 – Approved**

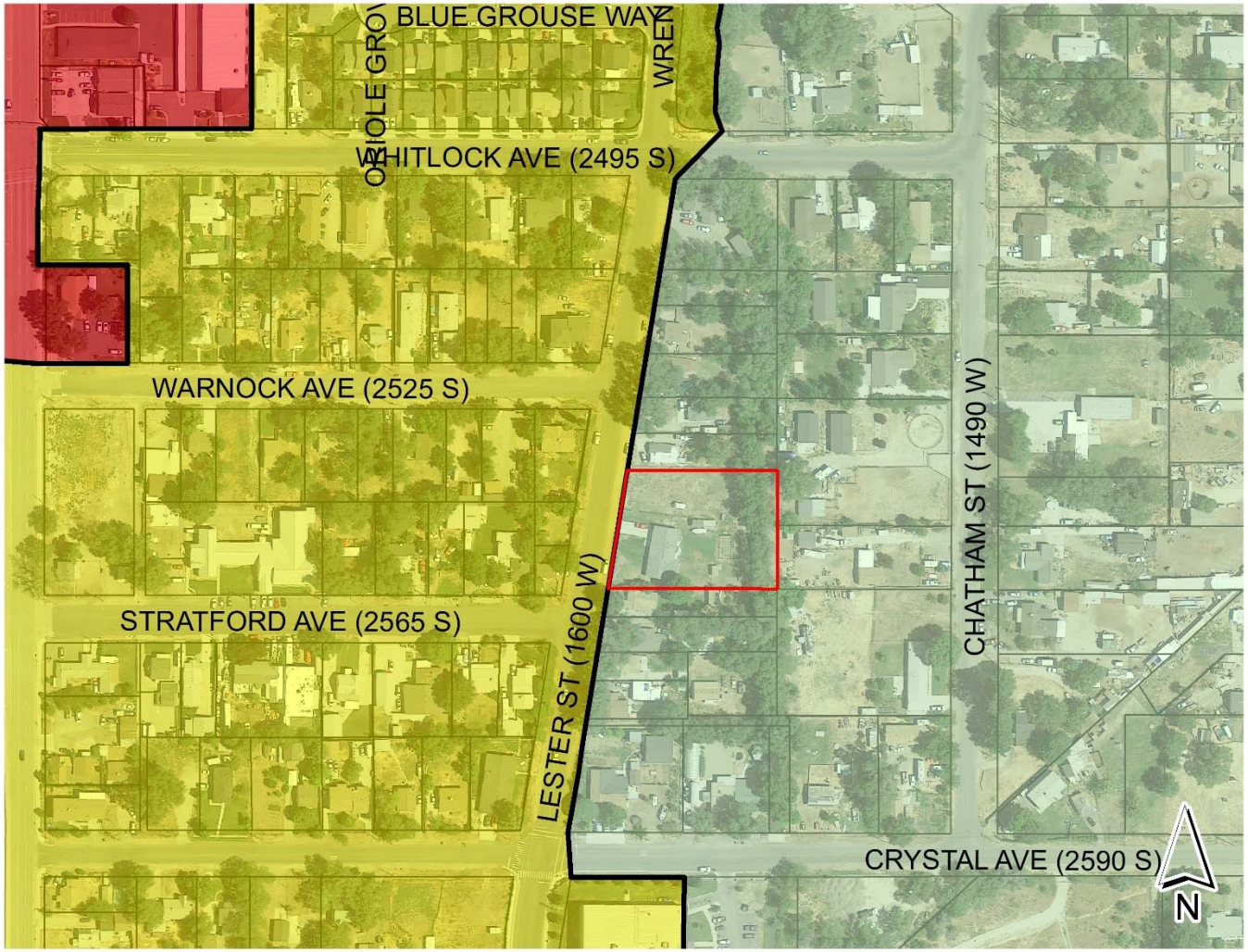
**GPZ-5-2019** Petition by RUBEN SALAZAR requesting an amendment to the West Valley City General Plan by reclassifying a portion of the following described property from Rural Residential (1 to 2 units/acre) to Large Lot Residential (2 to 3 units/acre) and a zone change from A (Agriculture, minimum lot size ½ acre) to R-1-7 (Single Unit Dwelling Residential, minimum lot size 7,000 sq. ft.). The property is located at 2545 South Lester Street. on 0.89 acres. (Staff – Steve Pastorik at 801-963-3545)



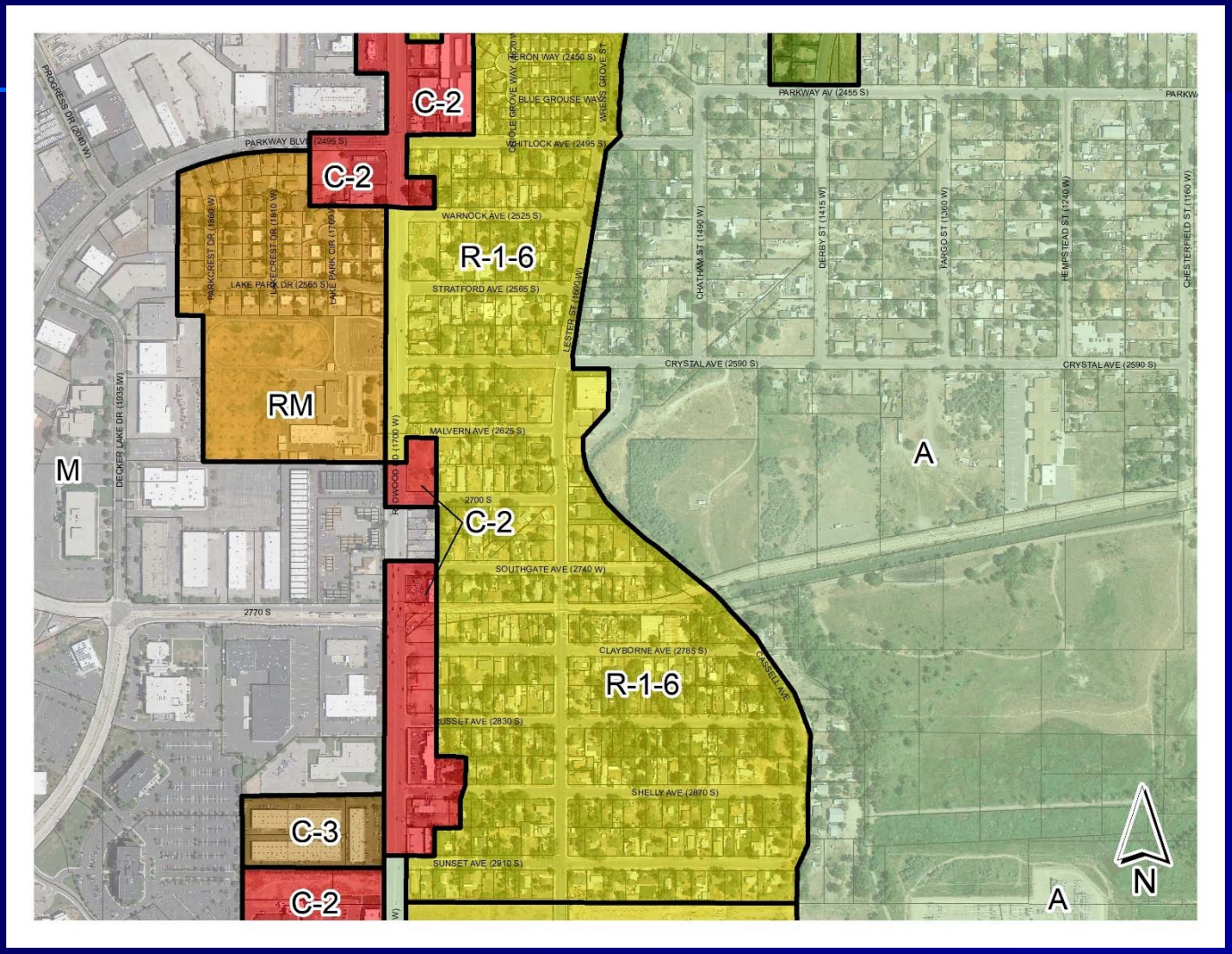
**GPZ-5-2019** Petition by RUBEN SALAZAR requesting an amendment to the West Valley City General Plan by reclassifying a portion of the following described property from Rural Residential (1 to 2 units/acre) to Large Lot Residential (2 to 3 units/acre) and a zone change from A (Agriculture, minimum lot size ½ acre) to R-1-7 (Single Unit Dwelling Residential, minimum lot size 7,000 sq. ft.). The property is located at 2545 South Lester Street. on 0.89 acres. (Staff – Steve Pastorik at 801-963-3545)

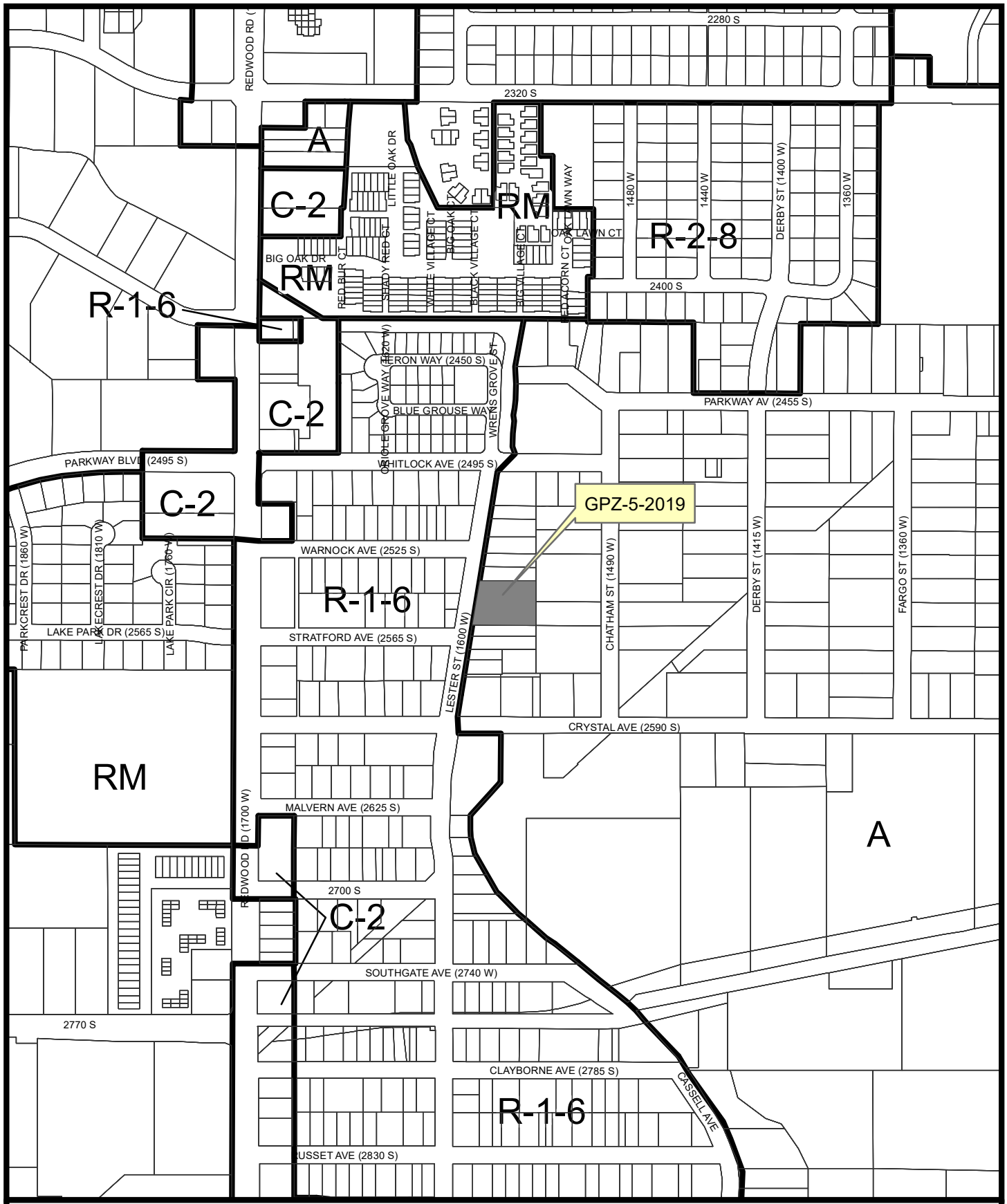


**GPZ-5-2019** Petition by RUBEN SALAZAR requesting an amendment to the West Valley City General Plan by reclassifying a portion of the following described property from Rural Residential (1 to 2 units/acre) to Large Lot Residential (2 to 3 units/acre) and a zone change from A (Agriculture, minimum lot size ½ acre) to R-1-7 (Single Unit Dwelling Residential, minimum lot size 7,000 sq. ft.). The property is located at 2545 South Lester Street. on 0.89 acres. (Staff – Steve Pastorik at 801-963-3545)



**GPZ-5-2019** Petition by RUBEN SALAZAR requesting an amendment to the West Valley City General Plan by reclassifying a portion of the following described property from Rural Residential (1 to 2 units/acre) to Large Lot Residential (2 to 3 units/acre) and a zone change from A (Agriculture, minimum lot size ½ acre) to R-1-7 (Single Unit Dwelling Residential, minimum lot size 7,000 sq. ft.). The property is located at 2545 South Lester Street. on 0.89 acres. (Staff – Steve Pastorik at 801-963-3545)






0 250 500 Feet

GPZ-5-2019
Ruben Salazar
2545 South Lester Street

N

Item: ZT-14-2019
Fiscal Impact: N/A
Funding Source: N/A
Account #: N/A
Budget Opening Required: ☐

**ISSUE:**

A zone text change to amend Section 7-7-105.5 regarding cannabis production establishments and medical cannabis pharmacies

**SYNOPSIS:**

In December of last year the Utah Legislature passed HB 3001 that provided for the cultivation, processing, medical recommendation and patient use of medical cannabis. HB 3001 included provisions that required municipalities to allow cannabis production establishments and medical cannabis pharmacies under conditions. To comply with State law, the City Council adopted Ordinance 19-03 in February of this year to enact regulations concerning cannabis production establishments and medical cannabis pharmacies.

At the time it was enacted, Ordinance 19-03 complied with State law. However, in a special session in September of this year, the Utah Legislature passed SB 1002, which is included with this issue paper, to amend the provisions relating to medical cannabis. As a result of these amendments, the City's Code needs to be changed to comply with State law.

Included with this issue paper is a table that outlines the conflicting provisions of City Code with the recently adopted SB 1002.

**RECOMMENDATION:**

The Planning Commission recommends approval of the zone text change.

**SUBMITTED BY:**

Steve Pastorik, Assistant CED Director/Planning Director

**WEST VALLEY CITY, UTAH**

**ORDINANCE NO. 19-03**

Date Adopted: 02/05/2019

Date Effective: 02/08/2019

**AN ORDINANCE AMENDING SECTIONS 7-6-201, 7-6-205, AND 7-6-301 AND ENACTING SECTION 7-7-105.5 OF THE WEST VALLEY CITY MUNICIPAL CODE TO ENACT REGULATIONS CONCERNING CANNABIS PRODUCTION ESTABLISHMENTS AND MEDICAL CANNABIS PHARMACIES.**

**WHEREAS,** Title 7 of the West Valley City Municipal Code establishes regulations concerning the use and development of land throughout the City; and

**WHEREAS**, the Utah legislature recently enacted legislation governing medical cannabis production and distribution; and

**WHEREAS**, the City is required to permit certain medical cannabis establishments, subject to the restrictions set forth in state law and subject to the standards enacted herein to mitigate the secondary effects of such establishments; and

**WHEREAS,** the City Council of West Valley City, Utah does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to amend Sections 7-6-201, 7-6-205, and 7-6-301 and to enact Section 7-7-105.5 of the West Valley City Municipal Code;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of West Valley City, Utah as follows:

**Section 1. Repealer.** Any provision of the West Valley City Municipal Code found to be in conflict with this Ordinance is hereby repealed.

**Section 2. Amendment.** Sections 7-6-201, 7-6-205, and 7-6-301 of the West Valley City Municipal Code are hereby amended as follows:

## 7-6-201. AGRICULTURAL AND RESIDENTIAL USE TABLE.

The following table indicates the permitted (P), conditional (C), and prohibited (X) Uses within the Agricultural and Residential Zones of the City. Where uses are marked with an asterisk, regulations can be found elsewhere in this Title. It is the express intent of the City Council that any Use not listed in this table is prohibited in the Agricultural and Residential Zones of the City.

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones – (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | A, A-1, A-2 | RE | R-1 | R-2-6.5 | R-2-8 | R-4 | RM | RMH | SH | RB |
| Agriculture | P | P | P | P | P | P | P | P | P | P |
| Apartments | X | X | X | X | X | C | C | X | P | X |
| Assisted Living Facility | X | X | X | X | X | P | P | X | P | P |
| Cannabis Production Establishment* | C* | X | X | X | X | X | X | X | X | X |
| Cargo Container* | P | X | X | X | X | X | X | X | X | X |
| Commercial raising, rental, stabling, training and grazing of animals* | C | X | X | X | X | X | X | X | X | X |
| Community Use | P | P | P | P | P | P | P | P | P | P |
| Condominiums | X | X | C | C | C | C | C | X | C | X |
| Crisis Nursery and Counseling Center | X | X | X | P | P | P | P | P | P | P |
| Day Care/Preschool Center | X | X | X | X | X | X | P | X | X | P |
| Day Care/Preschool Center in conjunction with a church | C | C | C | C | C | C | P | C | C | P |
| Equestrian schools | C | X | X | X | X | X | X | X | X | X |
| Financial Institution | X | X | X | X | X | X | X | X | X | P |
| Food Vending Unit and Mobile Food Vending Vehicle as an accessory use to an approved community use | P | P | P | P | P | P | P | P | P | P |
| Four Unit Dwelling | X | X | X | X | X | C | X | X | X | X |

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones – (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | A, A-1, A-2 | RE | R-1 | R-2-6.5 | R-2-8 | R-4 | RM | RMH | SH | RB |
| Home Occupation* | P | P | P | P | P | P | P | P | P | P |
| Home Occupation in Accessory Building* | C | C | C | C | C | C | C | C | C | C |
| Household Pets | P | P | P | P | P | P | P | P | P | P |
| Inland Port Use | X* | X | X* | X | X | X | X | X | X | X |
| Kennel, Indoor* | C | X | X | X | X | X | X | X | X | X |
| Kennel, Outdoor* | C | X | X | X | X | X | X | X | X | X |
| Kennel, Sportsman's* | C | X | X | X | X | X | X | X | X | X |
| Mobile Home Park* | X | X | X | X | X | X | X | C | X | X |
| Mobile Home (in a Mobile Home Park or in a Mobile Home Subdivision only) | X | X | X | X | X | X | X | P | X | X |
| Mobile Home Subdivision | X | X | X | X | X | X | X | C | X | X |
| Noncommercial raising, training and grazing of animals | P | X | X | X | X | X | X | X | X | X |
| Nursing home/Convalescent Center | X | X | X | X | X | P | P | X | P | P |
| Office, Medical and Dental | X | X | X | X | X | X | P | X | X | P |
| Office, Professional | X | X | X | X | X | X | P | X | X | P |
| Planned Unit Development | X | C | C | C | C | C | C | C | C | X |
| Public Utility installations (except lines and rights-of-way) | C | C | C | C | C | C | C | C | C | C |
| Radio and television transmission antennas, transmitting stations and related facilities* | C | X | X | X | X | X | X | X | X | X |
| Single Unit Dwelling | P | P | P | P | P | P | P | P | P | P |
| Temporary Nonresidential Buildings | P | P | P | P | P | P | P | P | P | P |
| Temporary Land Use | X | X | X | X | X | X | X | X | X | P |

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones – (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | A, A-1, A-2 | RE | R-1 | R-2-6.5 | R-2-8 | R-4 | RM | RMH | SH | RB |
| Temporary Use accessory to a Community Use | P | P | P | P | P | P | P | P | P | P |
| Three Unit Dwelling | X | X | X | X | X | C | X | X | X | X |
| Turf Farm Equipment Manufacturing* | C | X | X | X | X | X | X | X | X | X |
| Twin Home | X | X | X | X | P | P | P | X | X | X |
| Two Unit Dwelling | X | X | X | P | P | P | X | X | X | X |
| Uses customarily accessory to listed conditional uses | P | P | P | P | P | P | P | P | P | P |
| Uses customarily accessory to listed permitted uses | P | P | P | P | P | P | P | P | P | P |
| Veterinary Hospital* | C | X | X | X | X | X | X | X | X | P |

X: Use is prohibited

C: Use is conditional

P: Use is permitted

## 7-6-205. GENERALLY APPLICABLE REQUIREMENTS – AGRICULTURAL ZONES.

The following requirements are applicable within all Agricultural Zones within the City:

(1) All Structures or enclosures for the keeping of Animals, including but not limited to barns, Kennels, corrals, stables, and coops, shall be located at least 40 feet from any dwelling. If no dwelling exists, any such Structures or enclosures must be located a minimum of 100 feet from any public Street.

(2) Existing Lots under one half acre may apply setback standards set forth in Section 7-6-204 for Accessory Buildings if said Accessory Buildings are not used for the keeping of Animals and

are subordinate in height and area to the Single Unit Dwelling located on the Lot.

(3) The maintenance and keeping of livestock on a Lot or Parcel of Land in an Agricultural Zone as a Permitted Use shall be limited to a total of 200 Animal points per acre, with fractional amounts of land receiving a prorated point allowance (for example, a 0.5 acre Lot is entitled to 100 points, while a 1.5 acre Lot is entitled to 300 points). Animal points may be spent as follows:

a. Large sized adults over one year of age (over 40 inches in height at the top of the shoulders) – 40 points per Animal. Examples include horses, bison, cattle, llamas, ostriches, camels, and similarly sized creatures.

b. Medium sized adults over one year of age (20 to 40 inches in height at the top of the shoulders) – 20 points per Animal. Examples include miniature cattle and horses, pigs, sheep, goats, and emus.

c. Small sized adults over 4 months of age (under 20 inches in height at the top of the shoulders) – 1 point per Animal. Examples include chickens, geese, swans, pigeons, and rabbits.

d. Notwithstanding any other provision of this Section, roosters and crowing hens shall cost 20 points each.

(4) All new Subdivisions in or including property in an Agricultural Zone shall include the following notification on the plat: "This area is subject to the normal, everyday sounds, odors, and other aspects associated with an agricultural lifestyle."

(5) Inland Port Uses shall:

a. Only be a conditional use in the A, A-1, and A-2 zones if the property is within the authority jurisdictional land boundary of the Utah Inland Port Authority; and

b. Comply with the requirements applicable to developments in the M zone.

(6) Cannabis Production Establishments shall only be allowed as a Conditional Use in the A-1 zone.

## 7-6-301. COMMERCIAL AND MANUFACTURING USE TABLE.

The following table indicates the permitted (P), conditional (C), and prohibited (X) Uses within the Commercial, Manufacturing, and overlay Zones of the City. (PC) means a Use is permitted when not adjacent to a residential Use, Residential Zone, or Agricultural Zone and conditional

when adjacent to a residential Use, Residential Zone, or Agricultural Zone. Certain Uses may have additional restrictions or requirements as set forth in this Title. Where Uses are marked with an asterisk, additional regulations can be found elsewhere in this Title. It is the express intent of the City Council that any Use not listed in this table is prohibited in the Commercial and Manufacturing Zones of the City.

| **Uses - (Uses with an asterisk (*) include use specific regulations.)** | **Zones - (Zones with an asterisk (*) include regulations that limit the use.)** | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | **BRP** | **MXD** | **CC** | **C-1** | **C-2** | **C-3** | **LI** | **M** | **DLSOZ** | **JROZ** | **BHOZ** | **56WOZ** |
| Agricultural Business or Industry* | X | X | X | X | X | X | X | C | X | X | X | X |
| Agriculture | P | P | P | P | P | P | P | P | | | | |
| Alternative Financial Service Provider* | X | X | X | X | P | P | X | P | X | X | X | X |
| Artist Studio | P | P* | P* | P | P | P | P | P | | | | |
| Assisted Living Facility | X | P* | P* | P | P | P | X | X | | | | |
| Automobile Parts Store | X | P* | X | P | P | P | X | P | | | | X* |
| Automobile Sales, New | X | X | X | X | P | P | P | P | X | X | | X* |
| Automobile Sales, Used | X | X | X | X | P | P | X | P | X | X | X | X* |
| Automobile Service* | X | X | X | X | PC | PC | P* | PC | X | X | X | X* |
| Bail Bonds Dealer | X | X | X | X | X | X | X | P | X | X | X | X |
| Blood Plasma Center | X | X | X | X | P | P | X | X | X | X | X | X |
| Brew Restaurant, Brew Restaurant and Liquor Retailer, Small Brewer* | X | X | P | X | P | P | X | P | | | | |
| Bus Terminal* | X | X | X | X | X | PC | P | PC | X | | | |
| Cannabis Production Establishment* | X | X | X | X | X | X | X | P | X | X | X | X |
| Caretaker's Dwelling | P | P | P | P | P | P | P | P | | | | |

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones - (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | BRP | MXD | CC | C-1 | C-2 | C-3 | LI | M | DLSOZ | JROZ | BHOZ | 56WOZ |
| Cargo Container* | P | X | X | X | P | P | P | P | X | X | X | X |
| Commercial Raising, Rental, Stabling, Training and Grazing of Animals* | X | X | X | X | X | X | X | PC | X | | | |
| Commissary | X | X | X | X | X | X | X | PC | X | | | |
| Community Use | P | P* | P | P | P | P | P | P | | | | |
| Convenience Store | X | P* | X | PC | PC | PC | P* | PC | X | X | * | |
| Day Care/Preschool Center | P | P* | P* | P | P | P | P | P | | | | |
| Detention Facility/Jail* | X | X | X | X | X | X | X | C | X | | X | X |
| Equestrian School | X | X | X | X | X | X | X | PC | X | | | |
| Equity Club*, Fraternal Club*, Social Club*, or Other Establishment Requiring a Club License | X | X | X | X | C | C | X | PC | | | | |
| Event Center, Indoor* | X | P* | X | X | PC | PC | P | PC | | | | |
| Event Center, Outdoor* | X | X | X | X | X | X | C | C | | | | |
| Fast Food Establishment with Drive-Up Window* | X | P* | X | X | P | P | X | P | X | X | * | * |
| Fast Food Establishment with No Drive-Up Window | P | P* | P* | P | P | P | X | P | | * | * | |
| Financial Institution | P | P* | P* | P | P | P | X | P | | | | |
| Fitness Center | P | P* | X | P | P | P | P | P | | | | |
| Food Vending Unit* and Mobile Food Vending Vehicle* | P | X | P* | X | P | P | X | P | | | | |
| Fuel Sales Including | X | P* | X | PC | PC | PC | P | PC | X | X | * | |

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones - (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | BRP | MXD | CC | C-1 | C-2 | C-3 | LI | M | DLSOZ | JROZ | BHOZ | 56WOZ |
| Gasoline, Diesel, Propane and Other Similar Fuels | | | | | | | | | | | | |
| Furniture Store | X | P | X | P | P | P | X | P | | | | |
| Garden Center* or Garden Center* with an Indoor Event Center* as an Accessory Use | X | P | X | C | P | P | X | P | | | | |
| Grocery Store | X | P* | X | PC | PC | PC | X | PC | | | | |
| Gun Range, Indoor | P | P | X | X | P | P | P | P | | | | |
| Hardware Store | X | P* | X | P | P | P | X | P | X | X | | |
| Heavy Equipment Sales and Service | X | X | X | X | X | X | X | PC | X | | X | X* |
| Heavy Truck and Trailer Sales, New | X | X | X | X | X | X | P | PC | X | | | X* |
| Heavy Truck and Trailer Sales, Used | X | X | X | X | X | X | X | PC | X | | X | X* |
| Heavy Truck and Trailer Service | X | X | X | X | X | X | C* | PC | X | | X | X* |
| Home Improvement Center* | X | P* | X | X | PC | PC | X | PC | X | X | | |
| Home Occupation* | X | P | P | X | X | X | X | X | | | | |
| Hospital | P | P* | P* | X | PC | PC | P | PC | | | | |
| Incinerator | X | X | X | X | X | X | X | X | X | | | |
| Industrial, Light | P | X | X | X | X | C | P | PC | | | | |
| Industrial, Heavy | X | X | X | X | X | X | X | C | X | | X | X |
| Inland Port Use | X | X | X | X | X | X | PC | PC | | | | |
| Instructional Facility | P | P* | X | P | P | PC | P | PC | | | | |

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones - (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | BRP | MXD | CC | C-1 | C-2 | C-3 | LI | M | DLSOZ | JROZ | BHOZ | 56WOZ |
| Kennel, Indoor* | P | P* | P* | PC | PC | PC | P | PC | | | | |
| Kennel, Outdoor* | X | X | X | X | X | X | X | C | X | | | |
| Laundromat | X | P | X | P | P | P | X | P | | | | |
| Lingerie Store | X | P | X | X | P | P | X | P | X | X | X | X |
| Lodging Facility* | P | P* | P* | X | PC | PC | P | PC | | | | |
| Manufacturer of Alcoholic Products | X | X | X | X | X | X | C | C | X | | | |
| Massage Establishment | X | X | X | X | P | P | X | P | | | | |
| Medical Cannabis Pharmacy* | P | P | P | P | P | P | P | P | | | | |
| Mortuary | X | P | X | P | P | P | X | P | | | | |
| Movie Theater | X | P* | X | X | P | P | X | P | | | | |
| Moving Truck Rental Business | X | X | X | X | C | C | X | PC | X | | | X* |
| Neighborhood Grocery | X | P* | X | P | P | P | X | P | | | | |
| Neighborhood Service Establishment | X | P* | P* | P | P | P | X | P | | | | |
| Noncommercial Raising, Training and Grazing of Animals | X | X | X | X | X | X | X | P | X | | | |
| Nursing Home/Convalescent Center | X | P* | P* | P | P | P | X | X | | | | |
| Off-Premises Beer Retailer | X | P* | P | P | P | P | C* | P | | | | |
| Office, Medical and Dental | P | P* | P* | P | P | P | X | X | | | | |
| Office, Professional | P | P* | P | P | P | P | P | P | | | | |
| Outside Display of | X | X | P* | X | P | P | X | P | | | | |

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones - (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | BRP | MXD | CC | C-1 | C-2 | C-3 | LI | M | DLSOZ | JROZ | BHOZ | 56WOZ |
| Merchandise* | | | | | | | | | | | | |
| Outside Storage* | X | X | X | X | X | C | C* | C | X | | * | |
| Parking Lot, Commercial | P | P | X | X | P | P | P | P | | | | |
| Parking Structure | P | P* | P* | X | P | P | P | P | | | | |
| Permanent Cosmetic Establishment | X | P* | P* | P | P | P | X | P | | | | |
| Public Utility Installation (except lines and rights-of-way) | P | C* | P | C | C | C | P | PC | | | | |
| Radio and Television Transmission Antennas, Transmitting Stations and Related Facilities* | X | X | X | X | X | X | P | P | X | | | |
| Recreation, Indoor | X | P* | X | P | P | P | P | P | | | | |
| Recreation, Outdoor* | X | P* | X | X | PC | PC | X | PC | X | | | |
| Recreational Facility Beer Retailer* | X | P | X | X | P | P | P | P | | | | |
| Recreational Vehicle, Motorized Outdoor Recreation Equipment and Mobile Home Sales | X | X | X | X | PC | PC | P | PC | X | X | | |
| Rental Store | X | X | X | X | P | P | X | P | | | | |
| Residential | X | P* | P* | X | X | X | X | X | X | | | |
| Restaurant*, Restaurant On-Premises Beer Retailer*, Restaurant Liquor Retailer | P | P* | P* | P | P | P | X | P | | | | |
| Retail Department or | X | P* | P* | P | P | P | X | P | | | | |

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones - (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | BRP | MXD | CC | C-1 | C-2 | C-3 | LI | M | DLSOZ | JROZ | BHOZ | 56WOZ |
| Specialty Store | | | | | | | | | | | | |
| Retail Tobacco Specialty Business* | X | X | X | X | P | P | X | P | | | | |
| Sanitary Landfill | X | X | X | X | X | X | X | X | | | | |
| Secondhand Precious Metal Dealer/Processor and/or Precious Gem Dealer | X | P* | X | P | P | P | X | P | | | | |
| Secondhand Store | X | P* | X | P | P | P | X | P | * | | | |
| Self-Storage Facility* | X | X | X | X | C | C | C | PC | X | X | X | X |
| Sexually Oriented Business* | X | X | X | X | X | X | X | P | X | X | X | X |
| Shopping Center* | X | P* | P* | C | C | C | X | C | | | | |
| State Store/Package Agency* | X | X | X | X | P | P | X | P | | | | |
| Swap Meet, Indoor | X | X | X | X | X | X | X | X | | | | |
| Swap Meet, Outdoor | X | X | X | X | X | X | X | X | | | | |
| Tobacco Oriented Business* | X | X | X | X | X | X | X | P | X | | | |
| Tattoo Establishment | X | X | X | X | X | X | X | P | X | X | X | X |
| Tavern* | X | X | X | X | X | X | X | X | | | | |
| Taxicab Business | X | X | X | X | P | P | P | P | | | | |
| Temporary Nonresidential Building | P | P | P | P | P | P | P | P | | | | |
| Temporary Land Use | P | P | X | P | P | P | P | P | | | | |
| Towing and Impound Yard* | X | X | X | X | X | X | X | PC | X | | X | X |
| Truck Transfer Company | X | X | X | X | X | X | C | C | X | | | |
| Turf Farm Equipment Manufacturing* | X | X | X | X | X | X | X | PC | X | | | |

| Uses - (Uses with an asterisk (*) include use specific regulations.) | Zones - (Zones with an asterisk (*) include regulations that limit the use.) | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | BRP | MXD | CC | C-1 | C-2 | C-3 | LI | M | DLSOZ | JROZ | BHOZ | 56WOZ |
| Uses Customarily Accessory to a Listed Permitted Use | P | P | P | P | P | P | P | P | | | | |
| Uses Customarily Accessory to a Listed Conditional Use | P | P | P | P | P | P | P | P | | | | |
| Vehicle Recycling Facility* | X | X | X | X | X | X | X | PC | X | | X | X |
| Vehicle Storage Yard* | X | X | X | X | X | X | X | C | X | | X | X |
| Veterinary Hospital* | P | P* | P* | P | P | P | P | P | | | | |
| Warehouse | P | X | X | X | C* | C | P | PC | X | X | | |

**X:** Use is prohibited in the zone

**X*:** Use is prohibited in portions of the applicable overlay zone

**C:** Use is conditional

**C*:** Use is conditional and includes zone specific regulations

**P:** Use is permitted

**P*:** Use is permitted and includes zone specific regulations

**PC:** Use is permitted when not adjacent to a residential Use, Residential Zone, or Agricultural Zone. Use is conditional when adjacent to a residential Use, Residential Zone, or Agricultural Zone.

***: Use includes overlay zone specific regulations**

**Section 3. Enactment.** Section 7-7-105.5 is hereby enacted as follows:

**7-7-105.5. CANNABIS PRODUCTION ESTABLISHMENTS AND MEDICAL CANNABIS PHARMACIES.**

(1) The following standards apply to all Cannabis Production Establishments and Medical Cannabis Pharmacies:

a. A Cannabis Production Establishment or a Medical Cannabis Pharmacy shall not be located within 1,000 feet of any other Cannabis Production Establishment, any other Medical Cannabis Pharmacy, or an Alcohol Establishment.

b. A Cannabis Production Establishment or Medical Cannabis Pharmacy shall not be located within 500 feet of the right-of-way for any High-Image Arterial Street set forth in Section 7-10-102 or Section 7-10-201.

c. All outside areas of a Cannabis Production Establishment or Medical Cannabis Pharmacy site shall meet the minimum lighting levels for commercial uses set forth in Section 7-9-113.

d. As required by state law, a copy of an applicant's state approved license application shall be submitted as part of the permitted or conditional use application.

(2) The following standards apply to all Cannabis Production Establishments:

a. There shall be no emission of dust, fumes, vapors, odors or waste into the environment from any facility where growing, processing and testing of cannabis occurs.

b. Spacing requirements set forth in state law shall apply.

c. As required by state law, no signage is allowed for Cannabis Production Establishments.

(3) The following standards apply to all Medical Cannabis Pharmacies:

a. Spacing requirements set forth in state law shall apply.

b. A drive-through service shall not be allowed.

c. Outdoor seating areas shall be prohibited.

d. Outdoor vending machines shall be prohibited.

e. Direct or home delivery service shall be prohibited.

f. Permitted hours of operation shall be 8 AM to 8 PM.

g. The maximum size of a Medical Cannabis Pharmacy shall be 3,000 square feet.

h. No more than one Medical Cannabis Pharmacy shall be permitted in the City for every 135,000 residents of the City, rounded down. For example, 270,000 residents would be required for a second Medical Cannabis Pharmacy to be permitted.

i. No cannabis products shall be visible from outside a Medical Cannabis Pharmacy building.

j. Signs for Medical Cannabis Pharmacies shall be limited to one Wall Sign on the front face of the building. The maximum area of a Wall Sign on a Medical Cannabis Pharmacy shall be limited to 5 percent of the first story building face of the front face of the building. Advertising standards set forth in state law shall apply.

k. No bars shall be placed on windows.

**Section 4. Severability.** If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

**Section 5. Effective Date.** This Ordinance shall take effect immediately upon posting in the manner required by law.

**PASSED and APPROVED** this 5th day of February, 2019.

WEST VALLEY CITY

MAYOR

ATTEST:

CITY RECORDER

CORPORATE SEAL

# MEDICAL CANNABIS AMENDMENTS

2019 FIRST SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor: Brad M. Daw

**LONG TITLE**

**General Description:**

This bill amends provisions related to medical cannabis.

**Highlighted Provisions:**

This bill:

- defines terms;
- repeals provisions related to the state central fill medical cannabis pharmacy and makes necessary resulting amendments;
- replaces a procurement requirement for future Department of Agriculture and Food (UDAF) licensing with a process that UDAF develops in rule;
- allows UDAF and the Department of Health (DoH) to waive certain proximity requirements in certain circumstances;
- clarifies the number of cannabis cultivation facility licenses that UDAF is required and allowed to issue;
- requires certain disclosures about adverse actions against applicants in any jurisdiction and allows UDAF and DoH to revoke licenses if those disclosures are not updated;
- prohibits UDAF and DoH from issuing certain licenses if a legislator has an ownership interest in the perspective licensee;
- allows licensed cannabis cultivation facilities to cultivate both indoors and outdoors under UDAF rules;
- exempts the following from a background check requirement:

- certain agents re-applying for an agent registration card; and
- certain guardians and designated caregivers re-applying for a medical cannabis card;

▸ clarifies that cannabis production establishments and medical cannabis pharmacies may use signage regardless of local prohibitions;

▸ amends provisions regarding local government land use control, including:

- ensuring that cannabis production establishments and medical cannabis pharmacies are only subject to land use ordinances in effect at the time the land use rights vest;
- requiring an approved land use permit application within a certain time after the issuance of a license rather than before; and
- prohibiting certain proximity minimums;

▸ allows UDAF to license research universities to conduct academic medical cannabis research;

▸ adopts a nationally recognized code regarding marijuana production into the state fire code;

▸ provides for electronic medical cannabis cards;

▸ provides that use of medical cannabis may not be considered differently than lawful use of any prescribed controlled substance in certain circumstances;

▸ amends provisions regarding privacy in studies of cardholder data;

▸ requires an applicant for a medical cannabis pharmacy license to describe a strategic plan for opening, including the timing of the opening based on supply, in consultation with UDAF, and demand, in consultation with DoH;

▸ increases the number of licenses available for private medical cannabis pharmacies and allows DoH to issue additional licenses in certain circumstances based on market necessity;

▸ allows DoH to issue medical cannabis pharmacy licenses in two phases using one

procurement process;

- allows for certain medical practitioners to be registered as medical cannabis pharmacy agents as long as the provider is not registered as a qualified medical provider;
- amends allowable sale and possession amount to be uniform regardless of the distance between an individual's residence and a medical cannabis pharmacy;
- directs DoH to create a state central patient portal for patient safety, education, and electronic access to home deliveries of medical cannabis shipments from home delivery medical cannabis pharmacies;
- allows DoH to designate certain private medical cannabis pharmacies as home delivery medical cannabis pharmacies that fulfill electronic orders for medical cannabis shipments:
  - that medical cannabis cardholders access through the state central patient portal; and
  - for which a payment provider that the Division of Finance approves, in consultation with the state treasurer, or a financial institution facilitates a financial transaction;
- broadens an existing requirement that DoH employ certain medical providers to consult with medical cannabis cardholders;
- provides for licensing of medical cannabis couriers and registration of medical cannabis courier agents to facilitate delivery of medical cannabis shipments from home delivery medical cannabis pharmacies;
- repeals Title 26, Chapter 65, Cannabidiol Product Act;
- prohibits considering, in a judicial context, lawful possession or use of medical cannabis differently from lawful possession or use of any prescribed controlled substance;
- prohibits certain conditions of probation or release or terms of certain agreements

that require a person to abstain from medical cannabis;

- addresses a parent or guardian's use of medical cannabis in child welfare cases; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

This bill provides revisor instructions.

**Utah Code Sections Affected:**

AMENDS:

**4-41a-102**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**4-41a-103**, as last amended by Laws of Utah 2019, Chapter 136

**4-41a-201**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**4-41a-204**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**4-41a-205**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**4-41a-301**, as last amended by Laws of Utah 2019, Chapter 136

**4-41a-302**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**4-41a-403**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**4-41a-404**, as last amended by Laws of Utah 2019, Chapter 341

**4-41a-406**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**4-41a-501**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**4-41a-701**, as last amended by Laws of Utah 2019, Chapter 341

**15A-5-103**, as last amended by Laws of Utah 2019, Chapter 103

**26-61a-102**, as last amended by Laws of Utah 2019, Chapter 341

**26-61a-103**, as last amended by Laws of Utah 2019, Chapters 136 and 341

**26-61a-106**, as last amended by Laws of Utah 2019, Chapters 136 and 341

**26-61a-107**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-109**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-111**, as last amended by Laws of Utah 2019, Chapter 341

**26-61a-201**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-202**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-203**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-204**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-301**, Utah Code Annotated 1953

**26-61a-302**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-304**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-305**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-401**, as last amended by Laws of Utah 2019, Chapter 136

**26-61a-403**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-502**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-503**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-505**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-506**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-507**, as last amended by Laws of Utah 2019, Chapter 136

**26-61a-605**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-606**, as last amended by Laws of Utah 2019, Chapter 136

**26-61a-607**, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-702**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**26-61a-703**, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

**30-3-10**, as last amended by Laws of Utah 2019, Chapters 136, 188, and 341

**58-17b-302**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

**58-17b-310**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

**58-17b-502**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

**58-37-3.7**, as last amended by Laws of Utah 2019, Chapter 341

**58-37-3.8**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

**58-37-3.9**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

**58-67-304**, as last amended by Laws of Utah 2019, Chapter 136

**58-67-502**, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

**58-68-304**, as last amended by Laws of Utah 2019, Chapter 136

58-68-502, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
59-12-104.10, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
78A-6-115, as last amended by Laws of Utah 2018, Chapter 359

ENACTS:

4-41a-901, Utah Code Annotated 1953
4-41a-902, Utah Code Annotated 1953
4-41a-903, Utah Code Annotated 1953
10-9a-528, Utah Code Annotated 1953
17-27a-525, Utah Code Annotated 1953
26-61a-115, Utah Code Annotated 1953
78A-2-231, Utah Code Annotated 1953

REPEALS AND REENACTS:

26-61a-601, as last amended by Laws of Utah 2019, Chapter 136
26-61a-602, as last amended by Laws of Utah 2019, Chapter 136
26-61a-603, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-604, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1

REPEALS:

26-61a-110, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-205, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-608, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-609, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-610, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
26-61a-611, as last amended by Laws of Utah 2019, Chapter 136
26-65-101, as enacted by Laws of Utah 2018, Chapter 452
26-65-102, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-65-103, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1
26-65-201, as enacted by Laws of Utah 2018, Chapter 452

26-65-202, as enacted by Laws of Utah 2018, Chapter 452

**Utah Code Sections Affected by Revisor Instructions:**

4-41a-201, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **4-41a-102** is amended to read:

**4-41a-102. Definitions.**

As used in this chapter:

(1) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(2) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility [~~or to~~], a cannabis processing facility, or a medical cannabis research licensee.

(3) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

(4) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment or a holder of an industrial hemp processor license under Title 4, Chapter 41, Hemp and Cannabinoid Act;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or [~~the state central fill~~] a medical cannabis [~~pharmacy~~] research licensee.

(5) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

(6) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(7) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(8) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(9) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(10) "Community location" means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

(11) "Department" means the Department of Agriculture and Food.

(12) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(13) "Independent cannabis testing laboratory" means a person that:

(a) conducts a chemical or other analysis of cannabis or a cannabis product; or

(b) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(14) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(15) "Inventory control system" means a system described in Section 4-41a-103.

(16) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(17) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(18) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(19) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

(20) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(21) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

[~~(20)~~] (22) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

[~~(21)~~] (23) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

[~~(22)~~] (24) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(23)~~] (25) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

[~~(24) "State central fill agent" means the same as that term is defined in Section 26-61a-102.~~]

[~~(25) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.~~]

[~~(26) "State central fill shipment" means the same as that term is defined in Section 26-61a-102.~~]

(26) "Research university" means the same as that term is defined in Section 53B-7-702.

(27) "State electronic verification system" means the system described in Section 26-61a-103.

(28) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(29) "Total composite tetrahydrocannabinol" means delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid.

Section 2. Section **4-41a-103** is amended to read:

**4-41a-103. Inventory control system.**

(1) Each cannabis production establishment[~~,~~] and each medical cannabis pharmacy[~~, and the state central fill medical cannabis pharmacy~~] shall maintain an inventory control system that meets the requirements of this section.

(2) A cannabis production establishment[~~,~~] and a medical cannabis pharmacy[~~, and the state central fill medical cannabis pharmacy~~] shall ensure that the inventory control system maintained by the establishment or pharmacy:

(a) tracks cannabis using a unique identifier, in real time, from the point that a cannabis plant is eight inches tall and has a root ball until the cannabis is disposed of or sold, in the form of unprocessed cannabis or a cannabis product, to an individual with a medical cannabis card;

(b) maintains in real time a record of the amount of cannabis and cannabis products in the possession of the establishment or pharmacy;

(c) includes a video recording system that:

(i) tracks all handling and processing of cannabis or a cannabis product in the establishment or pharmacy;

(ii) is tamper proof; and

(iii) stores a video record for at least 45 days; and

(d) preserves compatibility with the state electronic verification system described in

Section 26-61a-103.

(3) A cannabis production establishment[~~,~~] and a medical cannabis pharmacy[~~, and the state central fill medical cannabis pharmacy~~] shall allow the department or the Department of Health access to the cannabis production establishment's[~~,~~] or the medical cannabis pharmacy's[~~, or state central fill medical cannabis pharmacy's~~] inventory control system at any time.

(4) The department may establish compatibility standards for an inventory control system by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for aggregate or batch records regarding the planting and propagation of cannabis before being tracked in an inventory control system described in this section.

(b) The department shall ensure that the rules described in Subsection (5)(a) address record-keeping for the amount of planted seed, number of cuttings taken, date and time of cutting and planting, number of plants established, and number of plants culled or dead.

Section 3. Section **4-41a-201** is amended to read:

**4-41a-201. Cannabis production establishment -- License.**

(1) A person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), [~~and~~] (8), and (13) and to Section 4-41a-205[~~,~~]:

(A) for a licensing process that the department initiated before the effective date of this bill, the department shall[~~, in accordance with~~] use the procedures in Title 63G, Chapter 6a, Utah Procurement Code, [~~issue a license to operate a cannabis production establishment~~] to review and rank applications for a cannabis production establishment license; and

(B) for a licensing process that the department initiates after the effective date of this

bill, the department shall issue a license to operate a cannabis production establishment in accordance with the procedures described in Subsection (2)(a)(iii).

(ii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address, located in a zone described in Subsection 4-41a-406[~~(1)~~](2)(a) or (b), where the applicant will operate the cannabis production establishment [~~that is not within 1,000 feet of a community location or within 600 feet of an area zoned primarily for residential use, as measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area, unless the relevant county or municipality recommends in writing that the department waive the community location proximity limit~~];

(ii) the name and address of any individual who has:

(A) a financial or voting interest of 2% or greater in the proposed cannabis production establishment; or

(B) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4-41a-204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4-41a-406; and

(C) the department approves;

(iv) [~~evidence~~] a statement that the applicant [~~has obtained~~] will obtain and [~~maintains~~] maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $250,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

[~~(v) if the municipality or county where the proposed cannabis production establishment would be located requires a local land use permit, a copy of the applicant's approved application for the local land use permit; and~~]

[~~(vi)~~] (v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504[~~.~~]; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or

residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the department approves an application for a license under this section:

(a) the applicant shall pay the department an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), the department shall require a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The department may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the department receives more than one application for a cannabis production establishment within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The department may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or

a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The department may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; [~~or~~]

(b) is younger than 21 years old[~~.~~]; or

(c) after the effective date of this bill until January 1, 2023, is actively serving as a legislator.

(8) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 26, Chapter 61a, Utah Medical Cannabis Act, the department:

(a) shall consult with the Department of Health regarding the applicant if the license the applicant holds is a license under Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (8).

(9) The department may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the department issues the initial license;

(b) after the cannabis production establishment makes the same violation of this chapter three times; [~~or~~]

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution[~~.~~]; or

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application.

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the department may revoke the licensee's license.

[~~(10)~~] (11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

[~~(11)~~] (12) The department shall begin accepting applications under this part on or before January 1, 2020.

[~~(12)~~] (13) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(i)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

Section 4. Section **4-41a-204** is amended to read:

**4-41a-204. Operating plan.**

(1) A person applying for a cannabis production establishment license or license renewal shall submit to the department for the department's review a proposed operating plan

that complies with this section and that includes:

(a) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(b) a description of the credentials and experience of:

(i) each officer, director, and owner of the proposed cannabis production establishment; and

(ii) any highly skilled or experienced prospective employee;

(c) the cannabis production establishment's employee training standards;

(d) a security plan;

(e) a description of the cannabis production establishment's inventory control system, including a description of how the inventory control system is compatible with the state electronic verification system described in Section 26-61a-103;

(f) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis;

(g) for a cannabis cultivation facility, the information described in Subsection (2);

(h) for a cannabis processing facility, the information described in Subsection (3); and

(i) for an independent cannabis testing laboratory, the information described in Subsection (4).

(2) (a) A cannabis cultivation facility shall ensure that the facility's operating plan includes the facility's intended:

(i) cannabis cultivation practices, including the facility's intended pesticide use and fertilizer use; and

(ii) subject to Subsection (2)(b), acreage or square footage under cultivation and anticipated cannabis yield.

(b) Except as provided in Subsection [~~(2)(c) or (d):(i)~~] (2)(c)(i) or (d)(ii), a cannabis cultivation facility [~~that cultivates cannabis indoors~~] may not:

(i) for a facility that cultivates cannabis only indoors:

(A) use more than 100,000 square feet for cultivation; or

(B) hang, suspend, stack or otherwise position plants above other plants to cultivate more plants through use of vertical space; [~~and~~]

(ii) [~~a cannabis cultivation~~] for a facility that cultivates cannabis only outdoors [~~may not~~], use more than four acres for cultivation[~~.~~]; and

(iii) for a facility that cultivates cannabis through a combination of indoor and outdoor cultivation, use more combined indoor square footage and outdoor acreage than allowed under the department's formula described in Subsection (2)(e).

(c) (i) Each licensee may annually apply to the department for authorization to exceed the cannabis cultivation facility's current cultivation size limitation by up to 20%.

(ii) The department may, after conducting a review as described in Subsection 4-41a-205(2)(a), grant the authorization described in Subsection (2)(c)(i).

(d) If a licensee describes an intended acreage or square footage under cultivation under Subsection (2)(a)(ii) that is less than the limitation described in Subsection (2)(b):

(i) the licensee may not cultivate more than the licensee's identified intended acreage or square footage under cultivation; and

(ii) notwithstanding Subsection (2)(b), the department may allocate the remaining difference in acreage or square footage under cultivation to another licensee.

(e) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a formula for combined usage of indoor and outdoor cultivation that:

(i) does not exceed, in estimated cultivation yield, the aggregate limitations described in Subsection (2)(b)(i) or (ii); and

(ii) allows a cannabis cultivation facility to operate both indoors and outdoors.

(f) Notwithstanding an applicant's proposed operating plan, a cannabis production establishment is subject to land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, regarding the availability of outdoor cultivation in an industrial zone.

(3) A cannabis processing facility's operating plan shall include the facility's intended cannabis processing practices, including the cannabis processing facility's intended:

(a) offered variety of cannabis product;

(b) cannabinoid extraction method;

(c) cannabinoid extraction equipment;

(d) processing equipment;

(e) processing techniques; and

(f) sanitation and manufacturing safety procedures for items for human consumption.

(4) An independent cannabis testing laboratory's operating plan shall include the laboratory's intended:

(a) cannabis and cannabis product testing capability;

(b) cannabis and cannabis product testing equipment; and

(c) testing methods, standards, practices, and procedures for testing cannabis and cannabis products.

Section 5. Section **4-41a-205** is amended to read:

**4-41a-205. Number of licenses -- Cannabis cultivation facilities.**

(1) Except as provided in Subsection (2)(a), the department [~~may not~~] shall issue at least five but not more than [~~10~~] eight licenses to operate a cannabis cultivation facility.

(2) (a) The department may issue [~~up to five~~] a number of licenses to operate a cannabis cultivation facility that, in addition to the [~~10~~] licenses described in Subsection (1), does not cause the total number of licenses to exceed 15 if the department determines, in consultation with the Department of Health and after an annual or more frequent analysis of the current and anticipated market for medical cannabis [~~in a medicinal dosage form and cannabis products in a medicinal dosage form~~], that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis [~~in a medicinal dosage form and cannabis products in a medicinal dosage form~~] to medical cannabis cardholders.

(b) If the recipient of one of the initial [~~10~~] licenses described in Subsection (1) ceases

operations for any reason or otherwise abandons the license, the department may but is not required to grant the vacant license to another applicant based on an analysis as described in Subsection (2)(a).

(3) If there are more qualified applicants than the number of available licenses for cannabis cultivation facilities under Subsections (1) and (2), the department shall evaluate the applicants and award the limited number of licenses described in Subsections (1) and (2) to the applicants that best demonstrate:

(a) experience with establishing and successfully operating a business that involves:

(i) complying with a regulatory environment;

(ii) tracking inventory; and

(iii) training, evaluating, and monitoring employees;

(b) an operating plan that will best ensure the safety and security of patrons and the community;

(c) positive connections to the local community; and

(d) the extent to which the applicant can reduce the cost to patients of cannabis in a medicinal dosage form or cannabis products in a medicinal dosage form.

(4) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (3).

Section 6. Section **4-41a-301** is amended to read:

**4-41a-301. Cannabis production establishment agent -- Registration.**

(1) An individual may not act as a cannabis production establishment agent unless the department registers the individual as a cannabis production establishment agent.

(2) The following individuals, regardless of the individual's status as a qualified medical provider, may not serve as a cannabis production establishment agent, have a financial or voting interest of 2% or greater in a cannabis production establishment, or have the power to direct or cause the management or control of a cannabis production establishment:

(a) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(b) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(c) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(d) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(3) An independent cannabis testing laboratory agent may not act as an agent for a medical cannabis pharmacy, [~~the state central fill medical cannabis pharmacy~~] a medical cannabis courier, a cannabis processing facility, or a cannabis cultivation facility.

(4) (a) The department shall, within 15 business days after the day on which the department receives a complete application from a cannabis production establishment on behalf of a prospective cannabis production establishment agent, register and issue a cannabis production establishment agent registration card to the prospective agent if the cannabis production establishment:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of a licensed cannabis production establishment where the prospective agent will act as the cannabis production establishment's agent; and

(C) the submission required under Subsection (4)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504.

(b) [~~Each~~] Except for an applicant reapplying for a cannabis production establishment agent registration card within less than one year after the expiration of the applicant's previous cannabis production establishment agent registration card, each prospective agent described in Subsection (4)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (4)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (4)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (4)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (4)(d)(i) to the Bureau of Criminal Identification.

(5) The department shall designate, on an individual's cannabis production establishment agent registration card:

(a) the name of the cannabis production establishment where the individual is registered as an agent; and

(b) the type of cannabis production establishment for which the individual is authorized to act as an agent.

(6) A cannabis production establishment agent shall comply with:

(a) a certification standard that the department develops; or

(b) a [~~third-party~~] certification standard that the department [~~designates by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~] has reviewed and approved.

(7) (a) The department shall ensure that the certification standard described in Subsection (6) includes training:

[~~(a)~~] (i) in Utah medical cannabis law;

[~~(b)~~] (ii) for a cannabis cultivation facility agent, in cannabis cultivation best practices;

[~~(c)~~] (iii) for a cannabis processing facility agent, in cannabis processing, manufacturing safety procedures for items for human consumption, and sanitation best practices; and

[~~(d)~~] (iv) for an independent cannabis testing laboratory agent, in cannabis testing best practices.

(b) The department shall review the training described in Subsection (7)(a) annually or as often as necessary to ensure compliance with this section.

(8) For an individual who holds or applies for a cannabis production establishment agent registration card:

(a) the department may revoke or refuse to issue the card if the individual violates the requirements of this chapter; and

(b) the department shall revoke or refuse to issue the card if the individual is convicted

under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(9) (a) A cannabis production establishment agent registration card expires two years after the day on which the department issues the card.

(b) A cannabis production establishment agent may renew the agent's registration card if the agent:

(i) is eligible for a cannabis production establishment registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (4)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 7. Section **4-41a-302** is amended to read:

**4-41a-302. Cannabis production establishment agent registration card -- Rebuttable presumption.**

(1) A cannabis production establishment agent whom the department registers under Section 4-41a-301 shall carry the individual's cannabis production establishment agent registration card with the agent at all times when:

(a) the agent is on the premises of a cannabis production establishment where the agent is registered;

(b) the agent is transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device between:

(i) two cannabis production establishments; or

(ii) a cannabis production establishment and[~~:(A)~~] a medical cannabis pharmacy; [~~or~~] and

[~~(B) the state central fill medical cannabis pharmacy; and~~]

(c) if the cannabis production establishment agent is an agent of a cannabis [~~cultivating~~] cultivation facility, the agent is transporting raw cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory.

(2) If a cannabis processing facility agent possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device and produces the registration card in the agent's possession in compliance with Subsection (1) while handling, at a cannabis production establishment, or transporting the cannabis, cannabis product, or medical cannabis device in compliance with Subsection (1):

(a) there is a rebuttable presumption that the agent possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) a law enforcement officer does not have probable cause, based solely on the agent's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device in compliance with Subsection (1), to believe that the individual is engaging in illegal activity.

(3) (a) A cannabis production establishment agent who fails to carry the agent's cannabis production establishment agent registration card in accordance with Subsection (1) is:

(i) for a first or second offense in a two-year period:

(A) guilty of an infraction; and

(B) subject to a $100 fine; or

(ii) for a third or subsequent offense in a two-year period:

(A) guilty of a class C misdemeanor; and

(B) subject to a $750 fine.

(b) (i) The prosecuting entity shall notify the department and the relevant cannabis production establishment of each conviction under Subsection (3)(a).

(ii) For each violation described in Subsection (3)(a)(ii), the department may assess the relevant cannabis production establishment a fine of up to $5,000, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) An individual who is guilty of a violation described in Subsection (3)(a) is not guilty for a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (3)(a).

Section 8. Section **4-41a-403** is amended to read:

**4-41a-403. Advertising.**

(1) [~~A~~] Except as provided in Subsection (2), (3), or (4), a cannabis production establishment may not advertise to the general public in any medium.

(2) [~~Notwithstanding Subsection (1), a~~] A cannabis production establishment may advertise an employment opportunity at the cannabis production [~~facility~~] establishment.

(3) A cannabis production establishment may maintain a website that:

(a) contains information about the establishment and employees; and

(b) does not advertise any medical cannabis, cannabis products, or medical cannabis devices.

(4) Notwithstanding any municipal or county ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that:

(a) includes only:

(i) the cannabis production establishment's name and hours of operation; and

(ii) a green cross;

(b) does not exceed four feet by five feet in size; and

(c) complies with local ordinances regulating signage.

Section 9. Section **4-41a-404** is amended to read:

**4-41a-404. Cannabis, cannabis product, or medical cannabis device**

**transportation.**

(1) (a) Only the following individuals may transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this chapter:

(i) a registered cannabis production establishment agent; or

(ii) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to possess under this chapter.

(b) Only an agent of a cannabis [~~cultivating~~] cultivation facility, when the agent is transporting cannabis plants to a cannabis processing facility or an independent cannabis testing laboratory, may transport unprocessed cannabis outside of a medicinal dosage form.

(2) Except for an individual with a valid medical cannabis card under Title 26, Chapter 61a, Utah Medical Cannabis Act, who is transporting a medical cannabis treatment shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for any cannabis, cannabis product, or medical cannabis device that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection (3)(a) is limited to transportation:

(i) between a cannabis cultivation facility and:

(A) another cannabis cultivation facility; or

(B) a cannabis processing facility; and

(ii) between a cannabis processing facility and:

(A) another cannabis processing facility;

(B) an independent cannabis testing laboratory; or

(C) a medical cannabis pharmacy[~~; or~~].

[~~(D) the state central fill medical cannabis pharmacy.~~]

(4) (a) It is unlawful for a registered cannabis production establishment agent to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the agent described in Subsection (4)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) the penalty described in Subsection (4)(b) does not apply; and

(ii) the agent is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) Nothing in this section prevents the department from taking administrative enforcement action against a cannabis production establishment or another person for failing to make a transport in compliance with the requirements of this section.

Section 10. Section **4-41a-406** is amended to read:

**4-41a-406. Local control.**

(1) As used in this section:

(a) "Land use decision" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(b) "Land use permit" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

(c) "Land use regulation" means the same as that term is defined in Sections 10-9a-103 and 17-27a-103.

[~~(1)~~] (2) (a) If a municipality's or county's zoning ordinances provide for an industrial zone, [~~the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of industrial zone.~~] the operation of a cannabis production establishment shall be a permitted industrial use in any industrial zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one industrial zone in which the operation of a cannabis production establishment is a permitted use.

(b) If a municipality's or county's zoning ordinances provide for an agricultural zone, [~~the municipality or county shall ensure that the ordinances allow for cannabis production establishments in at least one type of agricultural zone.~~] the operation of a cannabis production establishment shall be a permitted agricultural use in any agricultural zone unless the municipality or county has designated by ordinance, before an individual submits a land use permit application for a cannabis production establishment, at least one agricultural zone in which the operation of a cannabis production establishment is a permitted use.

(c) The operation of a cannabis production establishment shall be a permitted use on land that the municipality or county has not zoned.

[~~(2) (a)~~] (3) A municipality or county may not [~~deny or revoke a land use permit to operate a cannabis production facility~~]:

(a) on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis[~~. (b) A municipality or county may not~~], deny or revoke:

(i) a land use permit to operate a cannabis production facility; or

(ii) a business license to operate a cannabis production facility [~~on the sole basis that the applicant or cannabis production establishment violates federal law regarding the legal status of cannabis.~~];

(b) require a certain distance between a cannabis production establishment and:

(i) another cannabis production establishment;

(ii) a medical cannabis pharmacy;

(iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a cannabis production establishment that was not in effect on the day on which the cannabis production establishment submitted a complete land use application.

(4) An applicant for a land use permit to operate a cannabis production establishment shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Section 11. Section **4-41a-501** is amended to read:

**4-41a-501. Cannabis cultivation facility -- Operating requirements.**

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the cannabis cultivation facility's inventory control system to identify:

(a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, [~~the state central fill medical cannabis pharmacy,~~] a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

Section 12. Section **4-41a-701** is amended to read:

**4-41a-701. Cannabis and cannabis product testing.**

(1) A cannabis cultivation facility may not offer any cannabis for sale to a cannabis processing facility unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption.

(2) A cannabis processing facility may not offer any cannabis or cannabis products for sale to a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy,~~] and a medical cannabis pharmacy [~~and the state central fill medical cannabis pharmacy~~] may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product to determine:

(a) (i) the amount of total composite tetrahydrocannabinol and cannabidiol in the cannabis or cannabis product; and

(ii) the amount of any other cannabinoid in the cannabis or cannabis product that the label claims the cannabis or cannabis product contains;

(b) that the presence of contaminants, including mold, fungus, pesticides, microbial contaminants, heavy metals, or foreign material, does not exceed an amount that is safe for human consumption; and

(c) for a cannabis product that is manufactured using a process that involves extraction using hydrocarbons, that the cannabis product does not contain a level of a residual solvent that

is not safe for human consumption.

(3) By rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) may determine the amount of any substance described in Subsections (2)(b) and (c) that is safe for human consumption; and

(b) shall establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment.

(4) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

(6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 13. Section **4-41a-901** is enacted to read:

**Part 9. Academic Medical Cannabis Research**

**4-41a-901. Academic medical cannabis research -- License.**

(1) A medical cannabis research licensee may, subject to department rules described in Subsection (4), obtain from a cannabis production establishment, and possess, cannabis for academic medical cannabis research.

(2) The department shall license a research university to obtain and possess cannabis for the purpose of academic medical cannabis research if the research university submits to the department:

(a) the location where the research university intends to conduct the research;

(b) the research university's research plan; and

(c) the name of the employee of the research university who will:

(i) supervise the obtaining of cannabis;

(ii) be responsible to possess and secure the cannabis; and

(iii) oversee the academic research.

(3) The department shall maintain a list of each medical cannabis research licensee.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish requirements for a licensee to:

(i) participate in academic medical cannabis research;

(ii) obtain from a cannabis production establishment, and possess, cannabis for academic medical cannabis research; and

(b) set sampling and testing procedures.

(5) A medical cannabis research licensee shall provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the licensee possesses or stores cannabis for the purpose of:

(a) conducting a physical inspection; or

(b) ensuring compliance with the requirements of this chapter.

(6) An individual who has been convicted of a drug related felony within the last 10 years may not obtain, possess, or conduct any research on cannabis under a medical cannabis research licensee's license under this part.

(7) The department may set a fee, in accordance with Subsection 4-2-103(2), for the application for a medical cannabis research license.

Section 14. Section **4-41a-902** is enacted to read:

**4-41a-902. Cannabis production establishment product for academic research.**

A cannabis production establishment may sell cannabis and cannabis products to a medical cannabis research licensee for the purpose of academic research.

Section 15. Section **4-41a-903** is enacted to read:

**4-41a-903. Unlawful acts.**

(1) It is unlawful for a person who is not operating under the license of a medical cannabis research licensee to obtain or possess cannabis for academic medical cannabis research.

(2) It is unlawful for a cannabis production establishment to offer, sell, or otherwise provide cannabis or cannabis products for the purpose of academic research to an entity that is not a medical cannabis research licensee.

(3) The department may seize from a medical cannabis research licensee and destroy cannabis or cannabis products that do not comply with this chapter.

Section 16. Section **10-9a-528** is enacted to read:

**10-9a-528. Cannabis production establishments and medical cannabis pharmacies.**

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(2) (a) (i) A municipality may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A municipality may not regulate a medical cannabis pharmacy in conflict with:

(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a municipality shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

(b) A municipality shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the municipality receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Section 17. Section **15A-5-103** is amended to read:

**15A-5-103. Nationally recognized codes incorporated by reference.**

The following codes are incorporated by reference into the State Fire Code:

(1) the International Fire Code, 2018 edition, excluding appendices, as issued by the International Code Council, Inc., except as amended by Part 2, Statewide Amendments and Additions to International Fire Code Incorporated as Part of State Fire Code;

(2) National Fire Protection Association, NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2017 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code; [~~and~~]

(3) National Fire Protection Association, NFPA 1403, Standard on Live Fire Training Evolutions, 2012 edition, except as amended by Part 3, Amendments and Additions to National Fire Protection Association Incorporated as Part of State Fire Code[~~.~~]; and

(4) National Fire Protection Association, NFPA 1, Chapter 38, Marijuana Growing,

Processing, and Extraction Facilities, 2018 edition.

Section 18. Section **17-27a-525** is enacted to read:

**17-27a-525. Cannabis production establishments and medical cannabis pharmacies.**

(1) As used in this section:

(a) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(b) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(2) (a) (i) A county may not regulate a cannabis production establishment in conflict with:

(A) Title 4, Chapter 41a, Cannabis Production Establishments, and applicable jurisprudence; and

(B) this chapter.

(ii) A county may not regulate a medical cannabis pharmacy in conflict with:

(A) Title 26, Chapter 61a, Utah Medical Cannabis Act, and applicable jurisprudence; and

(B) this chapter.

(b) The Department of Agriculture and Food has plenary authority to license programs or entities that operate a cannabis production establishment.

(c) The Department of Health has plenary authority to license programs or entities that operate a medical cannabis pharmacy.

(3) (a) Within the time period described in Subsection (3)(b), a county shall prepare and adopt a land use regulation, development agreement, or land use decision in accordance with this title and:

(i) regarding a cannabis production establishment, Section 4-41a-406; or

(ii) regarding a medical cannabis pharmacy, Section 26-61a-507.

(b) A county shall take the action described in Subsection (3)(a):

(i) before January 1, 2021, within 45 days after the day on which the county receives a petition for the action; and

(ii) after January 1, 2021, in accordance with Subsection 10-9a-509.5(2).

Section 19. Section **26-61a-102** is amended to read:

**26-61a-102. Definitions.**

As used in this chapter:

(1) "Blister" means a plastic cavity or pocket used to contain no more than a single dose of cannabis or a cannabis product in a blister pack.

(2) "Blister pack" means a plastic, paper, or foil package with multiple blisters each containing no more than a single dose of cannabis or a cannabis product.

(3) "Cannabis" means marijuana.

(4) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(5) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(6) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

(7) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

[~~(7)~~] (8) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

[~~(8)~~] (9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

[~~(9)~~] (10) "Community location" means a public or private school, a licensed child-care facility or preschool, a church, a public library, a public playground, or a public park.

[~~(10)~~] (11) "Department" means the Department of Health.

[~~(11)~~] (12) "Designated caregiver" means an individual:

(a) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(b) who registers with the department under Section 26-61a-202.

[~~(12)~~] (13) "Dosing parameters" means quantity, routes, and frequency of administration for a recommended treatment of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(14) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(15) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.

[~~(13)~~] (16) "Independent cannabis testing laboratory" means the same as that term is defined in Section 4-41a-102.

[~~(14)~~] (17) "Inventory control system" means the system described in Section 4-41a-103.

[~~(15) "Local health department" means the same as that term is defined in Section 26A-1-102.~~]

[~~(16) "Local health department distribution agent" means an agent designated and registered to distribute state central fill shipments under Sections 26-61a-606 and 26-61a-607.~~]

[~~(17)~~] (18) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(18)~~] (19) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(19)~~] (20) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, or a medical cannabis caregiver card.

[~~(20)~~] (21) "Medical cannabis cardholder" means a holder of a medical cannabis card.

[~~(21)~~] (22) "Medical cannabis caregiver card" means an [~~official~~] electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(23) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 26-61a-604; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

[~~(22)~~] (24) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(23)~~] (25) "Medical cannabis guardian card" means an [~~official~~] electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(24)~~] (26) "Medical cannabis patient card" means an [~~official~~] electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(25)~~] (27) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire:

(A) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form from a cannabis processing facility; or

(B) a medical cannabis device; or

(ii) possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(b) sells or intends to sell cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to a medical cannabis cardholder.

[~~(26)~~] (28) "Medical cannabis pharmacy agent" means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

[~~(27)~~] (29) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(30) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(28)~~] (31) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(29)~~] (32) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) for use only after the individual's qualifying condition has failed to substantially respond to at least two other forms described in this Subsection [~~(29)~~] (32)(a)(i), a resin or wax;

(ii) for unprocessed cannabis flower, a blister pack, with each individual blister:

(A) containing a specific and consistent weight that does not exceed one gram and that varies by no more than 10% from the stated weight; and

(B) after December 31, 2020, labeled with a barcode that provides information connected to an inventory control system and the individual blister's content and weight; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the blister pack described in Subsection [~~(29)~~] (32)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(29)~~] (32)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the blister pack, except as provided in Subsection [~~(29)~~] (32)(b); or

(ii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

(33) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

[~~(30)~~] (34) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

[~~(31)~~] (35) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a qualified medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(32)~~] (36) "Qualified medical provider" means an individual who is qualified to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

[~~(33) "Qualified Distribution Enterprise Fund" means the enterprise fund created in Section 26-61a-110.~~]

[~~(34)~~] (37) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

[~~(35)~~] (38) "Qualifying condition" means a condition described in Section 26-61a-104.

[~~(36) "State central fill agent" means an employee of the state central fill medical cannabis pharmacy that the department registers in accordance with Section 26-61a-602.~~]

[~~(37) "State central fill medical cannabis pharmacy" means the central fill pharmacy that the department creates in accordance with Section 26-61a-601.~~]

(39) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(38)~~] (40) "State central [~~fill medical provider~~] patient portal medical provider" means a physician or pharmacist that the [~~state central fill medical cannabis pharmacy~~] department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section [~~26-61a-601~~] 26-61a-602.

[~~(39) "State central fill shipment" means a shipment of cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device that the state central fill medical cannabis pharmacy prepares and ships for distribution to a medical cannabis~~

~~cardholder in a local health department.~~]

[~~(40)~~] (41) "State electronic verification system" means the system described in Section 26-61a-103.

(42) "Valid form of photo identification" means a valid United States federal- or state-issued photo identification, including:

(a) a driver license;

(b) a United States passport;

(c) a United States passport card; or

(d) a United States military identification card.

Section 20. Section **26-61a-103** is amended to read:

**26-61a-103. Electronic verification system.**

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Department of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Department of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual, with the individual's qualified medical provider in the qualified medical provider's office, to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card;

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, during a visit with a patient, treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing parameters;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) for the qualified medical provider who originally recommended a medical cannabis treatment, as that term is defined in Section 26-61a-102, using telehealth services; or

(B) for a qualified medical provider who did not originally recommend the medical cannabis treatment, during a face-to-face visit with a patient; and

[~~(iv) at the request of a medical cannabis cardholder, initiate a state central fill shipment in accordance with Section 26-61a-603;~~]

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) connects with:

(i) an inventory control system that a medical cannabis pharmacy [~~and the state central fill medical cannabis pharmacy use~~] uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a

medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or [~~the state central fill~~] any medical cannabis [~~pharmacy~~] courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(e) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(B) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(C) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or

Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(D) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(f) provides access to and interaction with the state central [~~fill medical cannabis pharmacy, state central fill agents, and local health department distribution agents, to facilitate the state central fill shipment process~~] patient portal;

(g) provides access to state or local law enforcement:

(i) during a traffic stop for the purpose of determining if the individual subject to the traffic stop is in compliance with state medical cannabis law; or

(ii) after obtaining a warrant; and

(h) creates a record each time a person accesses the database that identifies the person who accesses the database and the individual whose records the person accesses.

(3) The department may release [~~de-identified~~] limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research; [~~and~~]

(b) providing the report required by Section 26-61a-703[~~.~~]; and

(c) other official department purposes.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(5) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(6) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(7) (a) Except as provided in Subsection (7)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (7) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (7) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (7) shall be deposited into the General Fund.

(e) This Subsection (7) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 21. Section **26-61a-106** is amended to read:

**26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation.**

(1) (a) Except as provided in Subsection (1)(b), an individual may not recommend a

medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(b) An individual who meets the qualifications in Subsections 26-61a-106(2)(a)(iii) and (iv) may recommend a medical cannabis treatment without registering under Subsection (1)(a) until January 1, 2021.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual:

(A) has the authority to write a prescription;

(B) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(C) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance;

(iv) provides to the department evidence that the individual is:

(A) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(B) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(C) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, whose declaration of services agreement, as that term is defined in Section 58-70a-102, includes the recommending of medical cannabis, and whose supervising physician is a qualified medical provider; and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider [~~or a state central fill medical provider~~]; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment [~~or~~], a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(B) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(C) for a qualified medical provider licensed under Title 58, Chapter 68, Utah

Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(D) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b) or (c), a qualified medical provider may not recommend a medical cannabis treatment to more than 175 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) Except as provided in Subsection (4)(c), a qualified medical provider may recommend a medical cannabis treatment to up to 300 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, or psychiatry; or

(ii) a licensed business employs or contracts with the qualified medical provider for the

specific purpose of providing hospice and palliative care.

(c) (i) Notwithstanding Subsection (4)(b), a qualified medical provider described in Subsection (4)(b) may petition the Division of Occupational and Professional Licensing for authorization to exceed the limit described in Subsection (4)(b) by graduating increments of 100 patients per authorization, not to exceed three authorizations.

(ii) The Division of Occupational and Professional Licensing shall grant the authorization described in Subsection (4)(c)(i) if:

(A) the petitioning qualified medical provider pays a $100 fee;

(B) the division performs a review that includes the qualified medical provider's medical cannabis recommendation activity in the state electronic verification system, relevant information related to patient demand, and any patient medical records that the division determines would assist in the division's review; and

(C) after the review described in this Subsection (4)(c)(ii), the division determines that granting the authorization would not adversely affect public safety, adversely concentrate the overall patient population among too few qualified medical providers, or adversely concentrate the use of medical cannabis among the provider's patients.

(5) A qualified medical provider may recommend medical cannabis to an individual under this chapter only in the course of a qualified medical provider-patient relationship after the qualifying medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), a qualified medical provider may not advertise that the qualified medical provider recommends medical cannabis treatment.

(b) For purposes of Subsection (6)(a), the communication of the following, through a website does not constitute advertising:

(i) a green cross;

(ii) a qualifying condition that the qualified medical provider treats; or

(iii) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license as described in Subsection (2)(a)(iii);

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A qualified medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a qualified medical provider or pharmacy medical provider.

Section 22. Section **26-61a-107** is amended to read:

**26-61a-107. Standard of care -- Physicians and pharmacists not liable -- No private right of action.**

(1) An individual described in Subsection (2) is not subject to the following solely for violating a federal law or regulation that would otherwise prohibit recommending, prescribing, or dispensing medical cannabis, a medical cannabis product, or a cannabis-based drug that the United States Food and Drug Administration has not approved:

(a) civil or criminal liability; or

(b) licensure sanctions under Title 58, Chapter 17b, Pharmacy Practice Act, Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act.

(2) The limitations of liability described in Subsection (1) apply to:

(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act:

(i) (A) whom the department has registered as a qualified medical provider; and

(B) who recommends treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a patient in accordance with this chapter; or

(ii) before January 1, 2021, who:

(A) has the authority to write a prescription; and

(B) recommends a medical cannabis treatment to a patient who has a qualifying condition; and

(b) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act:

(i) whom the department has registered as a pharmacy medical provider [~~or a state central fill medical provider~~]; and

(ii) who dispenses, in a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~], treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form to a medical cannabis cardholder in accordance with this chapter.

(3) Nothing in this section or chapter reduces or in any way negates the duty of an individual described in Subsection (2) to use reasonable and ordinary care in the treatment of a patient:

(a) who may have a qualifying condition; and

(b) (i) for whom the individual described in Subsection (2)(a)(i) or (ii) has recommended or might consider recommending a treatment with cannabis or a cannabis product; or

(ii) with whom the pharmacist described in Subsection (2)(b) has interacted in the dosing or dispensing of cannabis or a cannabis product.

Section 23. Section **26-61a-109** is amended to read:

**26-61a-109. Qualified Patient Enterprise Fund -- Creation -- Revenue neutrality.**

(1) There is created an enterprise fund known as the "Qualified Patient Enterprise Fund."

(2) The fund created in this section is funded from:

(a) money the department deposits into the fund under this chapter;

(b) appropriations the Legislature makes to the fund; and

(c) the interest described in Subsection (3).

(3) Interest earned on the fund shall be deposited into the fund.

(4) The department may only use money in the fund to fund the department's responsibilities under this chapter[~~, except for the responsibilities described in Subsection 26-61a-110(4)~~].

(5) The department shall set fees authorized under this chapter in amounts that the department anticipates are necessary, in total, to cover the department's cost to implement this chapter.

Section 24. Section **26-61a-111** is amended to read:

**26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees.**

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of [~~opioids and opiates~~] any prescribed controlled substance.

(b) Subsection (2)(a) does not apply where the application of Subsection (2)(a) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Department of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer of an employee who has signed the notice described in Subsection (3)(a) may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

Section 25. Section **26-61a-115** is enacted to read:

**26-61a-115. Analogous to prescribed controlled substances.**

When an employee, officer, or agent of the state or a political subdivision makes a finding, determination, or otherwise considers an individual's possession or use of cannabis, a cannabis product, or a medical cannabis device, the employee, officer, or agent may not consider the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance, if the individual's possession or use complies with:

(1) this chapter;

(2) Title 4, Chapter 41a, Cannabis Production Establishments; or

(3) Subsection 58-37-3.7(2) or (3).

Section 26. Section **26-61a-201** is amended to read:

**26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card application -- Fees -- Studies.**

(1) On or before March 1, 2020, the department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(a) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(b) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(c) issue a provisional patient card to a minor described in Subsection (2)(c); and

(d) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's qualified medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) the minor's parent or legal guardian petitions the compassionate use board under Section 26-61a-105, and the compassionate use board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b).

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis

guardian card to the minor's parent or legal guardian.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending qualified medical provider while in the recommending qualified medical provider's office; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification [~~that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~];

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a qualified medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the qualified medical provider recommends, the qualified medical provider may indicate the cardholder's need in the state electronic verification system.

(ii) If a qualified medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card

indicating the cardholder's need for assistance; and

(B) any adult who is 21 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment, including in the event of an emergency medical condition under Subsection 26-61a-204(2).

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a qualified medical provider shall:

(a) before recommending cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use; and

(b) state in the qualified medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the qualified medical provider determines; or

(ii) (A) for the first issuance, 30 days; or

(B) for a renewal, six months.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending qualified medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the compassionate use board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the qualified medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(e) The department may revoke a medical cannabis guardian card if the cardholder under Subsection (2)(b) is convicted of a misdemeanor or felony drug distribution offense under either state or federal law.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If [~~neither~~] a licensed medical cannabis pharmacy [~~nor the state central fill medical cannabis pharmacy~~] is not operating within the state after January 1, 2021, a cardholder under

this section is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(8) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(9) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(10) (a) A person may submit[~~,~~] to the department a request to conduct a [~~medical~~] research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (10)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the [~~medical~~] research study [~~is valid~~].

(c) [~~If the department makes a determination under Subsection (10)(b) that the medical research study is valid,~~] At the time an individual applies for a medical cannabis card, the department shall notify [~~each relevant~~] the individual:

(i) of how the individual's information will be used as a cardholder [~~asking for~~];

(ii) that by applying for a medical cannabis card, unless the individual withdraws

consent under Subsection (10)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in [~~the study~~] external research at any time.

[~~(d)~~] (e) The department may release, for the purposes of a study described in this Subsection (10), information about a cardholder under this section who consents to participate under Subsection (10)(c).

(f) If an individual withdraws consent under Subsection (10)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

[~~(e)~~] (g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 27. Section **26-61a-202** is amended to read:

**26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.**

(1) A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the cardholder if a qualified medical provider notates in the electronic verification system that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the qualified medical provider recommends.

(2) An individual that the department registers as a designated caregiver under this

section:

(a) may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis; and

(e) if [~~neither~~] a licensed medical cannabis pharmacy [~~nor the state central fill medical cannabis pharmacy~~] is not operating within the state after January 1, 2021, is not subject to prosecution for the possession of:

(i) no more than 113 grams of marijuana in a medicinal dosage form;

(ii) an amount of cannabis product in a medicinal dosage form that contains no more than 20 grams of tetrahydrocannabinol; or

(iii) marijuana drug paraphernalia.

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(8); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

Section 28. Section **26-61a-203** is amended to read:

**26-61a-203. Designated caregiver -- Guardian -- Criminal background check.**

(1) [~~Each~~] Except for an applicant reapplying for a medical cannabis card within less than one year after the expiration of the applicant's previous medical cannabis card, each applicant for a medical cannabis guardian card under Section 26-61a-201 or a medical cannabis caregiver card under Section 26-61a-202 shall:

(a) submit to the department, at the time of application:

(i) a fingerprint card in a form acceptable to the Department of Public Safety; and

(ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(b) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an applicant who submits fingerprints under Subsection (1)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 29. Section **26-61a-204** is amended to read:

**26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.**

(1) (a) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the cardholder purchased under this chapter shall:

(i) carry at all times the cardholder's medical cannabis card;

(ii) carry, with the cannabis in a medicinal dosage form or cannabis product in a medicinal dosage form, a label that identifies that the cannabis or cannabis product:

(A) was sold from a licensed medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~]; and

(B) includes an identification number that links the cannabis or cannabis product to the inventory control system; and

(iii) possess not more than:

(A) 113 grams of unprocessed cannabis; or

(B) an amount of cannabis product that contains 20 grams of total composite tetrahydrocannabinol.

(b) A medical cannabis cardholder who possesses cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) A medical cannabis cardholder who possesses between 113 and 226 grams of unprocessed cannabis or a total amount of cannabis product that contains between 20 and 40 grams of total composite tetrahydrocannabinol is:

(i) guilty of a class B misdemeanor; and

(ii) subject to a fine of $1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the

conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A medical cannabis cardholder who possesses more than 226 grams of unprocessed cannabis or a total amount of cannabis product that contains more than 40 grams of total composite tetrahydrocannabinol is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder or a provisional patient cardholder may not use, in public view, cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine

whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

Section 30. Section **26-61a-301** is amended to read:

**26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.**

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall[~~,~~] issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code[~~,~~].

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) [~~evidence~~] a statement that the applicant [~~has obtained~~] will obtain and [~~maintains~~] maintain a performance bond that a surety authorized to transact surety business in the state

issues in an amount of at least $125,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304; [~~and~~]

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

[~~(v) if the municipality or county where the proposed medical cannabis pharmacy would be located requires a local land use permit, a copy of the person's approved application for the local land use permit; and~~]

[~~(vi)~~] (v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504[~~.~~]; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of [~~an area~~] a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible

for the applicant to site the proposed medical cannabis pharmacy without the waiver.

[~~(ii)~~] (iv) An applicant for a license under this section shall provide evidence of compliance with the proximity [~~requirement~~] requirements described in Subsection (2)(c)(i).

[~~(d) Except as provided in Subsection (2)(c), a medical cannabis pharmacy is a permitted use in all zoning districts within a municipality or county.~~]

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department [~~determines that~~] selects an applicant [~~is eligible~~] for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution; [~~or~~]

(b) is younger than 21 years old[~~.~~]; or

(c) after the effective date of this bill until January 1, 2023, is actively serving as a legislator.

(5) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or Title 4, Chapter 41a,

Cannabis Production Establishments, the department:

(a) shall consult with the Department of Agriculture and Food regarding the applicant; and

(b) may not give preference to the applicant based on the applicant's status as a holder of a license described in this Subsection (5).

(6) The department may revoke a license under this part if:

(a) the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis pharmacy makes the same violation of this chapter three times; [~~or~~]

(c) an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution[~~.~~]; or

(d) the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

[~~(7)~~] (8) The department shall deposit the proceeds of a fee imposed by this section in

the Qualified Patient Enterprise Fund.

[~~(8)~~] (9) The department shall begin accepting applications under this part on or before March 1, 2020.

[~~(9)~~] (10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

Section 31. Section **26-61a-302** is amended to read:

**26-61a-302. Medical cannabis pharmacy owners and directors -- Criminal background checks.**

(1) Each applicant [~~for~~] to whom the department issues a notice of intent to award a license to operate as a medical cannabis pharmacy shall submit, [~~at the time of application~~] before the department may award the license, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(2) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (1) against the applicable state, regional, and national criminal records databases, including the Federal

Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (1) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(3) The department shall:

(a) assess an individual who submits fingerprints under Subsection (1) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (3)(a) to the Bureau of Criminal Identification.

Section 32. Section **26-61a-304** is amended to read:

**26-61a-304. Operating plan.**

A person applying for a medical cannabis pharmacy license shall submit to the department a proposed operation plan for the medical cannabis pharmacy that complies with this section and that includes:

(1) a description of the physical characteristics of the proposed facility, including a floor plan and an architectural elevation;

(2) a description of the credentials and experience of:

(a) each officer, director, or owner of the proposed medical cannabis pharmacy; and

(b) any highly skilled or experienced prospective employee;

(3) the medical cannabis pharmacy's employee training standards;

(4) a security plan;

(5) a description of the medical cannabis pharmacy's inventory control system, including a plan to make the inventory control system compatible with the state electronic verification system; [~~and~~]

(6) storage protocols, both short- and long-term, to ensure that cannabis is stored in a manner that is sanitary and preserves the integrity of the cannabis[~~.~~]; and

(7) a description of the proposed medical cannabis pharmacy's strategic plan for opening the medical cannabis pharmacy, including gauging appropriate timing based on:

(a) the supply of medical cannabis and medical cannabis products, in consultation with the Department of Agriculture and Food; and

(b) the quantity and condition of the population of medical cannabis cardholders, in consultation with the department.

Section 33. Section **26-61a-305** is amended to read:

**26-61a-305. Maximum number of licenses -- Home delivery medical cannabis pharmacies.**

(1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department [~~may not~~] shall issue [~~more than seven~~] 14 medical cannabis pharmacy licenses in accordance with this section.

[~~(b) (i) In addition to the licenses described in Subsection (1)(a), the department shall issue an eighth license if the state central fill medical cannabis pharmacy:~~]

[~~(A) is not operational by January 1, 2021; or~~]

[~~(B) ceases operations after January 1, 2021.~~]

[~~(ii) In addition to the licenses described in Subsections (1)(a) and (1)(b)(i), the department shall issue a ninth license if the state central fill medical cannabis pharmacy:~~]

[~~(A) is not operational by July 1, 2021; or~~]

[~~(B) ceases operations after July 1, 2021.~~]

[~~(iii) In addition to the licenses described in Subsections (1)(a), (1)(b)(i), and (1)(b)(ii), the department shall issue a tenth license if the state central fill medical cannabis pharmacy:~~]

[~~(A) is not operational by January 1, 2022; or~~]

[~~(B) ceases operations after January 1, 2022.~~]

[~~(iv) The department shall issue the licenses described in Subsection (1)(b)(i), (ii), and (iii), if a final order of a court enjoins or invalidates the operation of the state central fill medical cannabis pharmacy.~~]

(b) If fewer than 14 qualified applicants apply for a medical cannabis pharmacy license, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in two phases in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with this Subsection (1)(c), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license

is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i);

(B) before November 30, 2020, report on the rules described in Subsection (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and

(C) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A) to the intended licensee.

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

[~~(a)~~] (i) evaluate each applicant and award the license to the applicant that best demonstrates:

[~~(i)~~] (A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

[~~(ii)~~] (B) an operating plan that will best ensure the safety and security of patrons and the community;

[~~(iii)~~] (C) positive connections to the local community;

[~~(iv)~~] (D) the suitability of the proposed location and the location's accessibility for qualifying patients; [~~and~~]

[~~(v)~~] (E) the extent to which the applicant can reduce the cost of cannabis or cannabis products for patients; and

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively

high likelihood of success; and

[~~(b)~~] (ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

Section 34. Section **26-61a-401** is amended to read:

**26-61a-401. Medical cannabis pharmacy agent -- Registration.**

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) Except as provided in Section 26-61a-403, [~~the following individuals, regardless of the individual's status as~~] a qualified medical provider[~~;~~] may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy[~~:~~].

[~~(a) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;~~]

[~~(b) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or~~]

[~~(c) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.~~]

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) [~~Each~~] Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against

the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 35. Section **26-61a-403** is amended to read:

**26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.**

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a qualified medical provider or a state central [~~fill~~] patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 36. Section **26-61a-502** is amended to read:

**26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.**

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) a medical cannabis card; and

(ii) a corresponding valid form of photo identification [~~that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~].

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(2) A medical cannabis pharmacy may not dispense:

(a) to a medical cannabis cardholder in any one [~~12~~] 28-day period, more than the lesser of:

[~~(i) an amount sufficient to provide 14 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or~~]

[~~(ii) (A) 56 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or~~]

[~~(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 10 grams of total composite tetrahydrocannabinol;~~]

[~~(b) to a medical cannabis cardholder whose primary residence is located more than 100 miles from the nearest medical cannabis pharmacy or local health department, in any one 28-day period, more than the lesser of:~~]

(i) an amount sufficient to provide 30 days of treatment based on the dosing parameters that the relevant qualified medical provider recommends; or

(ii) (A) 113 grams by weight of unprocessed cannabis that is in a medicinal dosage form and that carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; or

(B) an amount of cannabis products that is in a medicinal dosage form and that contains, in total, greater than 20 grams of total composite tetrahydrocannabinol; or

[~~(c)~~] (b) to an individual whose qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

(3) An individual with a medical cannabis card may not purchase:

(a) more cannabis or cannabis products than the amounts designated in Subsection (2) in any one [~~12-day~~] 28-day period; or

(b) if the relevant qualified medical provider did not recommend dosing parameters, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any cannabis or cannabis products.

(4) If a qualified medical provider recommends treatment with medical cannabis or a cannabis product but does not provide dosing parameters:

(a) the qualified medical provider shall document in the recommendation:

(i) an evaluation of the qualifying condition underlying the recommendation;

(ii) prior treatment attempts with cannabis and cannabis products; and

(iii) the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form, the pharmacy medical provider shall:

(i) review pertinent medical records, including the qualified medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show dosing parameters from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending qualified medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the qualified medical provider;

(B) indications for available treatments;

(C) dosing parameters; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the dosing parameters determined under Subsection (5)(a) in the pertinent medical records.

[~~(5)~~] (6) A medical cannabis pharmacy shall:

(a) (i) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of cannabis or cannabis products described in Subsection (2); and

(ii) if the verification in Subsection [~~(5)~~] (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2):

(A) decline the sale; and

(B) notify the qualified medical provider who made the underlying recommendation;

(b) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses cannabis or a cannabis product to a medical cannabis cardholder;

(c) package any cannabis or cannabis product that is in a blister pack in a container that:

(i) complies with Subsection 4-41a-602(2);

(ii) is tamper-resistant and tamper-evident; and

(iii) opaque; and

(d) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

[~~(6)~~] (7) (a) Except as provided in Subsection [~~(6)~~] (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

[~~(7)~~] (8) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1).

[~~(8)~~] (9) The department may impose a uniform fee on each medical cannabis cardholder transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

Section 37. Section **26-61a-503** is amended to read:

**26-61a-503. Partial filling.**

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the qualified medical provider recommends, if the qualified medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the qualified medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4) or (5); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 38. Section **26-61a-505** is amended to read:

**26-61a-505. Advertising.**

(1) Except as provided in Subsections (2) and (3), a medical cannabis pharmacy may not advertise in any medium.

(2) [~~A~~] Notwithstanding any municipal or county ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that:

(a) includes only:

[~~(a)~~] (i) the medical cannabis pharmacy's name and hours of operation; and

[~~(b)~~] (ii) a green cross[~~.~~];

(b) does not exceed four feet by five feet in size; and

(c) complies with local ordinances regulating signage.

(3) A medical cannabis pharmacy may maintain a website that includes information about:

(a) the location and hours of operation of the medical cannabis pharmacy;

(b) a product or service available at the medical cannabis pharmacy;

(c) personnel affiliated with the medical cannabis pharmacy;

(d) best practices that the medical cannabis pharmacy upholds; and

(e) educational material related to the medical use of cannabis.

Section 39. Section **26-61a-506** is amended to read:

**26-61a-506. Cannabis, cannabis product, or medical cannabis device transportation.**

(1) Only the following individuals may transport cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device under this chapter:

(a) a registered medical cannabis pharmacy agent;

[~~(b) a registered state central fill agent;~~]

[~~(c)~~] (b) a registered medical cannabis courier [~~for a state central fill shipment described in Section 26-61a-605~~] agent; or

[~~(d)~~] (c) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis, cannabis product, or medical cannabis device to a relevant inventory control system;

(b) includes origin and destination information for cannabis, a cannabis product, or a medical cannabis device that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the cannabis, cannabis product, or medical cannabis device.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device to ensure that the cannabis, cannabis product, or medical cannabis device remains safe for human consumption.

(b) The transportation described in Subsection [~~(3)(a)~~] (1)(a) is limited to transportation[~~: (i) ~~] between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; [~~and~~] or

(ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

[~~(ii) between the state central fill medical cannabis pharmacy and:~~]

[~~(A) another state central fill medical cannabis pharmacy location; or~~]

[~~(B) a local health department.~~]

(4) (a) It is unlawful for a registered medical cannabis pharmacy agent[~~;~~] or a registered [~~state central fill~~] medical cannabis courier agent[~~, or a courier described in Section 26-61a-605~~] to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an agent [~~or courier~~] who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more cannabis,

cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 40. Section **26-61a-507** is amended to read:

**26-61a-507. Local control.**

[~~(1) (a) (i) Except as provided in Subsection (1)(a)(ii), to be eligible to obtain or maintain a license under Section 26-61a-301, a person shall demonstrate that the intended medical cannabis pharmacy location is located at least:~~]

[~~(A) 600 feet from a community location's property boundary following the shortest route of ordinary pedestrian travel;~~]

[~~(B) 200 feet from the patron entrance to the community location's property boundary; and~~]

[~~(C) 600 feet from an area zoned primarily residential.~~]

[~~(ii) A municipal or county land use authority may recommend in writing that the department waive the community location proximity requirement described in Subsection (1)(a)(i).~~]

(1) The operation of a medical cannabis pharmacy:

(a) shall be a permitted use:

(i) in any zone, overlay, or district within the municipality or county except for a primarily residential zone; and

(ii) on land that the municipality or county has not zoned; and

(b) is subject to the land use regulations, as defined in Sections 10-9a-103 and 17-27a-103, that apply in the underlying zone.

[~~(b) (i)~~] (2) A municipality or county may not [~~deny or revoke a land use permit to operate a medical cannabis pharmacy~~]:

(a) on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis[~~. (ii) A municipality or county may not~~], deny or revoke:

(i) a land use permit, as that term is defined in Sections 10-9a-103 and 17-27a-103, to operate a medical cannabis pharmacy; or

(ii) a business license to operate a medical cannabis pharmacy [~~on the sole basis that the applicant or medical cannabis pharmacy violates federal law regarding the legal status of cannabis.~~];

(b) require a certain distance between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy;

(ii) a cannabis production establishment;

(iii) a retail tobacco specialty business, as that term is defined in Section 26-62-103; or

(iv) an outlet, as that term is defined in Section 32B-1-202; or

(c) in accordance with Subsections 10-9a-509(1) and 17-27a-508(1), enforce a land use regulation against a medical cannabis pharmacy that was not in effect on the day on which the medical cannabis pharmacy submitted a complete land use application.

[~~(2)~~] (3) A municipality or county may enact an ordinance that:

(a) is not in conflict with this chapter; and

(b) governs the time, place, or manner of medical cannabis pharmacy operations in the municipality or county.

(4) An applicant for a land use permit to operate a medical cannabis pharmacy shall comply with the land use requirements and application process described in:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, including Section 10-9a-528; and

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act, including Section 17-27a-525.

Section 41. Section **26-61a-601** is repealed and reenacted to read:

**26-61a-601. State central patient portal -- Department duties.**

(1) On or before July 1, 2020, the department shall establish or contract to establish, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, a state central patient portal as described in this section.

(2) The state central patient portal shall:

(a) authenticate each user to ensure the user is a valid medical cannabis patient cardholder;

(b) allow a medical cannabis patient cardholder to:

(i) obtain and download the cardholder's medical cannabis card;

(ii) review the cardholder's medical cannabis purchase history; and

(iii) manage the cardholder's personal information, including withdrawing consent for the use of the cardholder's information for a study described in Subsection 26-61a-201(10);

(c) if the cardholder's qualified medical provider recommended the use of medical cannabis without providing dosing parameters and the cardholder has not yet received the counseling or consultation required in Subsection 26-61a-502(4):

(i) alert the cardholder of the outstanding need for consultation; and

(ii) provide the cardholder with access to the contact information for each state central patient portal medical provider and each pharmacy medical provider;

(d) except as provided in Subsection (2)(e), facilitate an electronic medical cannabis order to a home delivery medical cannabis pharmacy;

(e) prohibit a patient from completing an electronic medical cannabis order described in Subsection (2)(d) if the purchase would exceed the limitations described in Subsection 26-61a-501(2)(a) or (b);

(f) provide educational information to medical cannabis patient cardholders regarding the state's medical cannabis laws and regulatory programs and other relevant information regarding medical cannabis; and

(g) allow the patient to designate up to two caregivers who may receive a medical

cannabis caregiver card to purchase and transport medical cannabis on behalf of the patient in accordance with this chapter.

(3) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the state central patient portal.

Section 42. Section **26-61a-602** is repealed and reenacted to read:

**26-61a-602. State central patient portal medical provider.**

(1) In relation to the state central patient portal:

(a) the department may only employ, as a state central patient portal medical provider:

(i) a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act; or

(ii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) if the department employs a state central patient portal medical provider, ensure that a state central patient portal medical provider is available during normal business hours.

(2) A state central patient portal medical provider may:

(a) provide consultations to medical cannabis cardholders and qualified medical providers; and

(b) determine dosing parameters in accordance with Subsection 26-61a-502(5).

Section 43. Section **26-61a-603** is repealed and reenacted to read:

**26-61a-603. Payment provider for electronic medical cannabis transactions.**

(1) A cannabis production establishment seeking to use a payment provider, a medical cannabis pharmacy, or a prospective home delivery medical cannabis pharmacy shall submit to the Division of Finance and the state treasurer information regarding the payment provider the prospective licensee will use to conduct financial transactions related to medical cannabis, including:

(a) the name and contact information of the payment provider;

(b) the nature of the relationship between the establishment, pharmacy, or prospective pharmacy and the payment provider; and

(c) for a prospective home delivery medical cannabis pharmacy, the processes the prospective licensee and the payment provider have in place to safely and reliably conduct financial transactions for medical cannabis shipments.

(2) The Division of Finance shall, in consultation with the state treasurer:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish standards for identifying payment providers that demonstrate the functional and technical ability to safely conduct financial transactions related to medical cannabis, including medical cannabis shipments;

(b) review submissions the Division of Finance and the state treasurer receive under Subsection (1);

(c) approve a payment provider that meets the standards described in Subsection (2)(a); and

(d) establish a list of approved payment providers.

(3) Any licensed cannabis production establishment, licensed medical cannabis pharmacy, or medical cannabis courier may use a payment provider that the Division of Finance approves, in consultation with the state treasurer, to conduct transactions related to the establishment's, pharmacy's, or courier's respective medical cannabis business.

(4) If Congress passes legislation that allows a cannabis-related business to facilitate payments through or deposit funds in a financial institution, a cannabis production establishment or a medical cannabis pharmacy may facilitate payments through or deposit funds in a financial institution in addition to or instead of a payment provider that the Division of Finance approves, in consultation with the state treasurer, under this section.

Section 44. Section **26-61a-604** is repealed and reenacted to read:

**26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.**

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home

delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times; or

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after the effective date of this bill, a misdemeanor for drug distribution.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

Section 45. Section **26-61a-605** is amended to read:

**26-61a-605. Medical cannabis shipment transportation.**

(1) The [~~state central fill medical cannabis pharmacy~~] department shall ensure that [~~the state central fill~~] each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner[~~, cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, and a medical cannabis device to each local health department in the state within two business days after the day on which the state central fill medical cannabis pharmacy receives a request for a state central fill shipment resulting from a recommendation of a qualified medical provider under Section 26-61a-603~~].

(2) (a) [~~The department~~] A home delivery medical cannabis pharmacy may contract with a [~~private entity for the entity to serve as a courier for the state central fill medical cannabis pharmacy, delivering state central fill~~] licensed medical cannabis courier to deliver medical cannabis shipments to [~~local health departments for distribution to medical cannabis~~

~~cardholders~~] fulfill electronic medical cannabis orders that the state central patient portal facilitates.

(b) If [~~the department~~] a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the [~~department~~] pharmacy shall:

[~~(i) issue the contract described in Subsection (2)(a) in accordance with Title 63G, Chapter 6a, Utah Procurement Code;~~]

[~~(ii)~~] (i) impose security and personnel requirements on the [~~contracted private entity~~] medical cannabis courier sufficient to ensure the security and safety of [~~state central fill~~] medical cannabis shipments; and

[~~(iii)~~] (ii) provide regular oversight of the [~~contracted private entity~~] medical cannabis courier.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a [~~state central fill~~] medical cannabis shipment unless the individual is:

(a) a registered [~~state central fill~~] medical cannabis pharmacy agent; or

(b) [~~an~~] a registered agent of the [~~private~~] medical cannabis courier described in Subsection (2).

(4) An individual transporting a [~~state central fill~~] medical cannabis shipment under Subsection (3) shall possess a transportation manifest that:

(a) includes a unique identifier that links the [~~state central fill~~] medical cannabis shipment to a relevant inventory control system;

(b) includes origin and destination information for [~~a state central fill~~] the medical cannabis shipment the individual is transporting; and

(c) indicates the departure and arrival times and locations of the individual transporting the [~~state central fill~~] medical cannabis shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of Occupational and Professional Licensing

and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting [~~state central fill~~] medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a [~~state central fill~~] medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 46. Section **26-61a-606** is amended to read:

**26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.**

(1) An individual may not serve as a [~~local health department distribution~~] medical cannabis courier agent unless:

(a) the individual is an employee of a [~~local health department~~] licensed medical cannabis courier; and

(b) the department registers the individual as a [~~local health department distribution~~] medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a [~~local health department~~] medical cannabis courier on behalf of a [~~prospective local health department distribution~~] medical cannabis courier agent, register and issue a [~~local health department distribution~~] medical cannabis courier agent registration card to the prospective agent if the [~~local health department~~] medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and [~~location~~] address of the [~~local health department where the prospective agent seeks to act as a local health department distribution agent~~] medical cannabis courier; [~~and~~]

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

[~~(C)~~] (D) the submission required under Subsection (2)(b); [~~and~~]

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution[~~.~~]; and

(iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) [~~Each~~] Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the

registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's [~~local health department~~

~~distribution~~] medical cannabis courier agent registration card the name of the [~~local health department~~] medical cannabis courier where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A [~~local health department distribution~~] medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the [~~state central fill~~] medical cannabis [~~pharmacy~~] shipment process; and

(iii) [~~local health department distribution~~] medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in

comparison to the original application process.

[~~(5)~~] (6) The department may revoke or refuse to issue or renew the [~~local health department distribution~~] medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

[~~(6)~~] (7) A [~~local health department distribution~~] medical cannabis courier agent [~~who~~] whom the department has registered under this section shall carry the agent's [~~local health department distribution~~] medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the [~~local health department~~] medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment [~~of cannabis or cannabis product from the state central fill medical cannabis pharmacy~~].

[~~(7)~~] (8) If a [~~local health department distribution~~] medical cannabis courier agent handling a medical cannabis shipment [~~of cannabis or cannabis product from the state central fill medical cannabis pharmacy~~] possesses the shipment in compliance with Subsection [~~(6)~~] (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment [~~containing medical cannabis in medicinal dosage form, a cannabis product in medicinal dosage form, or a medical cannabis device,~~] that the agent is engaging in illegal activity.

[~~(8)~~] (9) (a) A [~~local health department distribution~~] medical cannabis courier agent who violates Subsection [~~(6)~~] (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection [~~(8)(a)~~] (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection [~~(8)(a)~~] (9)(a).

Section 47. Section **26-61a-607** is amended to read:

**26-61a-607. Home delivery of medical cannabis shipments.**

[~~(1) Each local health department shall designate:~~]

[~~(a) one or more of the local health department's locations as a state central fill shipment distribution location; and~~]

[~~(b) a sufficient number of personnel to ensure that at least one individual is available at all times during business hours:~~]

[~~(i) whom the department has registered as a local health department distribution agent; and~~]

[~~(ii) to distribute state central fill shipments to medical cannabis cardholders in accordance with this section.~~]

[~~(2)~~] (1) An individual may not [~~retrieve a~~] receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from [~~the state central fill~~] a home delivery medical cannabis pharmacy [~~at a local health department~~] unless:

(a) the individual receiving the shipment presents:

[~~(a)~~] (i) a valid form of photo identification [~~that is a valid United States federal- or state-issued photo identification, including a driver license, a United States passport, a United States passport card, or a United States military identification card~~]; and

[~~(b)~~] (ii) a valid medical cannabis card under the same name that appears on the valid form of photo identification [~~described in Subsection (2)(a).~~]; and

(b) the delivery occurs at the medical cannabis cardholder's home address that is on file in the state electronic verification system.

[~~(3)~~] (2) Before a [~~local health department distribution~~] medical cannabis pharmacy agent or a medical cannabis courier agent distributes a [~~state central fill~~] medical cannabis shipment to a medical cannabis cardholder, the [~~local health department distribution~~] agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection [~~(2)~~] (1);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in the electronic verification system.

[~~(4)~~] (3) The [~~local health department~~] medical cannabis courier shall:

(a) (i) store each [~~state central fill~~] medical cannabis shipment [~~that the local health department receives,~~] in a secure manner until the recipient medical cannabis cardholder [~~retrieves~~] receives the shipment or the [~~local health department~~] medical cannabis courier returns the shipment to the [~~state central fill~~] home delivery medical cannabis pharmacy in accordance with Subsection [~~(5), in a single, secure, locked area that is equipped with a security system that detects and records entry into the area~~] (4); and

(ii) ensure that only a [~~local health department distribution~~] medical cannabis courier agent is able to access the [~~area~~] medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any [~~unclaimed state central fill~~] undelivered medical cannabis shipment to the [~~state central fill~~] home delivery medical cannabis pharmacy, in accordance with Subsection [~~(5)(a)~~] (4), after the [~~local health department~~] medical cannabis courier has possessed the [~~state central fill~~] shipment for 10 business days; and

(c) return any [~~state central fill~~] medical cannabis shipment to the [~~state central fill~~] home delivery medical cannabis pharmacy, in accordance with Subsection [~~(5)(b)~~] (4), if a medical cannabis cardholder [~~returns~~] refuses to accept the shipment [~~to the local health~~

~~department after retrieving the shipment~~].

[~~(5)~~] (4) (a) If a [~~local health department~~] medical cannabis courier or home delivery medical cannabis pharmacy agent returns an [~~unclaimed state central fill~~] undelivered medical cannabis shipment [~~under Subsection (4)(b)~~] that remains unopened, the [~~state central fill~~] home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment [~~for another state central fill shipment~~].

(b) If a [~~local health department~~] medical cannabis courier or home delivery medical cannabis pharmacy agent returns [~~a returned state central fill~~] an undelivered or refused medical cannabis shipment under Subsection [~~(4)(c)~~] (3) that appears to be opened in any way, the [~~state central fill~~] home delivery medical cannabis pharmacy shall dispose of the [~~returned~~] shipment by:

(i) rendering the [~~state central fill~~] shipment unusable and unrecognizable before transporting the shipment from the [~~state central fill~~] home delivery medical cannabis pharmacy; and

(ii) disposing of the [~~state central fill~~] shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 48. Section **26-61a-702** is amended to read:

**26-61a-702. Enforcement -- Fine -- Citation.**

(1) (a) The department may, for a medical cannabis pharmacy's violation of this chapter or an applicable administrative rule:

(i) revoke the medical cannabis pharmacy license;

(ii) refuse to renew the medical cannabis pharmacy license; or

(iii) assess the medical cannabis pharmacy an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or [~~state central fill~~] medical cannabis courier agent's violation of this chapter:

(i) revoke the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis courier agent registration card;

(ii) refuse to renew the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis courier agent registration card; or

(iii) assess the medical cannabis pharmacy agent or [~~state central fill~~] medical cannabis courier agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or a medical cannabis courier's license to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or agent registration card; or

(b) suspend, revoke, or place on probation the person's license or agent registration

card.

(7) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual violates a provision of this chapter, the individual is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

Section 49. Section **26-61a-703** is amended to read:

**26-61a-703. Report.**

(1) By the November interim meeting each year beginning in 2020, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity [~~and timeliness of state central fill~~] of medical cannabis shipments[~~,~~ ~~including the amount of time between recommendation to~~] that the state central [~~fill medical cannabis pharmacy and arrival of a state central fill shipment at a local health department~~] patient portal facilitates;

[~~(k) the market share of state central fill shipments;~~]

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

[~~(m) the expenses incurred and revenues generated from the state central fill medical cannabis pharmacy, including a profit and loss statement; and~~]

[~~(n)~~] (m) an analysis of product availability[~~, including the price differential between comparable products,~~] in medical cannabis pharmacies [~~and the state central fill medical cannabis pharmacy~~].

(2) The department may not include personally identifying information in the report described in this section.

Section 50. Section **30-3-10** is amended to read:

**30-3-10. Custody of a child -- Custody factors.**

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

(iv) medical needs; and

(v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including:

(i) parenting skills;

(ii) co-parenting skills, including:

(A) ability to appropriately communicate with the other parent;

(B) ability to encourage the sharing of love and affection; and

(C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

(k) the parent's financial responsibility;

(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

(r) any other factor the court finds relevant.

(3) There is a rebuttable presumption that joint legal custody, as defined in Section 30-3-10.1, is in the best interest of the child, except in cases when there is:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse involving the child, a parent, or a household member of the parent;

(b) special physical or mental needs of a parent or child, making joint legal custody unreasonable;

(c) physical distance between the residences of the parents, making joint decision making impractical in certain circumstances; or

(d) any other factor the court considers relevant including those listed in this section and Section 30-3-10.2.

(4) (a) The person who desires joint legal custody shall file a proposed parenting plan in accordance with Sections 30-3-10.8 and 30-3-10.9.

(b) A presumption for joint legal custody may be rebutted by a showing by a preponderance of the evidence that it is not in the best interest of the child.

(5) (a) A child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the child be heard and there is no other reasonable method to present the child's testimony.

(b) (i) The court may inquire of the child's and take into consideration the child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the child's custody or parent-time otherwise.

(ii) The desires of a child 14 years of age or older shall be given added weight, but is

not the single controlling factor.

(c) (i) If an interview with a child is conducted by the court pursuant to Subsection (5)(b), the interview shall be conducted by the judge in camera.

(ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a child is the only method to ascertain the child's desires regarding custody.

(6) (a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

(8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

(9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections

78B-20-306 through 78B-20-309.

(10) In considering the past conduct and demonstrated moral standards of each party under Subsection (2)(d) or any other factor a court finds relevant, the court may not:

(a) consider or treat a parent's lawful possession or use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, Title 26, Chapter 61a, Utah Medical Cannabis Act, or Subsection 58-37-3.7(2) or (3) any differently than the court would consider or treat the lawful possession or use of [~~an opioid or opiate~~] any prescribed controlled substance; or

(b) discriminate against a parent because of the parent's status as a:

(i) cannabis production establishment agent, as that term is defined in Section 4-41a-102;

(ii) medical cannabis pharmacy agent, as that term is defined in Section 26-61a-102;

(iii) [~~state central fill~~] medical cannabis courier agent, as that term is defined in Section 26-61a-102; or

(iv) medical cannabis cardholder in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 51. Section **58-17b-302** is amended to read:

**58-17b-302. License required -- License classifications for pharmacy facilities.**

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307; and

(b) for the operation of a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~] under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy;

(e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy[~~, including the state central fill medical cannabis pharmacy,~~] shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 52. Section **58-17b-310** is amended to read:

**58-17b-310. Continuing education.**

(1) The division in collaboration with the board may establish by rule continuing education requirements for each classification of licensure under this chapter.

(2) The division shall accept and apply toward an hour requirement that the division establishes under Subsection (1) continuing education that a pharmacist completes in accordance with [~~Sections~~] Section 26-61a-403 [~~and 26-61a-601~~].

Section 53. Section **58-17b-502** is amended to read:

**58-17b-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503 or Part 9, Charitable Prescription Drug Recycling Act, accepting back and redistributing any unused drug, or a part of it, after it has left the premises of any pharmacy, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule;

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order; and

(o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(a) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when [~~registered~~] acting as a state central [~~fill~~] patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central [~~fill~~] patient portal medical

provider services [~~in the state central fill medical cannabis pharmacy~~].

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 54. Section **58-37-3.7** is amended to read:

**58-37-3.7. Medical cannabis decriminalization.**

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(f) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(h) "Qualifying condition" means the same as that term is defined in Section 26-61a-102.

(i) "Tetrahydrocannabinol" means the same as that term is defined in Section 58-37-3.9.

(2) Before January 1, 2021, an individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia if:

(a) at the time of the arrest or citation, the individual:

(i) (A) had been diagnosed with a qualifying condition; and

(B) had a pre-existing provider-patient relationship with an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, a physician licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, who believed that the individual's illness described in Subsection (2)(a)(i)(A) could benefit from the use in question;

(ii) for possession, was:

(A) the parent or legal guardian of an individual described in Subsection (2)(a)(i) who is a minor; or

(B) the spouse of an individual described in Subsection (2)(a)(i); or

(iii) (A) for possession, was a medical cannabis cardholder; or

(B) for use, was a medical cannabis patient cardholder or a minor with a qualifying condition under the supervision of a medical cannabis guardian cardholder; and

(b) the marijuana or tetrahydrocannabinol was in a medicinal dosage form in one of the following amounts:

(i) no more than 56 grams by weight of unprocessed cannabis; or

(ii) an amount of cannabis products that contains, in total, no more than 10 grams of total composite tetrahydrocannabinol.

(3) An individual is not guilty under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia under this chapter if:

(a) at the time of the arrest or citation, the individual:

(i) was not a resident of Utah or has been a resident of Utah for less than 45 days;

(ii) had a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(iii) had been diagnosed with a qualifying condition as described in Section 26-61a-104; and

(b) the marijuana or tetrahydrocannabinol is in a medicinal dosage form in [~~a quantity described in Subsection 26-61a-502(2).~~] one of the following amounts:

(i) no more than 113 grams by weight of unprocessed cannabis; or

(ii) an amount of cannabis products that contains, in total, no more than 20 grams of total composite tetrahydrocannabinol.

Section 55. Section **58-37-3.8** is amended to read:

**58-37-3.8. Enforcement.**

(1) A law enforcement officer, as that term is defined in Section 53-13-103, except for an officially designated drug enforcement task force regarding conduct that is not in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, may not expend any state or local resources, including the officer's time, to:

(a) effect any arrest or seizure of cannabis, as that term is defined in Section 26-61a-102, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of federal law if the officer has reason to believe that the activity is in compliance with the state medical cannabis laws;

(b) enforce a law that restricts an individual's right to acquire, own, or possess a firearm based solely on the individual's possession or use of cannabis in accordance with state medical cannabis laws; or

(c) provide any information or logistical support related to an activity described in Subsection (1)(a) to any federal law enforcement authority or prosecuting entity.

(2) An agency or political subdivision of the state may not take an adverse action against a person for providing a professional service to a medical cannabis pharmacy, as that term is defined in Section 26-61a-102, the state central [~~fill medical cannabis pharmacy~~] patient portal, as that term is defined in Section 26-61a-102, or a cannabis production establishment, as that term is defined in Section 4-41a-102, on the sole basis that the service is a violation of federal law.

Section 56. Section **58-37-3.9** is amended to read:

**58-37-3.9. Exemption for possession or use of cannabis to treat a qualifying illness.**

(1) As used in this section:

(a) "Cannabis" means marijuana.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Drug paraphernalia" means the same as that term is defined in Section 58-37a-3.

(d) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) " Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(g) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic description as described in Subsection 58-37-4(2)(a)(iii)(AA).

(2) Notwithstanding any other provision of law, except as otherwise provided in this section:

(a) an individual is not guilty of a violation of this title for the following conduct if the individual engages in the conduct in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possessing, ingesting, inhaling, producing, manufacturing, dispensing, distributing, selling, or offering to sell cannabis or a cannabis product; or

(ii) possessing cannabis or a cannabis product with the intent to engage in the conduct described in Subsection (2)(a)(i); and

(b) an individual is not guilty of a violation of this title regarding drug paraphernalia if the individual, in accordance with Title 4, Chapter 41a, Cannabis Production Establishments, and Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) possesses, manufactures, distributes, sells, or offers to sell a medical cannabis

device; or

(ii) possesses a medical cannabis device with the intent to engage in any of the conduct described in Subsection (2)(b)(i).

(3) (a) As used in this Subsection (3), "smoking" does not include the vaporization or heating of medical cannabis.

(b) Title 26, Chapter 61a, Utah Medical Cannabis Act, does not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.

(c) A medical cannabis cardholder who smokes cannabis or engages in any other conduct described in Subsection (3)(b):

(i) does not possess the cannabis in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) is subject to charges under this chapter for the use or possession of marijuana, tetrahydrocannabinol, or marijuana drug paraphernalia for the conduct described in Subsection (3)(b).

(4) An individual who is assessed a penalty or convicted of a crime under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act, is not, based on the conduct underlying that penalty or conviction, subject to a penalty described in this chapter for:

(a) the possession, manufacture, sale, or offer for sale of cannabis or a cannabis product; or

(b) the possession, manufacture, sale, or offer for sale of drug paraphernalia.

Section 57. Section **58-67-304** is amended to read:

**58-67-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance

with the number of hours and standards defined by division rule made in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(j);

(c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee; and

(d) if the licensee is an associate physician licensed under Section 58-67-302.8, successfully complete the educational methods and programs described in Subsection 58-67-807(4).

(2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic and the enforcement of Title 76, Chapter 7, Part 3, Abortion, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this

chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and [~~26-61a-601~~] 26-61a-602.

Section 58. Section **58-67-502** is amended to read:

**58-67-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the profession, state law, or division rule;

(b) making a material misrepresentation regarding the qualifications for licensure under Section 58-67-302.7 or Section 58-67-302.8;

(c) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section

26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central [~~fill~~] patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central [~~fill~~] patient portal medical provider services [~~in the state central fill medical cannabis pharmacy~~].

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a [~~pharmacist~~] physician described in Subsection (2)(b).

Section 59. Section **58-68-304** is amended to read:

**58-68-304. License renewal requirements.**

(1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:

(a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule in collaboration with the board;

(b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-68-302(1)(j);

(c) if the licensee practices osteopathic medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for access to medical records for the licensee in accordance with Subsection 58-68-302(1)(k); and

(d) if the licensee is an associate physician licensed under Section 58-68-302.5, successfully complete the educational methods and programs described in Subsection 58-68-807(4).

(2) If a renewal period is extended or shortened under Section 58-68-303, the continuing education hours required for license renewal under this section are increased or

decreased proportionally.

(3) An application to renew a license under this chapter shall:

(a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and

(b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."

(4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:

(a) of the name and business address of the physician; and

(b) that the physician responded positively to the question described in Subsection (3)(a).

(5) The division shall accept and apply toward the hour requirement in Subsection (1)(a) any continuing education that a physician completes in accordance with Sections 26-61a-106, 26-61a-403, and [~~26-61a-601~~] 26-61a-602.

Section 60. Section **58-68-502** is amended to read:

**58-68-502. Unprofessional conduct.**

(1) "Unprofessional conduct" includes, in addition to the definition in Section 58-1-501:

(a) using or employing the services of any individual to assist a licensee in any manner not in accordance with the generally recognized practices, standards, or ethics of the

profession, state law, or division rule;

(b) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable;

(c) making a material misrepresentation regarding the qualifications for licensure under Section 58-68-302.5; or

(d) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include:

(a) in compliance with Section 58-85-103:

(i) obtaining an investigational drug or investigational device;

(ii) administering the investigational drug to an eligible patient; or

(iii) treating an eligible patient with the investigational drug or investigational device; or

(b) in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(i) when registered as a qualified medical provider, as that term is defined in Section 26-61a-102, recommending the use of medical cannabis;

(ii) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(iii) when registered as a state central [~~fill~~] patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central [~~fill~~] patient portal medical provider services [~~in the state central fill medical cannabis pharmacy~~].

(3) Notwithstanding Subsection (2)(b), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a [~~pharmacist~~] physician described in Subsection (2)(b).

Section 61. Section **59-12-104.10** is amended to read:

**59-12-104.10. Exemption from sales tax for cannabis.**

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(e) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

[~~(f) "State central fill medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.~~]

(2) In addition to the exemptions described in Section 59-12-104, the sale by a licensed medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~] of the following is not subject to the taxes this chapter imposes:

(a) cannabis in a medicinal dosage form; or

(b) a cannabis product in a medicinal dosage form.

(3) The sale of a medical cannabis device by a medical cannabis pharmacy [~~or the state central fill medical cannabis pharmacy~~] is subject to the taxes this chapter imposes.

Section 62. Section **78A-2-231** is enacted to read:

**78A-2-231. Consideration of lawful use or possession of medical cannabis.**

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.

(c) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(f) "Qualified medical provider" means the same as that term is defined in Section

26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the dosing parameters determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections 77-18-1 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 63. Section **78A-6-115** is amended to read:

**78A-6-115. Hearings -- Record -- County attorney or district attorney responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of evidence -- Medical cannabis.**

(1) (a) A verbatim record of the proceedings shall be taken in all cases that might result

in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed with by the court.

(b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, a record of a proceeding made under Subsection (1)(a) shall be released by the court to any person upon a finding on the record for good cause.

(ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the court shall:

(A) provide notice to all subjects of the record that a request for release of the record has been made; and

(B) allow sufficient time for the subjects of the record to respond before making a finding on the petition.

(iii) A record of a proceeding may not be released under this Subsection (1)(b) if the court's jurisdiction over the subjects of the proceeding ended more than 12 months before the request.

(iv) For purposes of this Subsection (1)(b):

(A) "record of a proceeding" does not include documentary materials of any type submitted to the court as part of the proceeding, including items submitted under Subsection (4)(a); and

(B) "subjects of the record" includes the child's guardian ad litem, the child's legal guardian, the Division of Child and Family Services, and any other party to the proceeding.

(2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a prosecution district, the district attorney shall represent the state in any proceeding in a minor's case.

(b) Subject to the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and Family Services, and this chapter, relating to:

(i) protection or custody of an abused, neglected, or dependent child; and

(ii) petitions for termination of parental rights.

(c) The attorney general shall represent the Division of Child and Family Services in actions involving a minor who is not adjudicated as abused or neglected, but who is receiving in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to represent the state in those matters, in accordance with Subsection (2)(a).

(3) The board may adopt special rules of procedure to govern proceedings involving violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings involving offenses under Section 78A-6-606 are governed by that section regarding suspension of driving privileges.

(4) (a) For the purposes of determining proper disposition of the minor in dispositional hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and in hearings upon petitions for termination of parental rights, written reports and other material relating to the minor's mental, physical, and social history and condition may be received in evidence and may be considered by the court along with other evidence. The court may require that the person who wrote the report or prepared the material appear as a witness if the person is reasonably available.

(b) For the purpose of determining proper disposition of a minor alleged to be or adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division under Section 78A-6-315 may be received in evidence and may be considered by the court along with other evidence. The court may require any person who participated in preparing the dispositional report to appear as a witness, if the person is reasonably available.

(5) (a) In an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the proceeding shall provide in writing to the other parties or their counsel any information which the party:

(i) plans to report to the court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the court at the proceeding.

(b) The disclosure required under Subsection (5)(a) shall be made:

(i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than five days before the proceeding;

(ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in accordance with Utah Rules of Civil Procedure; and

(iii) for all other proceedings, no less than five days before the proceeding.

(c) If a party to a proceeding obtains information after the deadline in Subsection (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the party certifies to the court that the information was obtained after the deadline.

(d) Subsection (5)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court may, in its discretion, consider evidence of statements made by a child under eight years of age to a person in a trust relationship.

(7) (a) As used in this Subsection (7):

(i) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(ii) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.

(iii) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(iv) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(v) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(b) In any child welfare proceeding in which the court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if the individual's use or possession complies with:

(i) Title 4, Chapter 41a, Cannabis Production Establishments;

(ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(B) the individual reasonably complies with the dosing parameters determined by the individual's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child, if:

(i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the dosing parameters determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(B) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3); and

(ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise had cannabis introduced to the child's body; or

(B) there is no evidence showing a nexus between the parent's or guardian's use of medical cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Section 64. **Repealer.**

This bill repeals:

Section **26-61a-110**, **Qualified Distribution Enterprise Fund -- Creation.**

Section **26-61a-205**, **Lost or stolen medical cannabis card.**

Section **26-61a-608**, **Department to set state central fill medical cannabis pharmacy prices.**

Section **26-61a-609**, **Partial filling.**

Section **26-61a-610**, **Records -- Inspections.**

Section **26-61a-611**, **Advertising.**

Section **26-65-101**, **Title.**

Section **26-65-102**, **Definitions.**

Section **26-65-103**, **Medicinal dosage form.**

Section **26-65-201**, **Insurance coverage.**

Section **26-65-202**, **Rules -- Report to the Legislature.**

Section 65. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 66. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, in Section 4-41a-201, replace the language from "the effective date of this bill" to the bill's actual effective date.

| Medical Cannabis Conflicts between City Code and State Code | |
|---|---|
| City Code | State Code |
| Section 7-7-105.5 (1)a.<br>A Cannabis Production Establishment or Medical Cannabis Pharmacy shall not be located within 1,000 feet of any other Cannabis Production Establishment, any other Medical Cannabis Pharmacy, or an Alcohol Establishment. | Section 4-41a-406<br>A municipality may not require a certain distance between a cannabis production establishment and another cannabis production establishment; a medical cannabis pharmacy; a retail tobacco specialty business; or an outlet<br><br>Section 26-61a-507 (2)<br>A municipality may not require a certain distance between a medical cannabis pharmacy and another medical cannabis pharmacy; a cannabis production establishment; a retail tobacco specialty business; or an outlet |
| Section 7-7-105.5 (1)b.<br>A Cannabis Production Establishment or Medical Cannabis Pharmacy shall not be located within 500 feet of the right-of-way for any High-Image Arterial Street set forth in Section 7-10-102 or Section 7-10-201. | Section 26-61a-507 (1)(a)(i)<br>The operation of a medical cannabis pharmacy shall be a permitted use in any zone, overlay, or district within the municipality except for a primarily residential zone; |
| Section 7-7-105.5 (2)c.<br>As required by state law, no signage is allowed for Cannabis Production Establishments. | Section 4-41a-403<br>Notwithstanding any municipal ordinance prohibiting signage, a cannabis production establishment may use signage on the outside of the cannabis production establishment that: (a) includes only: (i) the cannabis production establishment's name and hours of operation; and (ii) a green cross; (b) does not exceed four feet by five feet in size; and (c) complies with local ordinances regulating signage. |
| Section 7-7-105.5 (3)e.<br>Direct or home delivery service shall be prohibited. | Section 26-61a-604 (3)(a)<br>…the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section. |
| Section 7-7-105.5 (3)j.<br>The maximum area of a Wall Sign on a Medical Cannabis Pharmacy shall be limited to 5 percent of the first story building face of the front face of the building. | Section 26-61a-505<br>Notwithstanding any municipal ordinance prohibiting signage, a medical cannabis pharmacy may use signage on the outside of the medical cannabis pharmacy that: (a) includes only: (i) the medical cannabis pharmacy's name and hours of operation; and (ii) a green cross; (b) does not exceed four feet by five feet in size; and (c) complies with local ordinances regulating signage. |

**WEST VALLEY CITY, UTAH**

**ORDINANCE NO._____**

Draft Date: 10/16/2019

Date Adopted: _____

Date Effective: _____

**AN ORDINANCE AMENDING SECTION 7-7-105.5 OF THE WEST VALLEY CITY MUNICIPAL CODE TO AMEND REGULATIONS GOVERNING CANNABIS PRODUCTION ESTABLISHMENTS AND MEDICAL CANNABIS PHARMACIES.**

**WHEREAS,** Title 7 of the West Valley City Municipal Code establishes regulations concerning the use and development of land throughout the City; and

**WHEREAS**, it is necessary to amend provisions governing certain cannabis-related uses to comply with recent changes to state law; and

**WHEREAS**, the City Council of West Valley City, Utah does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to amend Section 7-7-105.5 of the West Valley City Municipal Code;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of West Valley City, Utah as follows:

**Section 1. Repealer.** Any provision of the West Valley City Municipal Code found to be in conflict with this Ordinance is hereby repealed.

**Section 2. Amendment.** Section 7-7-105.5 of the West Valley City Municipal Code is hereby amended as follows:

**7-7-105.5. CANNABIS PRODUCTION ESTABLISHMENTS AND MEDICAL CANNABIS PHARMACIES.**

(1) The following standards apply to all Cannabis Production Establishments and Medical Cannabis Pharmacies:

~~a. A Cannabis Production Establishment or a Medical Cannabis Pharmacy shall not be~~

~~located within 1,000 feet of any other Cannabis Production Establishment, any other Medical Cannabis Pharmacy, or an Alcohol Establishment.~~

~~b. A Cannabis Production Establishment or Medical Cannabis Pharmacy shall not be located within 500 feet of the right-of-way for any High-Image Arterial Street set forth in Section 7-10-102 or 7-10-201.~~

~~c~~a. All outside areas of a Cannabis Production Establishment or Medical Cannabis Pharmacy site shall meet the minimum lighting levels for commercial uses set forth in Section 7-9-113.

~~d~~b. ~~As required by state law, a~~ A copy of an applicant's state approved license application shall be submitted as part of the permitted or conditional use application.

(2) The following standards apply to all Cannabis Production Establishments:

a. There shall be no emission of dust, fumes, vapors, odors or waste into the environment from any facility where growing, processing and testing of cannabis occurs.

b. Spacing requirements set forth in state law shall apply.

~~c. As required by state law, no signage is allowed for Cannabis Production Establishments.~~

(3) The following standards apply to all Medical Cannabis Pharmacies:

a. Spacing requirements set forth in state law shall apply.

b. A drive-through service shall not be allowed.

c. Outdoor seating areas shall be prohibited.

d. Outdoor vending machines shall be prohibited.

~~e. Direct or home delivery service shall be prohibited.~~

~~f~~e. Permitted hours of operation shall be 8:00 A.M. to 8:00 P.M.

~~g~~f. The maximum size of a Medical Cannabis Pharmacy shall be 3,000 square feet.

~~h~~g. No more than one Medical Cannabis Pharmacy shall be permitted in the City for every 135,000 residents of the City, rounded down. For example, 270,000 residents would

be required for a second Medical Cannabis Pharmacy to be permitted.

~~i~~h. No cannabis products shall be visible from outside a Medical Cannabis Pharmacy building.

~~j~~i. Signs for Medical Cannabis Pharmacies shall be limited to one Wall Sign on the front face of the building. ~~The maximum area of a Wall Sign on a Medical Cannabis Pharmacy shall be limited to five percent of the first story building face of the front face of the building.~~ Advertising standards set forth in state law shall apply.

~~k~~j. No bars shall be placed on windows.

**Section 3. Severability.** If any provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

**Section 4. Effective Date.** This Ordinance shall take effect immediately upon posting in the manner required by law.

**PASSED and APPROVED** this _____ day of _____, 2019.

WEST VALLEY CITY

_____

MAYOR

ATTEST:

_____

CITY RECORDER

**ZT-14-2019 MINUTES**
**OCTOBER 9, 2019 PLANNING COMMISSION PUBLIC HEARING**

**ZT-14-2019**
**West Valley City**
**A zone text change to amend Section 7-7-105.5 regarding cannabis production establishments and medical cannabis pharmacies**

In December of last year the Utah Legislature passed HB 3001 that provided for the cultivation, processing, medical recommendation and patient use of medical cannabis. HB 3001 included provisions that required municipalities to allow cannabis production establishments and medical cannabis pharmacies under conditions. To comply with State law, the City Council adopted Ordinance 19-03 in February of this year to enact regulations concerning cannabis production establishments and medical cannabis pharmacies.

At the time it was enacted, Ordinance 19-03 complied with State law. However, in a special session in September of this year, the Utah Legislature passed SB 1002, which is included with this report, to amend the provisions relating to medical cannabis. As a result of these amendments, the City's Code needs to be changed to comply with State law.

Included with this report is a table that outlines the conflicting provisions of City Code with the recently adopted SB 1002.

**Staff Alternatives:**

1. Approval.

2. Continuance, for reasons determined during the public hearing.

   **Motion**: Commissioner Lovato moved to approve ZT-14-2019, seconded by Commissioner McEwen.

   **Vote**:

| | |
|---|---|
| Commissioner Fuller | Yes |
| Commissioner Lovato | Yes |
| Commissioner McEwen | Yes |
| Commissioner Meaders | Yes |
| Commissioner Porter | Yes |
| Commissioner Wood | Yes |
| Commissioner Woodruff | Yes |

   **Unanimous – ZT-14-2019 – Approved**

**Item:** _____
**Fiscal Impact:** $76,384.00
**Funding Source:** General Fund
**Account #:** 10-4510-40310

**Budget Opening Required:**

**ISSUE:**

A resolution authorizing Keddington & Christensen, Certified Public Accountants, LLC to perform financial audit services for West Valley City for fiscal year ended June 30, 2019.

**SYNOPSIS:**

West Valley City is required by law to engage an independent audit firm to audit the City's financial operations. Keddington & Christensen auditors have demonstrated experience and proficiency in municipal audits and knowledge of City operations. This audit will be conducted in accordance with auditing standards generally accepted in the United States of America: the standards for financial audits contained in the Government Auditing Standards, issued by the Comptroller General of the United States.

**BACKGROUND:**

Keddington & Christensen, Certified Public Accountants, LLC. has provided audit services for the City in the past and has the technical expertise to evaluate and review all aspects of the City's complex operations.

**RECOMMENDATION:**

Approval of this engagement agreement.

**SUBMITTED BY:**

James D. Welch, Director of Finance

K&C

**Keddington & Christensen**

Certified Public Accountants, LLC

Gary K. Keddington, CPA
Phyl R. Warnock, CPA
Marcus Arbuckle, CPA

June 4, 2019

West Valley City
3600 Constitution Blvd.
West Valley City, Utah 84119-3720

We are pleased to confirm our understanding of the services we are to provide West Valley City (the City) for the year ended June 30, 2019. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, including the notes to the financial statements, which collectively comprise the basic financial statements of West Valley City as of and for the year ended June 30, 2019. Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany the City's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited.

1. Management's discussion and analysis.
2. Infrastructure information reported under the modified approach.
3. Schedule of the proportionate share of the net pension liability
4. Schedule of pension contributions

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole in a separate written report accompanying our auditor's report on the financial statements.

1. Schedule of expenditures of federal awards.
2. Combining and individual fund statements.
3. Schedules of revenues, expenditures, and changes in fund balances – budget to actual for each

nonmajor governmental fund.

The following other information accompanying the financial statements, as required for a Comprehensive Annual Financial Report (CAFR), will not be subjected to the auditing procedures applied in our audit of the financial statements, and for which our auditor's report will not provide an opinion or any assurance.

1. Transmittal letter.
2. Statistical information.

**Audit Objectives**

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. The objective also includes reporting on –

- Internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards.*

- Internal control over compliance related to major programs and an opinion (or disclaimer of opinion) on compliance with federal statutes, regulations, and the terms and conditions of federal awards that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance).

The *Government Auditing Standards* report on internal control over financial reporting and on compliance and other matters will include a paragraph that states (1) that the purpose of the report is solely to describe the scope of testing of internal control and compliance and the results of that testing and not to provide an opinion on the effectiveness of the entities internal control or on compliance, and (2) that the report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entities internal control and compliance. The Uniform Guidance report on internal control over compliance will include a paragraph that states that the purpose of the report on internal control over compliance is solely to describe the scope of testing of internal control over compliance and the results of that testing based on the requirements of the Uniform Guidance. Both reports will state that the report is not suitable for any other purpose.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of the Uniform Guidance, and will include tests of accounting records, a determination of major programs in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such opinions. We will issue written reports upon completion of out single audit. Our reports will be addressed to Mayor and Member of the City Council. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or issue reports or may withdraw from this engagement.

Our audit will also include procedures that are required by the *State of Utah Compliance Audit Guide* concerning compliance with State fiscal laws identified by the State Auditor. We use the audit programs

of the *State of Utah Compliance Audit Guide* to perform our audit procedures. We will issue an opinion on applicable State fiscal laws and compliance requirements and identify any significant deficiencies in internal control or instances of non-compliance with State fiscal laws or other financial issues related to the expenditure of funds received from State sources.

**Audit Procedures-General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us, even though the audit is properly planned and performed in accordance with U.S. generally accepted auditing standards and *Government Auditing Standards.* In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform the appropriate level of management of any material errors or any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports as required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements; schedule of expenditures of federal awards; federal award programs; compliance with laws, regulations, contracts, and grant agreements; and other responsibilities required by generally accepted auditing standards.

**Audit Procedures-Internal Controls**

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards.*

As required by the Uniform Guidance, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to the Uniform Guidance.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies, or material weaknesses. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and the Uniform Guidance.

**Audit Procedures – Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with applicable laws and regulations and the provisions of contracts and agreements, including grants agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards.*

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Utah State Law requires that we also plan and perform and audit to obtain reasonable assurance about whether the auditee has complied with state fiscal laws identified by the Office of the Utah State Auditor and to report on any material weaknesses or significant deficiencies in internal control identified. Our procedures will consist of inquiry, observation and tests of those compliance requirements that are applicable to the City.

**Other Services**

We will also assist in preparing the financial statements, schedule of expenditures of federal awards, and related notes of the City in conformity with U.S. generally accepted accounting principles and the Uniform Guidance based on information provided by you. These nonaudit services do not constitute an audit under *Government Auditing Standards* and such services will not be conducted in accordance with Government Auditing Standards. We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statements, schedule of expenditures of federal awards, and related notes services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities

**Management Responsibilities**

Management is responsible (a) for establishing and maintaining effective internal controls, including internal controls over federal awards, and for evaluating and monitoring ongoing activities; to help ensure that appropriate goals and objectives are met; (b) following laws and regulations; (c) ensuring that there is reasonable assurance that government programs are administered in compliance with compliance

requirements; and (d) ensuring that management and financial information is reliable and properly reported. Management is also responsible for implementing systems designed to achieve compliance with applicable law, regulations, contracts, and grant agreements. You are also responsible for the selection and application of accounting principles; for the preparation and fair presentation of the financial statements, schedule of expenditures of federal awards, and all accompanying information in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements. Your responsibilities also include identifying significant contractor relationships in which the contractor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) access to personnel, accounts, books, records, supporting documentation, and other information as needed to perform an audit under the Uniform Guidance, (3) additional information that we may request for the purpose of the audit, and (4) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the written representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants. Management is also responsible for taking timely and appropriate steps to remedy fraud and noncompliance with provisions of laws, regulations, contracts, and grant agreements, or abuse that we report. Additionally, as required by the Uniform Guidance, it is management's responsibility to evaluate and monitor noncompliance with federal statutes, regulations, and the terms and conditions of federal awards; take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; promptly follow up and take corrective action on reported audit findings; and prepare a summary schedule of prior audit findings and a separate corrective action plan. The summary schedule of prior audit findings should be available for our review on August 6, 2019.

You are responsible for identifying all federal awards received and understanding and complying with the compliance requirements and for the preparation of the schedule of expenditures of federal awards (including notes and noncash assistance received) in conformity with the Uniform Guidance. You agree to include our report on the schedule of expenditures of federal awards in any document that contains and indicates that we have reported on the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the schedule of expenditures of federal awards in accordance with the Uniform Guidance; (2) you believe the schedule of expenditures of federal awards, including its form and content, is stated fairly in accordance with the Uniform Guidance; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they

have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the schedule of expenditures of federal awards.

You are responsible for the preparation of the other supplementary information, which we have been engaged to report on, in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) that you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) that the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to using the auditor's report, you understand that you must obtain our prior written consent to reproduce or use our report in bond offering official statements or other documents unless such documents include a provision such as "Keddington & Christensen has not been asked to provide its consent to the inclusion of the audit in this document, nor has Keddington & Christensen performed any addition procedures related to this document." With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original content.

You agree to assume all management responsibilities relating to the financial statements, schedule of expenditures of federal awards, and related notes, and any other nonaudit services we provide. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements, schedule of expenditures of federal awards, and related notes and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you agree to oversee the nonaudit services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of those services; and accept responsibility for them.

**Audit Administration**

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In

addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that the City's employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form that summarize our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

The audit documentation for this engagement is the property of Keddington & Christensen and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to certain governmental agencies or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Keddington & Christensen personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other government agencies.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the oversight agency for the audit. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit on approximately August 5th, 2019 and to issue our reports no later than December 14th, 2019. Phyl Warnock is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them.

**Audit Fees, Timing, and Other**

Our fee for these services for the year ended June 30, 2019 will be $76,384. The above fee is based on anticipated cooperation from the City's personnel and the assumption that unexpected circumstances will not be encountered during the audit and the City's records will be ready to be audited by August 5th, 2019. The above fee is also based on the current finance director, chief accountant, and other key accounting personnel being available to assist in the audit process. If the finance director, chief accountant, and/or other key accounting people are not available to assist with the audit process, and we anticipate that this circumstance will result in significant additional time, we will stop our audit procedures and will discuss it with the City and arrive at a new fee estimate before we incur the additional costs. Additional services for which we may be asked to perform will be billed at our standard rates.

When we proposed on your audit, your "request for proposal" (RFP) indicated approximately when the City records would be ready to audit. We based our audit fees on your RFP's approximation of record availability during early August of each year. We also put into the proposal that our audit fee was based on the "Time Requirements" section as shown in our proposal. Our audit fees are based on completing the majority of your audit field work by the middle to end of September and working on the report in October.

We anticipate starting our audit field work on about August 5th, 2019 and completing the majority of the work by the end of September. We will meet with management and determine a time line of when the different funds and accounting records will be available for the audit. Any increase in audit fees, related to funds not being ready to audit will be discussed with management at that time.

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if the City's account becomes overdue and may not be resumed until the City's account is paid in full. If we elect to terminate our services for nonpayment, the City will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination.

We understand that the City is responsible for preparing the Management Discussion and Analysis (MD&A) section of the audit report, as required by GASB No. 34. If the City would like us to help in the gathering of information for the MD&A section, our fees would be billed at our standard rates.

If the City requires assistance with any inquires related to the aforementioned reports or documents, we would be pleased to assist the City under the terms of a separate engagement.

This engagement does not include responding to inquiries by any governmental or regulatory agency or authority related to the financial statements or other documents that are associated with this engagement.

**Other Matters**

If during the course of our engagement we encounter circumstances which we believe may create a conflict of interest or conflict with the ethical standards of our profession, we will inform the City of our concerns. If these concerns cannot be adequately addressed to our satisfaction, or we are compelled to do so by the professional standards of our profession, we may withdraw from the engagement with a written notice. Our audit engagement ends on delivery of our audit report. Any follow-up services that might be required will be a separate, new engagement. The terms and conditions of that new engagement will be governed by a new, specific engagement letter for that service.

As a members of the AICPA and as required by the *Governmental Auditing Standards,* Keddington & Christensen affirms that we are in compliance with the external quality control Peer Review requirements as required by the related professional standards, rules and policies.

We appreciate the opportunity to be of service to West Valley City and believe this letter accurately summarizes the significant terms of our engagement. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If you have any questions, please let us know.

Very truly yours,

*Keddington & Christensen, LLC*

Keddington & Christensen, LLC

RESPONSE:

This letter correctly sets forth the understanding of West Valley City.

By: _____

Title: _____

**WEST VALLEY CITY, UTAH**

**RESOLUTION NO. _____**

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN WEST VALLEY CITY AND KEDDINGTON & CHRISTENSEN, CERTFIED PUBLIC ACCOUNTANTS, LLC TO PROVIDE AUDITING SERVICES TO WEST VALLEY CITY FOR THE FISCAL YEAR ENDING JUNE 30, 2019.**

**WHEREAS,** West Valley City (herein "the City") has the need for independent auditing of the City's financial statements; and

**WHEREAS,** the City wishes to employ Keddington & Christensen, Certified Public Accountants, LLC (herein "the Auditor") for this purpose and has determined that the Auditor has the knowledge, expertise, and desire to provide said professional accounting services to the City; and

**WHEREAS,** an agreement has been prepared for execution by and between the City and the Auditor, a copy of which is attached hereto, that sets forth the rights, duties and obligations of each of the parties with respect thereto; and

**WHEREAS,** the City Council of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to authorize the execution of the above-referenced agreement with the Auditor for professional accounting services;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of West Valley City, Utah, that the agreement with Keddington & Christensen, Certified Public Accountants, LLC, is hereby approved in substantially the form attached, and that the Mayor is hereby authorized to execute said agreement for and on behalf of West Valley City, subject to approval of the final form of the agreement by the City Manager and the City Attorney's Office.

**PASSED, APPROVED,** and **MADE EFFECTIVE** this _____ day of _____ _____, 2019.

WEST VALLEY CITY

_____
MAYOR

ATTEST:

_____
CITY RECORDER

**Item:**
**Fiscal Impact:** $111,607.50
**Funding Source:**
Class C Road Fund and Transportation Sales Tax
**Account No:** 45-9610-40750-75217-0500

**Budget Opening Required: Yes**

**ISSUE:**

Execute Change Order No. 1 – 2700 West Improvements Project with Acme Construction

**SYNOPSIS:**

Added scope to the 2700 West Improvements Project – Reconstruct traffic signal at 3800 South

**BACKGROUND:**

The original plan with the traffic signal at 3800 South was to upgrade certain components as part of the project. Upon further investigation it was determined that due to the age and condition of the existing equipment that it would be more beneficial to replace the entire traffic signal. The new traffic signal steel will be powder coated painted black to match the other traffic signals in the area.

The new traffic signal is being funded by the Class C Road fund and the transportation sales tax.

**RECOMMENDATION:**

Execute Change Order No. 1 with Acme Construction in the amount of $111,607.50

**SUBMITTED BY:**

Daniel Johnson, City Engineer

**WEST VALLEY CITY, UTAH**

**RESOLUTION NO._____**

**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 TO THE CONTRACT WITH ACME CONSTRUCTION FOR THE 2700 WEST IMPROVEMENTS PROJECT.**

**WHEREAS,** West Valley City has contracted with Acme Construction, Inc. ("Acme") to complete the 2700 West Improvements Project (the "Project"); and

**WHEREAS,** there is a need to increase the scope of work in order to complete the Project; and

**WHEREAS**, the City Council of West Valley City, Utah, does hereby determine that it is in the best interest of the citizens of West Valley City to increase the contract amount in order to properly complete the construction of said Project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of West Valley City, Utah as follows:

1. The contract between West Valley City and Acme is hereby increased in the amount of $111,607.50 for Change Order No. 1.

2. The Mayor and City Manager are hereby authorized to execute an appropriate Change Order consistent with this Resolution.

**PASSED AND APPROVED** this_____day of_____, 2019.

WEST VALLEY CITY

_____
MAYOR

ATTEST:

_____
CITY RECORDER

## West Valley City Engineering Division
## Contract Change Order No. 1

Date: 10/2/2019

**2700 West Improvements**

Acme Construction, Inc.
170 South 1200 West, North Salt Lake, UT 84054

| Item | Description | Est. Qty. | Unit | Unit Price | Change in Contract Price | Additional Days |
|---|---|---|---|---|---|---|
| C1-1 | Traffic Signal | 1 | LS | $ 111,607.50 | $ 111,607.50 | |
| | | | | **Net Contract Price Change** | **$ 111,607.50** | 0 Days |

**NARRATIVE**

The existing traffic signal at 3800 South would require several modifications to accommodate improvements currently under construction on 2700 West (i.e. ADA modifications, signal pole relocations, upgraded detection, etc.). Upon further coordination efforts with Salt Lake County, due to the condition and age of the existing signal, it was determined more beneficial to replace the entire signal. The new traffic signal will be powder coated to match the other traffic signals within the area on 2700 West.

**CONTRACT TIME SUMMARY**

| Description | Additional Days Added this CO | New Completion Deadline | Total Contract Time Added (All CO's) |
|---|---|---|---|
| | 0 Days | 7/26/2020 | 0 Days |

**CONTRACT PRICE SUMMARY**

| Description | PO # | Date | Amount |
|---|---|---|---|
| Original Contract Price | | | $ 2,765,435.16 |
| Change Order No. 1 | | | $ 111,607.50 |
| **Total Contract Price Including Change Orders** | | | **$ 2,877,042.66** |

| | ACCEPTANCE | DATE |
|---|---|---|
| CONTRACTOR ACCEPTANCE: | B.L.P. | 10/14/19 |
| ENGINEER: | | 15 Oct. 2019 |
| PUBLIC WORKS DIRECTOR: | Russell W. Willardson | 15 Oct 2019 |
| OWNER: | | |

APPROVED AS TO FORM
West Valley City Attorney's Office
By: BMH
Date: 10/21/19


3800 SOUTH

**Item:**
**Fiscal Impact:** $90,000
**Funding Source:**
Class C Road Fund and Transportation Sales Tax
**Account No:** 45-9610-40750-75217-0500

**Budget Opening Required: Yes**

**ISSUE:**

Purchase Authorization for Traffic Signal Equipment from UDOT

**SYNOPSIS:**

Traffic Signal Equipment purchase from UDOT for the 2700 West Improvements Project

**BACKGROUND:**

A signal reconstruction is being proposed at the intersection of 2700 West and 3800 South as part of the 2700 West Improvements Project, currently under construction. UDOT operates a warehouse through which they procure and distribute traffic signal equipment, and are willing to sell equipment to the city for use on city projects.

The estimate for products to be purchased is $81,018.95. This city council action authorizes the Public Works Department to issue a purchase order to UDOT for traffic signal equipment, not to exceed $90,000.

The traffic signal is being funded with Class C Road funds and the transportation sales tax. It is anticipated that the road construction will be completed in summer 2020.

**RECOMMENDATION:**

Authorize the Public Works Department to purchase traffic signal equipment from UDOT in an amount not to exceed $90,000.

**SUBMITTED BY:**

Daniel Johnson, City Engineer

**WEST VALLEY CITY, UTAH**

**RESOLUTION NO. _____**

**A RESOLUTION APPROVING THE PURCHASE OF TRAFFIC SIGNAL EQUIPMENT FROM THE UTAH DEPARTMENT OF TRANSPORTATION FOR THE 2700 WEST IMPROVEMENTS PROJECT.**

**WHEREAS,** West Valley City is constructing certain improvements on and around 2700 West (the "Project"); and

**WHEREAS,** traffic signals and related equipment are required to complete the Project; and

**WHEREAS**, the City is authorized to purchase equipment from other governmental entities, including the Utah Department of Transportation ("UDOT"); and

**WHEREAS,** the price quoted by UDOT is within price parameters and meets the City's needs; and

**WHEREAS**, the City Council of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to purchase said equipment;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of West Valley City, Utah, that the City is hereby authorized to purchase traffic signals and related equipment from UDOT for an amount not to exceed $90,000.00 and that the Mayor and City Manager are hereby authorized to execute, for and on behalf of the City, any documents necessary to complete said purchases.

**PASSED, APPROVED,** and **MADE EFFECTIVE** this _____ day of_____, 2019.

WEST VALLEY CITY

_____
MAYOR

ATTEST:

_____
CITY RECORDER

**Item:**
**Fiscal Impact:** $34,938
**Funding Source:**
Salt Lake County Transportation Funds $1.5M
Class C Road Fund and Transportation Sales Tax
**Account No:** 45-9610-40750-75217-0500

**Budget Opening Required: Yes**

**ISSUE:**

Purchase Authorization for Street Lights for the 2700 West Improvements Project

**SYNOPSIS:**

The purchase of city-furnished street lights for the 2700 West Improvements Project

**BACKGROUND:**

Mountain States Lighting is the supplier for the city standard street lights. Mountain States provides a substantial savings if the city purchases lighting products directly and supplies them to the contractor.

This resolution is for the purchase of eighteen acorn style light poles. The total cost for the lights is $34,938.

A portion of the funding required for this project ($1.5M) will be reimbursed to the city by Salt Lake County as part of the interlocal agreement executed in Council Resolution No. 17-186 with County Transportation Funds.

**RECOMMENDATION:**

Authorize the Public Works Department to purchase street lights from Mountain States Lighting for a cost of $34,938 for use on the 2700 West Improvements Project

**SUBMITTED BY:**

Daniel Johnson, City Engineer

**WEST VALLEY CITY, UTAH**

**RESOLUTION NO. _____**

**A RESOLUTION APPROVING THE PURCHASE OF STREETLIGHTS FROM MOUNTAIN STATES LIGHTING FOR THE 2700 WEST IMPROVEMENTS PROJECT.**

**WHEREAS,** West Valley City is constructing certain improvements on and around 2700 West (the "Project"); and

**WHEREAS,** streetlights compatible with the City's existing street lighting fixtures are required to complete the Project; and

**WHEREAS**, Mountain States Lighting is the manufacturer of the City's standard street lighting fixtures; and

**WHEREAS,** the price quoted by Mountain States Lighting is within price parameters and meets the City's needs; and

**WHEREAS**, the City Council of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to purchase said equipment;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of West Valley City, Utah, that the City is hereby authorized to purchase street lighting fixtures and related equipment from Mountain States Lighting for an amount not to exceed $34,938.00 and that the Mayor and City Manager are hereby authorized to execute, for and on behalf of the City, any documents necessary to complete said purchases.

**PASSED, APPROVED,** and **MADE EFFECTIVE** this _____ day of_____, 2019.

WEST VALLEY CITY

_____
MAYOR

ATTEST:

_____
CITY RECORDER

| | |
|---|---|
| Item #: | |
| Fiscal Impact: | $15,500.00 |
| Funding Source: | General Fund |
| Account #: | 45-9610-40750-75247-0200 |
| Budget Opening Required: | No |

**ISSUE:**

Authorization and execution of a Right-of-way Contract.

**SYNOPSIS:**

Anne T. Brown has signed a Right-of-way Contract with West Valley City and a Underground Right of Way Easement in favor of Rocky Mountain Power on property located at 5990 West 3500 South (14-26-451-036).

**BACKGROUND:**

The Anne T. Brown parcel located at 5990 West 3500 South is one of several parcels affected by this project and which require acquisitions Underground Right of Way Easements in favor of Rocky Mountain Power for the 3500 South Power Burial Project; approximately 5400 West to 6000 West. This project will be constructed in conjunction with the current phase of the Mountain View Corridor Project. As a Betterment to the Mountain View Corridor Project, West Valley City is paying for the burial of overhead power lines between approximately 5400 West and 6000 West. Compensation for the purchase of the Underground Right of Way Easement and improvements is $15,500.00 based upon the compensation estimate prepared by the DH Group, LLC.

**RECOMMENDATION:**

Authorize the Mayor to execute Right-of-way Contract. City Recorder will also record the Underground Right of Way Easement in the office of the Salt Lake County Recorder in behalf of Rocky Mountain Power.

**SUBMITTED BY:**

Steven J. Dale, P.L.S., Right-of-way and Survey Manager

**WEST VALLEY CITY, UTAH**

**RESOLUTION NO. _____**

**A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO A RIGHT OF WAY CONTRACT AND ACCEPT AN UNDERGROUND RIGHT OF WAY EASEMENT WITH AND FROM ANNE BROWN FOR PROPERTY LOCATED AT APPROXIMATELY 5990 WEST 3500 SOUTH.**

**WHEREAS,** Anne Brown ("Owner") has entered into a Right of Way Contract for property located at 5990 West 3500 South that is affected by the 3500 South Power Burial Project (herein "Project"); and

**WHEREAS**, Owner has also signed an Underground Right of Way Easement (the "Easement") as required for the Project; and

**WHEREAS,** the City Council of West Valley City, Utah, does hereby determine that it is in the best interests of the health, safety, and welfare of the citizens of West Valley City to enter into the Right of Way Contract with Owner, and to accept the Easement;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of West Valley City, Utah, as follows:

1. That the above-referenced document entitled "Right of Way Contract" is hereby approved in substantially the form attached, and that the Mayor is hereby authorized to execute said Contract, and any other documents necessary to complete the transaction, for and on behalf of West Valley City, subject to final approval of the documents by the City Manager and the City Attorney's Office.

2. The Mayor is hereby authorized to accept, and the City Recorder is authorized to record, the Easement for and on behalf of West Valley City.

**PASSED, APPROVED** and **MADE EFFECTIVE** this _____ day of _____, 2019.

WEST VALLEY CITY

_____
MAYOR

ATTEST:

_____
CITY RECORDER

# West Valley City
## Right of Way Contract
*Easement*

Project No: PW-333 Parcel No.(s): 14-26-451-036
Project Location: Mountain View Corridor - 3500 South Power Burial Project
County of Property: SALT LAKE Tax ID / Sidwell No: 14-26-451-036
Property Address: 5990 West 3500 South, West Valley City, UT 84128
Owner's Address: 5990 West 3500 South, West Valley City, UT 84128
Primary Phone: 801-679-1447 Owner's Home Phone: ~~801~~ 801-661-6138 Owner's Work Phone: 385-368-9164
Owner / Grantor (s): Anne T. Brown
Grantee: West Valley City, municipal corporation of the State of Utah

IN CONSIDERATION of the foregoing and other considerations hereinafter set forth, it is mutually agreed by the parties as follows:

The Grantor hereby agrees to convey and sell by Perpetual Easement a parcel(s) of land known as parcel 14-26-451-036 for underground electric power transmission, distribution, and communication lines. This contract is to be returned to: Wendy Hansen (Consultant), Right of Way Agent c/o West Valley City, 3600 South Constitution Blvd, West Valley City, UT 84119.

1. Grantor agrees to transfer the property free of all debris and any hazardous materials (including paint or other household products.)
2. Grantor shall leave the property in the same condition as it was when this contract was signed. No work, improvements or alteration will be done to the property other than what is provided for in this agreement. Grantor agrees to maintain the property until the City takes possession.
3. The City shall pay in full to the Grantor for the real property in the easement referenced above.
4. Grantor shall indemnify and hold harmless Grantee from and against any and all claims, demands and actions, including costs, from lien holders or lessees of the property.
5. Upon execution of this contract by the parties, Grantor grants the City, its contractors, permittees, and assigns, including but not limited to, utilities and their contractors, the right to immediately occupy and commence construction or other necessary activity on the property acquired for the city/state transportation project.

**Additional Terms:**
The site improvements in the perpetual easement include Misc. yard and site improvements

**CONFIRMATION OF AGENCY DISCLOSURE.** Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the Purchase Contract;

Buyer's Agent Wendy Hansen, represents purchaser.
Buyer's Brokerage WLC Consulting, LLC, represents purchaser.

**Total Selling Price** $15,500.00



 AEP
**Grantor's Initials**

# West Valley City
## Right of Way Contract
*Easement*

Project No: PW-333 Parcel No.(s): 14-26-451-036
Project Location: Mountain View Corridor & 3500 South
County of Property: SALT LAKE Tax ID / Sidwell No: 14-26-451-036
Property Address: 5990 West 3500 South, West Valley City, UT 84128
Owner's Address: 5990 West 3500 South, West Valley City, UT 84128
Primary Phone: 801-679-1447 Owner's Home Phone: Owner's Work Phone:
Owner / Grantor (s): Anne T. Brown
Grantee: West Valley City, municipal corporation of the State of Utah

**Grantor's Initials**

ATB **Grantor understands this agreement is an option until approved by the West Valley City Council.**

**IN WITNESS WHEREOF**, said Anne T. Brown has caused this instrument to be executed, this 8th day of October, A.D. 2019.

Anne T. Brown

By Anne T Brown
Print Name: ANNE T. BROWN
Title: Owner

WENDY HANSEN
Notary Public, State of Utah
Commission #707621
My Commission Expires
08/06/2023

State of Utah )
:ss
County of Salt Lake )

On this 8th day of October, 2019, personally appeared before me Anne T Brown, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the Owner of 5990 West 3500 South, West Valley City, UT 84128.

Wendy Hansen
NOTARY PUBLIC

**Right of Way Agents** **Date**

Wendy Hansen — 10/8/19
Wendy Hansen (Consultant) / Acquisition Agent

Wendy Hansen — 10/9/19
Wendy Hansen (Consultant) / Team Leader

10/9/19
Approved by Steven J. Dale, ROW & Survey Section Manager

Approved by Ron Bigelow, Mayor

Attest: City Recorder

*REV05042015*
Return to:
Rocky Mountain Power
Lisa Louder/
1407 West North Temple Ste. 110
Salt Lake City, UT 84116

Project Name:
WO#:
RW#:

## UNDERGROUND RIGHT OF WAY EASEMENT

For value received, **Anne T. Brown** ("Grantor"), hereby grants Rocky Mountain Power, an unincorporated division of PacifiCorp its successors and assigns, ("Grantee"), an easement for a right of way, reconstruction, operation, maintenance, repair, replacement, enlargement, and removal of underground electric power transmission, distribution and communication lines and all necessary or desirable accessories and appurtenances thereto, including without limitation: wires, fibers, cables and other conductors and conduits therefor; and pads, transformers, switches, cabinets, and vaults on, across, or under the surface of the real property of Grantor in **Salt Lake** County, State of **Utah** more particularly described as follows and as more particularly described and/or shown on Exhibit(s) **A** attached hereto and by this reference made a part hereof:

Legal Description:

A perpetual easement and right of way, upon part of an entire tract of property, situate in the Southeast Quarter of Section 26, Township 1 South, Range 2 West, Salt Lake Base and Meridian, in Salt Lake County, Utah. The boundaries of said perpetual easement are described as follows:

Beginning at the intersection of the northerly right of way line of 3500 South Street (SR-71) and the grantors easterly boundary line, said point is 132.00 feet S.89°45'35"E. along the section line and 45.50 feet N.00°14'25"E. from the South Quarter Corner of said Section 26 (Note: Basis of Bearing is S.89°45'35"E. along the section line between the found monuments representing the South Quarter Corner and the Southeast Corner of Section 26, Township 1 South, Range 2 West, Salt Lake Base & Meridian); and running thence along said northerly right of way line N.89°45'35"W. 10.00 feet; thence N.00°14'25"E. 101.41 feet; thence S.89°45'35"E. 10.00 feet to said easterly boundary line; thence along said easterly boundary line S.00°14'25"W. 101.41 feet to the point of beginning.

The above described perpetual easement contains 1,014 square feet or 0.023 acre in area, more or less.

Assessor Parcel No. 14-26-451-036

Together with the right of access to the right of way from adjacent lands of Grantor for all activities in connection with the purposes for which this easement has been granted; and together with the present and (without payment therefor) the future right to keep the right of way clear of all brush, trees, timber, structures, buildings and other hazards which might endanger Grantee's facilities or impede Grantee's activities.

At no time shall Grantor place or store any flammable materials (other than agricultural crops), or light any fires, on or within the boundaries of the right of way. Subject to the foregoing limitations, the surface of the right of way may be used for agricultural crops and other purposes not inconsistent, as determined by Grantee, with the purposes for which this easement has been granted.

The rights and obligations of the parties hereto shall be binding upon and shall benefit their respective heirs, successors and assigns.

To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

Dated this 8th day of October, 2019.

Anne T Brown

***Anne T. Brown*** **GRANTOR**

**Acknowledgement**

STATE OF Utah )
) ss.
County of Salt Lake )

On this 8th day of October, 2019, before me, the undersigned Notary Public in and for said State, personally appeared Anne T. Brown, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that (he/she/they) executed the same.

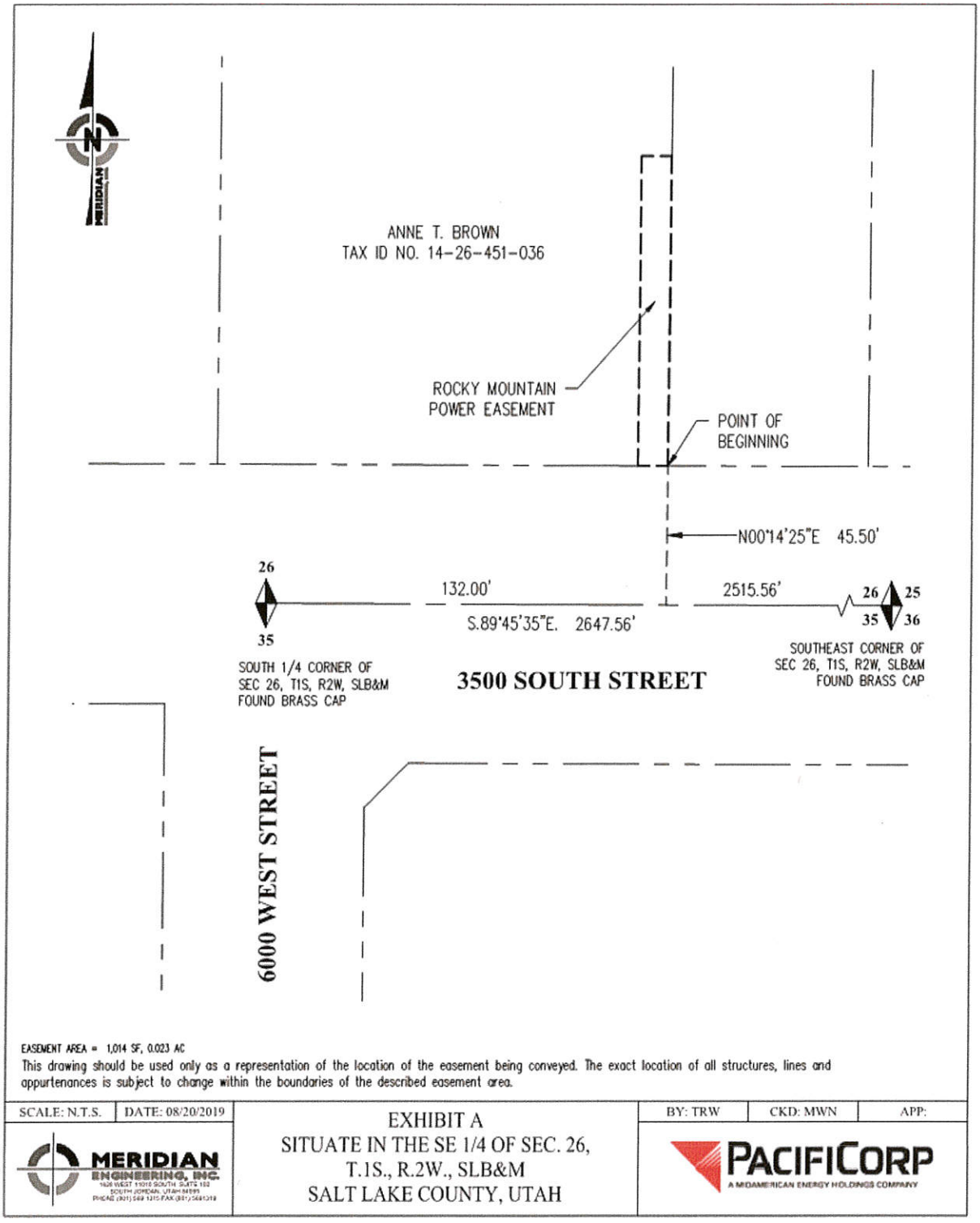
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Wendy Hansen
(notary signature)

WENDY HANSEN
Notary Public, State of Utah
Commission #707621
My Commission Expires
08/06/2023

NOTARY PUBLIC FOR Utah (state)
Residing at: Draper Utah (city, state)
My Commission Expires: _____ (d/m/y)

# EXHIBIT A




EASEMENT AREA = 1,014 SF, 0.023 AC

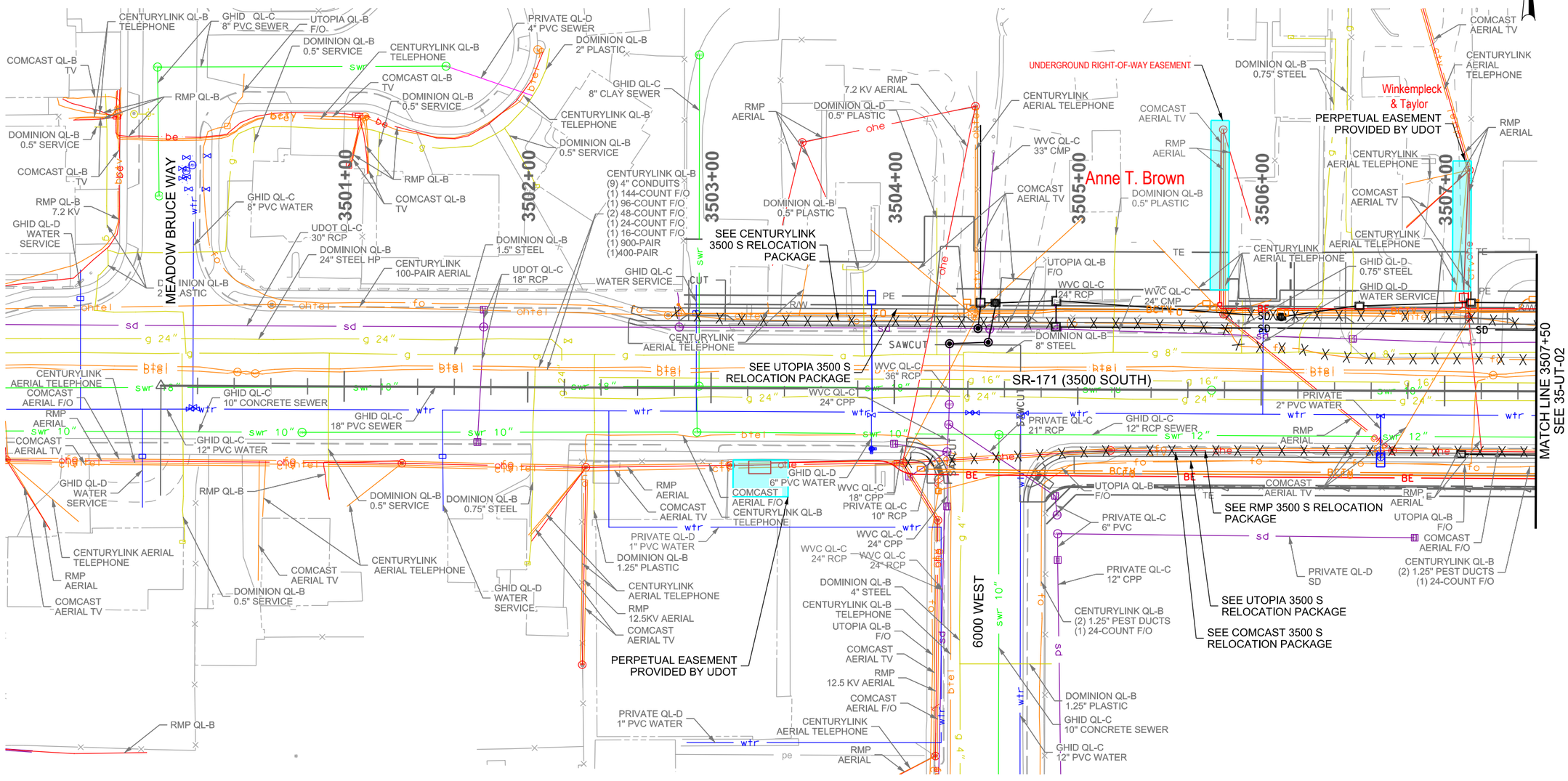
This drawing should be used only as a representation of the location of the easement being conveyed. The exact location of all structures, lines and appurtenances is subject to change within the boundaries of the described easement area.

| SCALE: N.T.S. | DATE: 08/20/2019 | | BY: TRW | CKD: MWN | APP: |
|---|---|---|---|---|---|
| MERIDIAN ENGINEERING, INC. 1628 WEST 11010 SOUTH, SUITE 102 SOUTH JORDAN, UTAH 84095 PHONE (801) 569-1315 FAX (801) 5641319 | | EXHIBIT A<br>SITUATE IN THE SE 1/4 OF SEC. 26,<br>T.1S., R.2W., SLB&M<br>SALT LAKE COUNTY, UTAH | PACIFICORP A MIDAMERICAN ENERGY HOLDINGS COMPANY | | |

**ADJUST VALVE BOX**
3502+21.88 LT 25.33
3503+87.46 RT 14.39
3504+40.93 RT 12.88
3504+44.32 RT 12.94
3504+68.90 RT 14.69
3504+71.06 RT 13.01
3506+65.19 RT 13.86
3506+65.42 RT 34.24

**ADJUST MANHOLE**
3500+77.10 RT 25.13 (SEWER)
3502+92.45 RT 24.12 (SEWER)
3502+93.46 LT 0.96 (SEWER)
3504+57.10 RT 24.77 (SEWER)
3505+72.93 RT .09 (SEWER)
3506+65.29 RT 36.42 (WATER)

**RELOCATE METER**
3502+91.76 LT 40.97
3503+88.56 LT 41.80
3505+21.58 LT 41.58
506+00.92 LT 31.99
3506+65.49 RT 36.42
3506+91.79 LT 32.30




**LEGEND:**
X X X ABANDON UTILITY
REMOVE UTILITY
FLOW FILL UTILITY

**NOTES:**
1. SEE HORIZONTAL CONTROL SHEETS FOR HORIZONTAL ALIGNMENT DATA.
2. PROTECT IN PLACE ALL UTILITIES UNLESS SHOWN OTHERWISE.

| REVISIONS | | | | |
|---|---|---|---|---|
| NO. | DATE | APPROVED BY | REMARKS | |
| A | 05/29/19 | BOW | INTERMEDIATE PACKAGE - 4100S/3500S/5600W FCW | |
| B | 08/05/19 | BOW | FINAL PACKAGE - 4100 S/3500 S/5600 W FCW | |

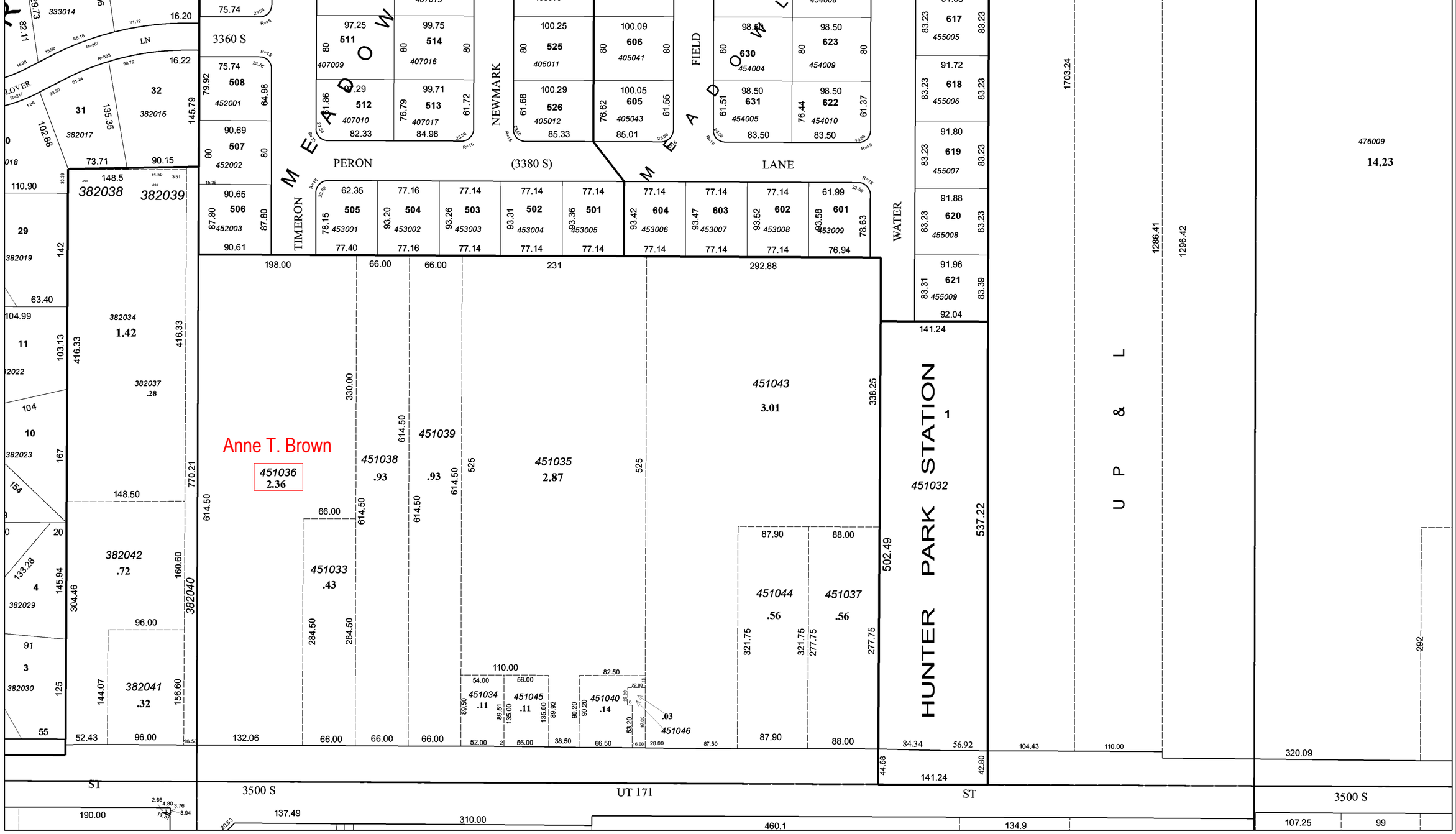
**UTAH DEPARTMENT OF TRANSPORTATION**
MOUNTAIN VIEW CORRIDOR CONSTRUCTORS

DRAWN BY: MJE
CHECKED BY: BOW
QC
DATE

APPROVED
NOT FOR CONSTRUCTION
PROFESSIONAL ENGINEER
DATE

PROJECT: SR-85, MVC; 4100 SOUTH TO SR-201
PROJECT NUMBER: S-0085(9) PIN 13149
UTILITY (3500 S)
SHEET NO. 35-UT-01

DGN: File:p:\...\Sheets\13149_S_UT_35085_01
02-AUG-2019




This map is not intended to represent actual physical properties. In order to establish exact physical boundaries a survey of the property may be necessary.


Prepared and published by
Salt Lake County Recorder
Adam Gardiner
2001 S. State Street #N1-600
Salt Lake City, Utah 84190
385-468-8145
recorder.slco.org


N W E S

# W 1/2 SE 1/4 Sec 26 T1S R2W

## SALT LAKE COUNTY, UTAH

10/19/2018
225

Scale 1"=100'
0 100' 200'
Feet

14-26-41

Area Section Page