



**City of Huntington Beach**

# **Policy discussion concerning Cannabis Business Taxation & Regulation**

**Study Session**



July 5, 2022



# Background – City of Huntington Beach

- Two private parties have filed separate cannabis petitions requesting that the City prepare documents allowing their proposed regulations to be placed before the voters of Huntington Beach for consideration.
  - November 3, 2021 – *Huntington Beach Cannabis Taxation and Regulation Act*
  - December 2, 2021 – *Huntington Beach Cannabis Regulation & Land Use Measure*
- On December 21, 2021 Study Session, the City Council formed an ad-hoc subcommittee, consisting of Councilmembers Bolton, Kalmick and Peterson, to further assess, research and present a balanced cannabis regulatory framework for the Council's consideration.
- On February 15, 2022 Study Session, the Subcommittee presented the preliminary framework to the City Council.



# Background - Continued

- On March 1, 2022, the City Council voted to place a measure on the 2022 Primary Election ballot, *Measure A: Cannabis Business Tax Measure*, asking voters whether to adopt a special tax levied on cannabis retail and non-retail businesses if they were to be permitted.
- The City Council directed staff and the Subcommittee members to discuss the implications of various unresolved policy and regulatory matters associated with cannabis and report back to the City Council.
- The City has solicited input from residents, businesses, and community stakeholders on the proposed regulatory framework through various channels:
  - ❖ Individual Meetings and site tours of permitted cannabis facilities in other cities
  - ❖ Community forum held on June 9, 2022
  - ❖ By accepting written comments via email and the City website.



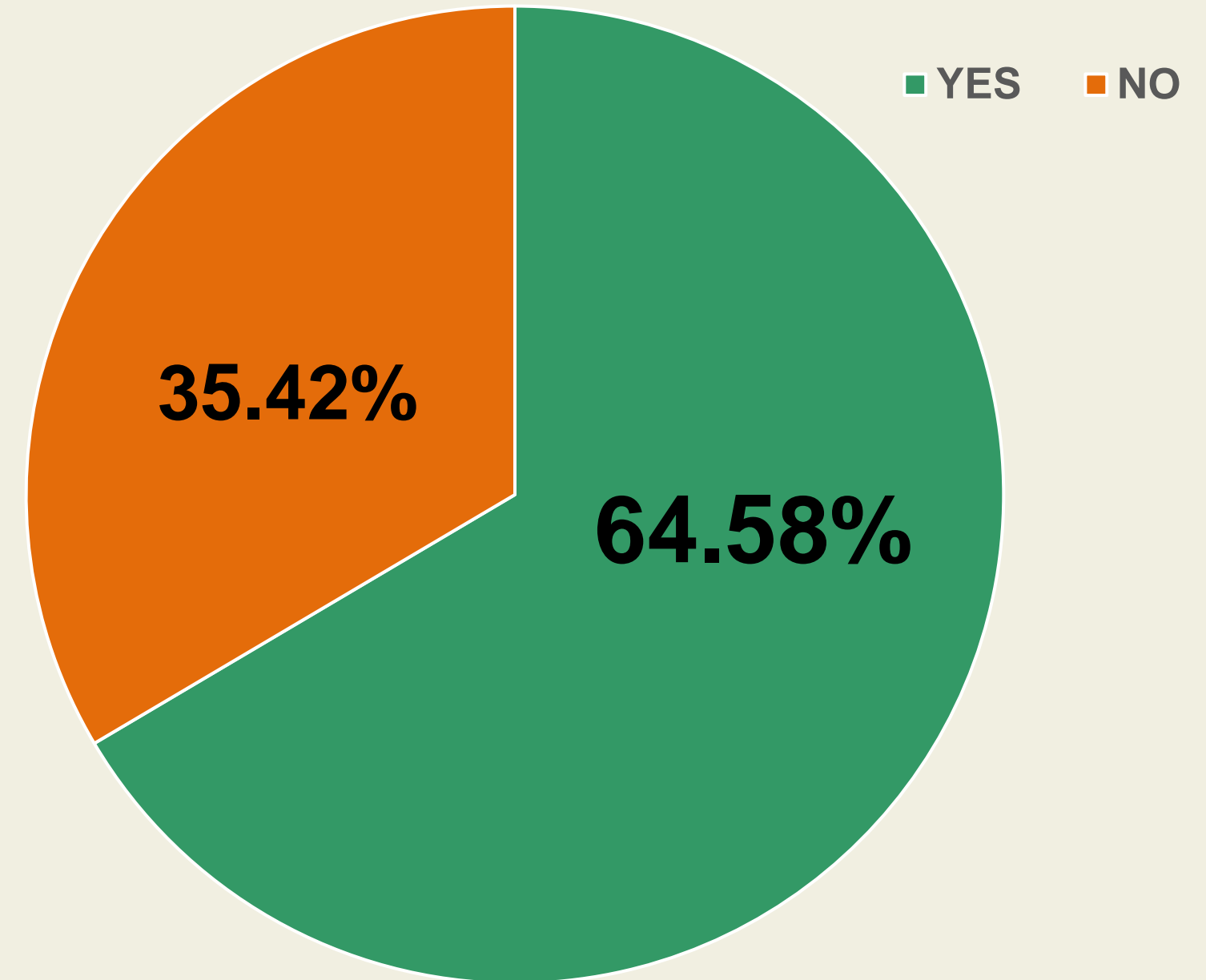


# Background - Continued

## MEASURE A:

### Cannabis Business Tax

- Retail tax: up to 6%
- Non-retail tax: up to 1%
- Special Tax with revenues being restricted to Police and Homeless & Behavioral Services
- 100% cost recovery on city expenses through fees, approved by the City Council via resolution.



June 7, 2022 Primary Election – HB Voters



# Cannabis laws adopted by Voters and Council



City staff is recommending that the City:

- ☐ **Place two ballot measures on the November 2022 General Election asking voters whether the City should allow and regulate a limited number of retail and non-retail cannabis businesses; and if allowed, impose local excise taxes on such commercial activities as General Tax.**
- ☐ **Develop regulatory and zoning ordinances for City Council adoption and the City's Commercial Cannabis Regulations for Council resolution adoption.**
  - ❖ Extend to voters authority as to whether and how commercial cannabis activities are permitted.
  - ❖ Maintain the City Council's ability to develop policy positions while allowing timely flexibility to respond to the ever-evolving State's laws and market condition without necessitating the delay and expense of conducting a municipal election.



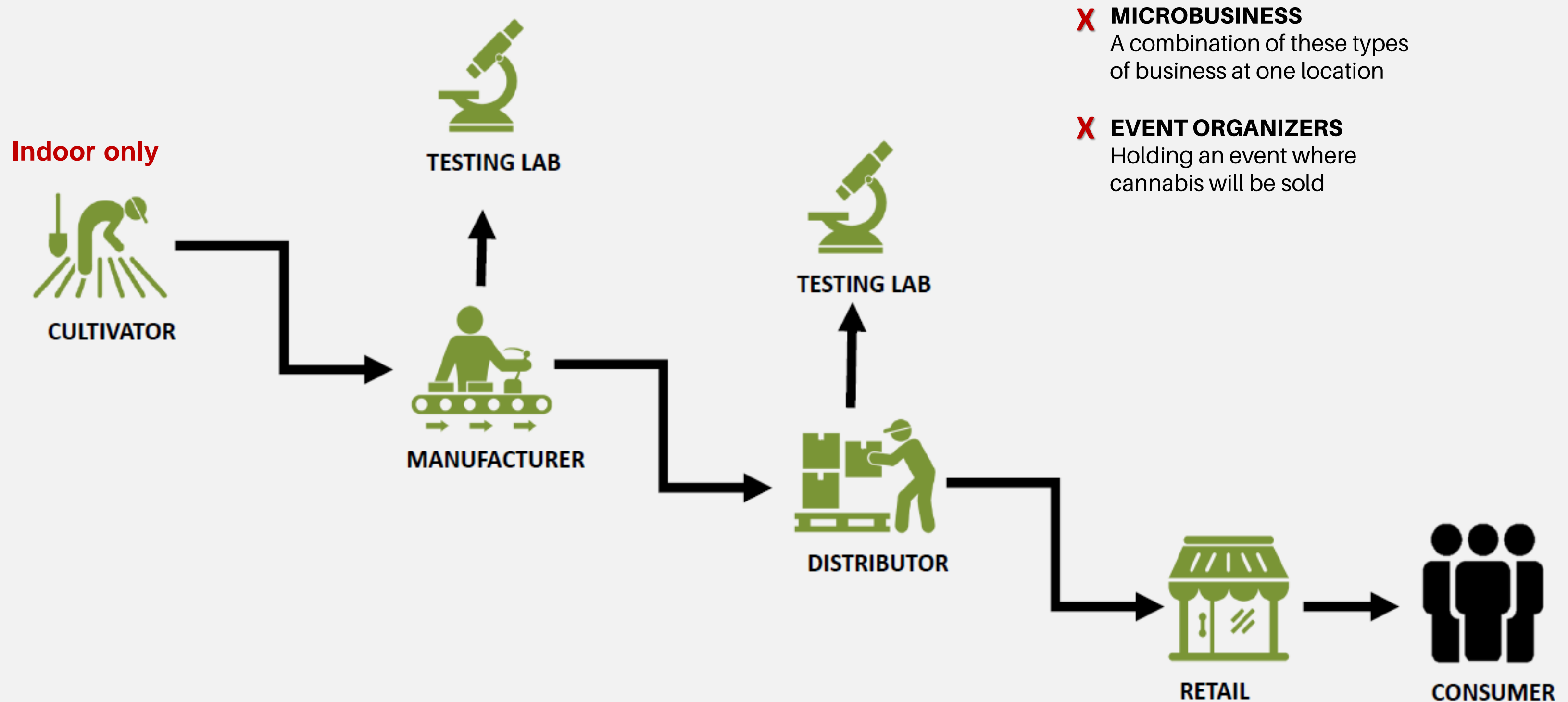
# Key Features of Cannabis Regulatory Framework

**\*\*IMPORTANT:** These key features of working draft are based on the Subcommittee’s recommendations and subject to change\*\*

<div><div></div><div>Cannabis Industry Types</div><div></div></div>	
PERMITTED	PROHIBITED
<ul style="list-style-type: none"><li>• Retailers – Storefront dispensaries (w/delivery)</li></ul>	<ul style="list-style-type: none"><li>• Sales on vehicles/mobile stores, kiosk, or temporary structures</li></ul>
<ul style="list-style-type: none"><li>• Retailers – Non-storefront, delivery-only facilities</li></ul>	<ul style="list-style-type: none"><li>• Sale by vending machine</li></ul>
<ul style="list-style-type: none"><li>• Non-Retailers – Indoor Cultivation</li></ul>	<ul style="list-style-type: none"><li>• Outside cultivation</li></ul>
<ul style="list-style-type: none"><li>• Non-Retailers – Manufacturing</li></ul>	<ul style="list-style-type: none"><li>• microbusinesses</li></ul>
<ul style="list-style-type: none"><li>• Non-Retailers – Testing Labs</li></ul>	<ul style="list-style-type: none"><li>• Cannabis events/event organizers</li></ul>
<ul style="list-style-type: none"><li>• Non-Retailers – Distribution</li></ul>	<ul style="list-style-type: none"><li>• Drive-in or drive-through (per the State)</li></ul>

# Key Features of Cannabis Regulatory Framework

## Permitted Cannabis Business Types in the Supply Chain



# Key Features of Cannabis Regulatory Framework

## Number of Permits:

- Retailers up to 10 permits
- Non-retailers controlled by zoning restrictions without a cap
  - A separate permit will be required for each type of commercial cannabis activity.
  - Limit 1 license type per owner (e.g. 1 owner can apply for 1 retailer and 1 manufacturer permit)
  - No more than 1 application per property, per license type
  - A permit will be valid for 1 year from the date of issuance and expires unless renewed annually.
  - A no-warehousing provision, requiring that permittee must begin operation within 1 year after permit is granted, otherwise the license will be revoked.
  - Non-transferable to others in 3 years but transferees must submit the same permit application information to the City and pay applicable fees.

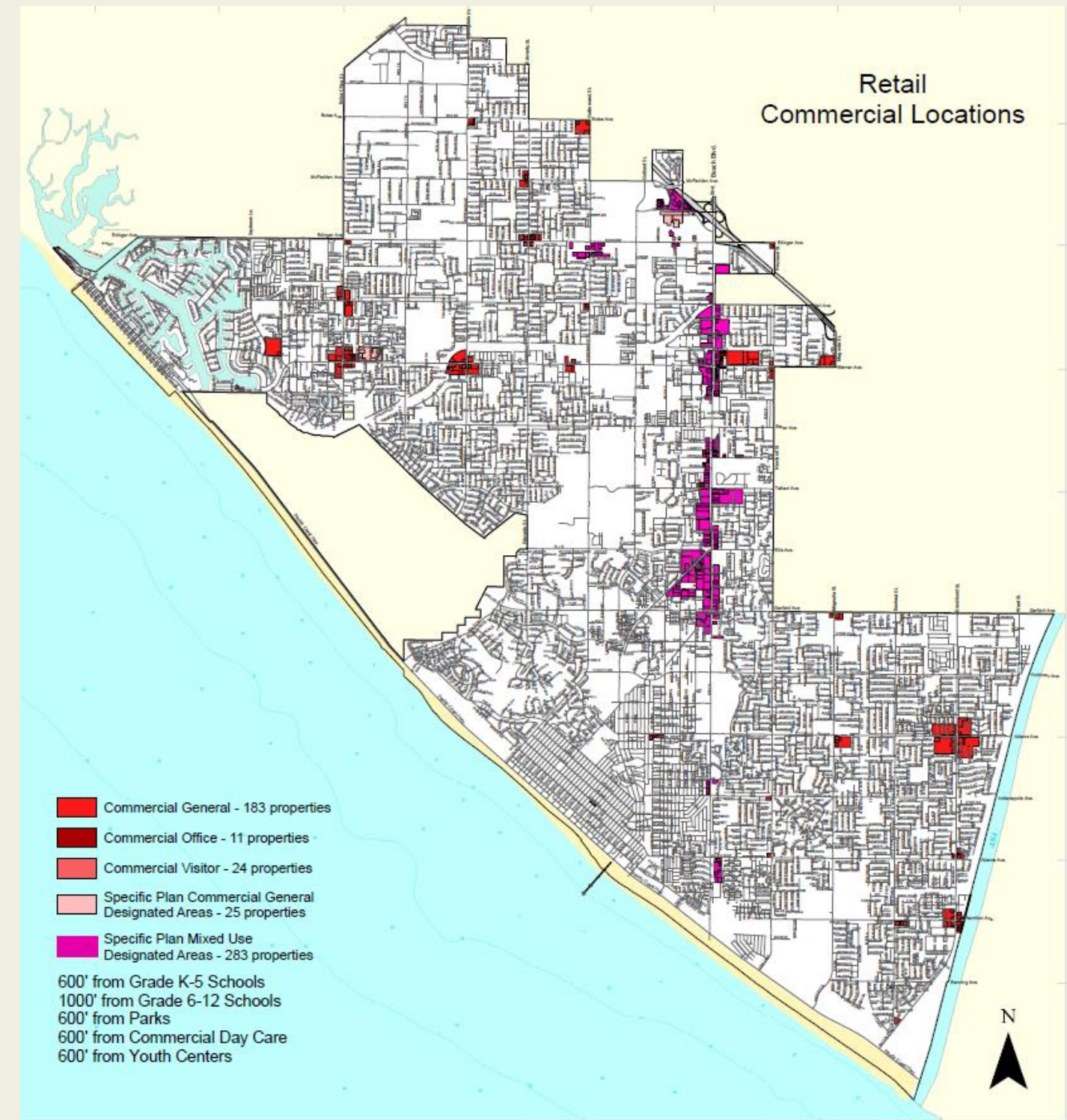




# Key Features of Cannabis Regulatory Framework

## Zones & Buffer Restrictions

- **Retailers**
  - Storefront dispensaries: allowed in the Commercial, Specific Plan Areas, & Industrial Zone with buffer restrictions
  - Non-storefront/delivery-only retailers can locate in the Industrial Zone with buffers
  - Exclude Downtown (SP5) and Sunset Beach Specific Plan (SP17)
  - Exclude Coastal Overlay Zone

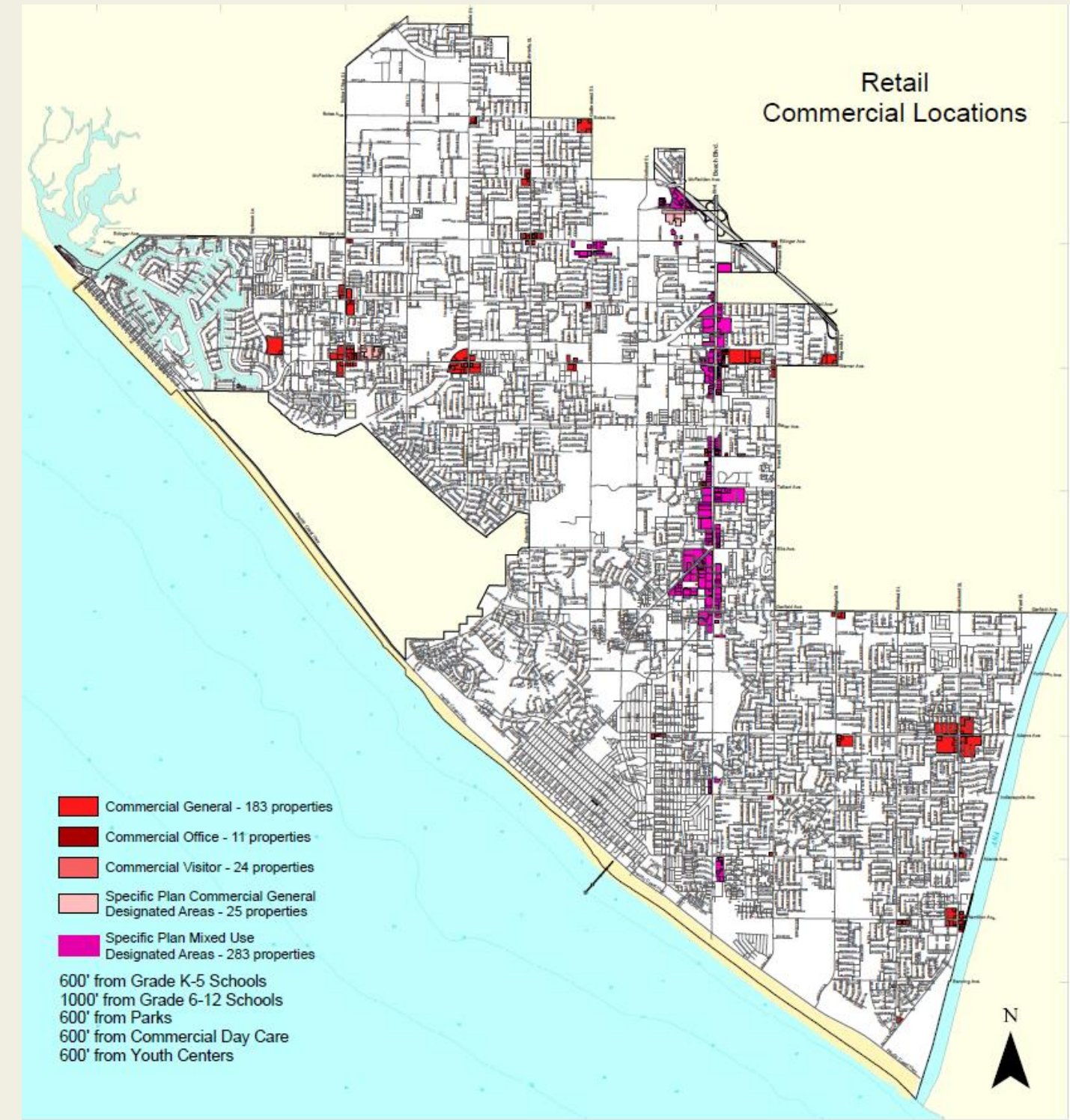




# Key Features of Cannabis Regulatory Framework

## Zones & Buffer Restrictions

- **Retailers – Continued**
  - Permitted in multi store-front buildings
  - No buffer requirement between shops
  - Established businesses will be grandfathered to continue operation even if a new sensitive receptor opens within existing buffers
- **Buffer Distance:**
  - 1,000 ft. from high & middle schools; and
  - 600 ft. from K-5 schools (inclusive of all public, private, and charter schools); and
  - 600 ft. from parks, licensed commercial daycare centers, and youth centers.

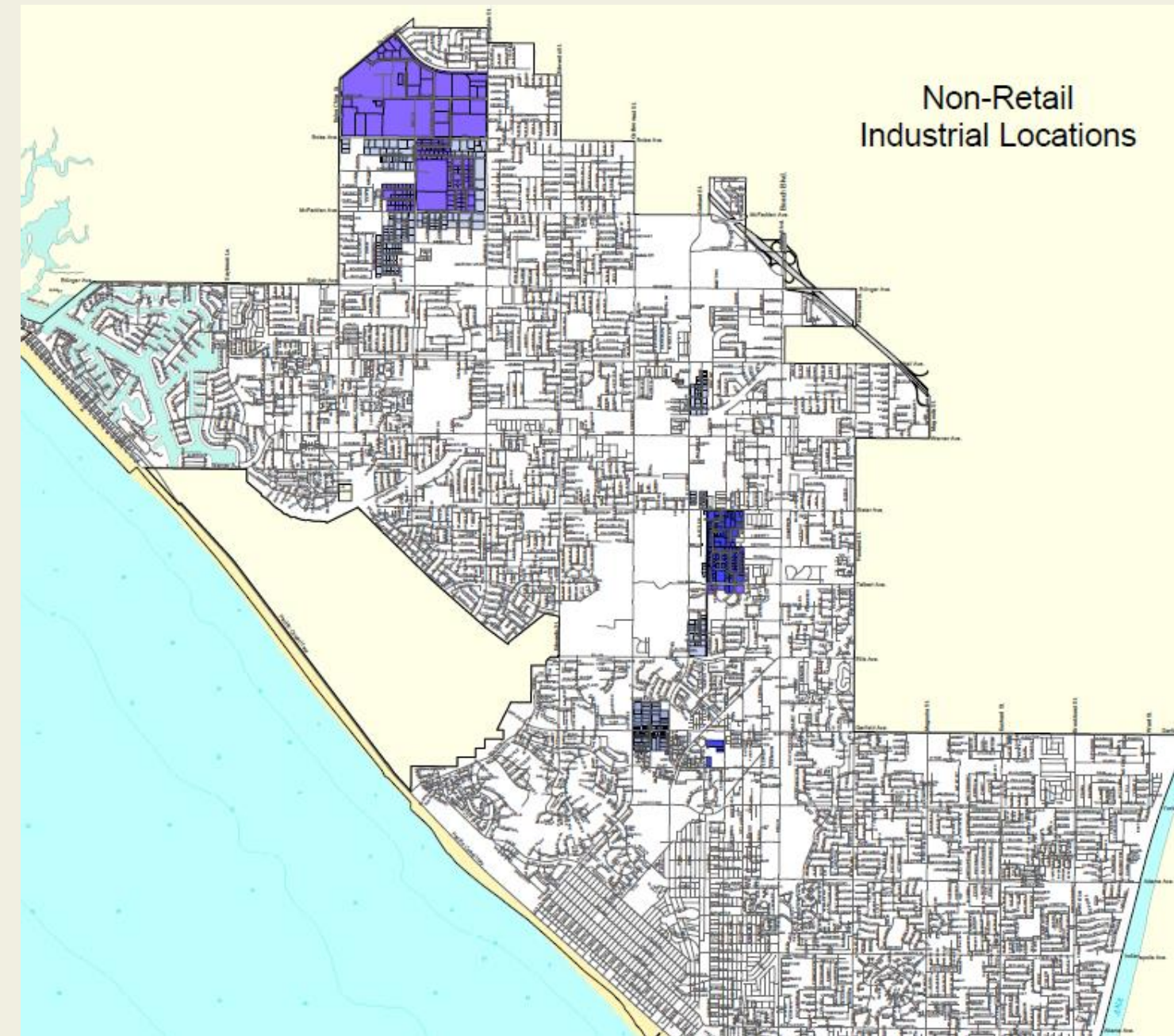




# Key Features of Cannabis Regulatory Framework

## Zones & Buffer Restrictions

- **Non-Retailers**
  - Allowed in the Industrial Zone with buffer restrictions that are same as retailers.
    - 1,000 ft. from high & middle schools;
    - 600 ft. from K-5 schools; and
    - 600 ft. from parks, licensed commercial daycare centers, and youth centers.





# Key Features of Cannabis Regulatory Framework

## SECURITY MEASURE AND OPERATIONAL REQUIREMENTS





# Key Features of Cannabis Regulatory Framework

## FIRE SAFETY REQUIREMENTS

- HBFD inspection required prior to occupancy requirement.
- Commercial cannabis facilities must submit plans demonstrating compliance with CA Fire Code, identify any hazardous processes, and fire protection systems.
- Commercial cannabis facilities are subject to routine fire and life safety inspections at the frequency identified in the HBFD's Community Risk Assessment.



# Key Features of Cannabis Regulatory Framework

## CODE ENFORCEMENT

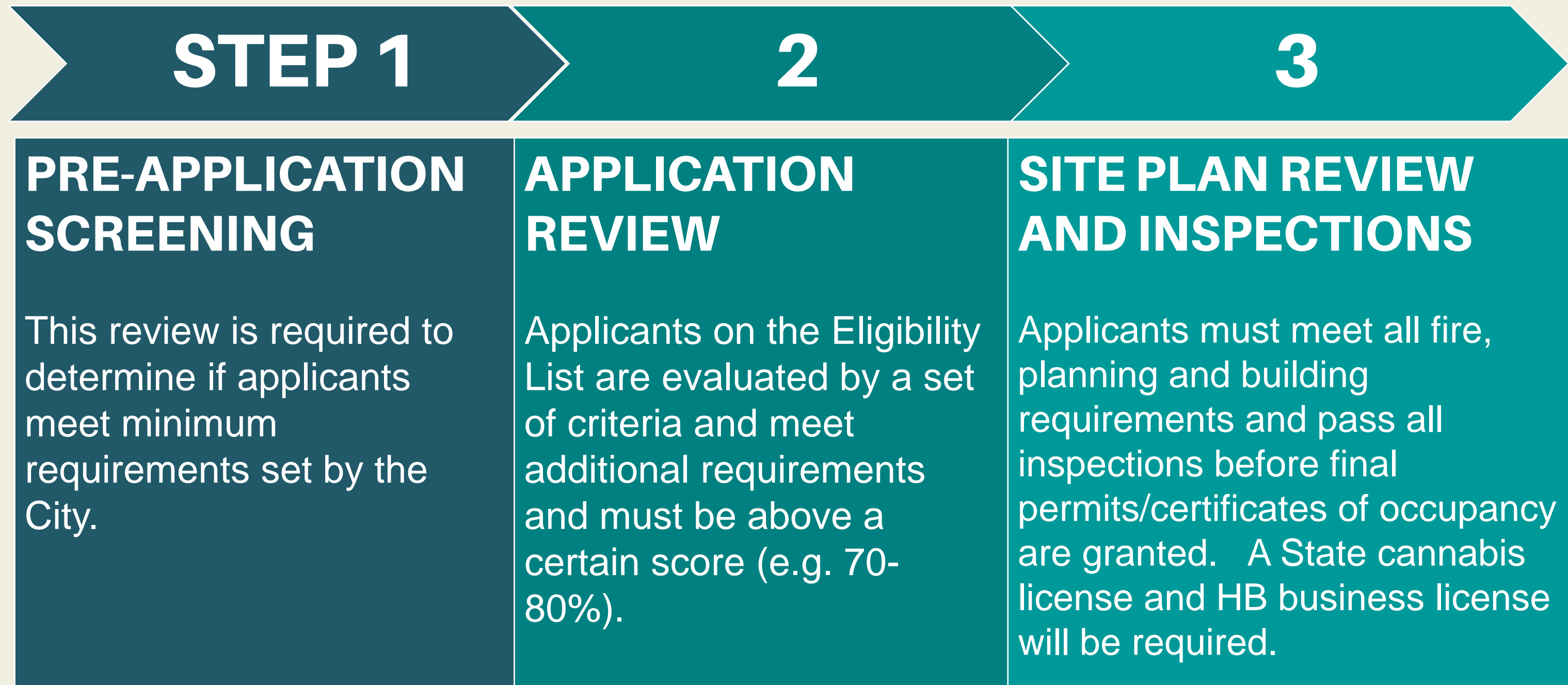
- All owners/operators must remedy any expired building permits for the subject tenant space before being in operation.
- Permittees must carry and display a copy of the issued permits for public view.
- Refrain from displaying cannabis products or graphics to be visible from the exterior.
- The City shall board any doors and windows associated with illegal cannabis businesses.
- The City may shut off the electric or water service to businesses in violation, in addition to criminal and administrative penalties.



# Key Features of Cannabis Regulatory Framework

## Permit Application and Selection Process:

- Merit-based (RFQ/RFA) application process to identify highest quality operators and make the permitting process efficient and streamlined.



# Key Features of Cannabis Regulatory Framework

## Permit Application and Selection Process:

### STEP 1 to screen applicants for Eligibility List:

- Complete application with applicable fees paid to the City on time
- Sworn affidavit that the proposed location meets the zoning criteria
- Proof of ownership or control of the site upon which the cannabis business is to operate
- Proof of having at least 4 current permits or licenses in CA, one of which must be retail if applying for retail permits
- Refundable security deposit of a fixed amount set by the Council (e.g. \$250K)
- Proof of having an identified local philanthropy partner that benefits the City
- No past violations





# Key Features of Cannabis Regulatory Framework

## Permit Application and Selection Process:

### STEP 2 to evaluate applications on the Eligibility List based on a set of evaluation criteria including:

- Ownership structure
- Owner qualifications including prior successful experience
- Capitalization plan
- Business and Operation plan that may include employee training, standard operating procedures, ordering systems, etc.
- Traffic/Circulation/Parking Plan
- Safety and Security plan for the Commercial Cannabis Facility
- Labor Peace Agreement
- Community Benefit Plan
- Local Hire/Sourcing programs
- Other criteria established by the City's Commercial Cannabis Regulations.



# Additional Community Feedback

## *I. Medicinal cannabis businesses and customers:*

- a. Allow medicinal cannabis sales to medical patients under 21 (18+ with a valid medical card and ID) similar to the State; and/or
- b. Differentiate tax rates and apply a lower tax rate for medicinal cannabis products than adult-use, recreational cannabis sales; and/or
- c. Permit cannabis businesses for compassionate donation of medical cannabis products to veterans per SB34.



# Additional Community Feedback

## ***II. Operation Hours:***

- Extend the operation hours of storefront retailers from 6am to 10pm following the State requirement. This will be consistent with retail deliveries.

## ***III. Buffer measurements:***

- From property line to property line, instead of the occupied premises to the property line; or
- From premises to premises.



# Additional Community Feedback

## ***IV. Local residency requirement and/or preference:***

Support local residents and business owners by adding the following components:

- a. Requiring that business owner(s) have been Huntington Beach residents for at least 3 years and/or at least 51% of their employees are residents; and/or
- b. Allocating 2 permits out of total 10 permits or allow 2 additional permits (total of 12) to “Locals only-Equity” businesses that get processed after the first ten and lower the entry points/less restrictive requirements.





# Additional Community Feedback

## ***V. Pre-application requirement to have at least 4 local permits or State licenses, one of which must be retail for retailers for retail applicants:***

- Consider the number of required permits to a lower threshold or alternatives to measure applicants' qualification such as years of operating successful businesses.



# Additional Community Feedback

## ***VI. Location/Property Requirement:***

Consider not requiring a proof of ownership or site control of a property

- It could lower entry barriers for small businesses and widen the application pool
- It may create a situation where applicants go through vigorous application process but cannot open a business due to lack of the viable property in areas zoned for cannabis commercial activity within the City limit.



# The City's Approach to Cannabis Businesses

## Ballot Measures approved by Voters

### Ballot Measures

1. Permit and regulate a limited number of cannabis retailers and non-retailers in areas zoned?
2. Impose a local excise tax on commercial cannabis activities as a General Tax

## Ordinances by City Council

1. Regulatory Business Ordinances
2. Land Use Ordinances

## Regulation by City Resolution

Commercial Cannabis Regulation that specifics and governs:

- Application and renew procedures
- Operational Standards
- Other necessary administrative components



**QUESTIONS?**