

Recently, a group of medical cannabis patients, activists and concerned citizens met and formed a coalition task force whose purpose was to create a reasonable, rational and responsible version of an ordinance relating to medical cannabis collectives. Our version addresses issues left out in the City Manager's Office, such as cultivation and edibles. The CMO plans to deal with these things 'sometime in the future.' The task force's proposed ordinance more sensibly addresses topics such as location, 'sensitive use' and security issues. And this proposed ordinance is much fairer on topics such as the appeals process and criminal history.

Please share this with as many citizens as you can and thank you for your time.

The Coalition Taskforce.

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CITY MANAGER'S OFFICE
CITY OF SACRAMENTO

Proposed Ordinance by Medical Cannabis Patients of Sacramento

Draft 1

June 1, 2010

To: Honorable Representatives of Sacramento City

Subject: Ordinance: Medical Cannabis Dispensing Operations

Location/Council District: City of Sacramento

Recommendation: Medical Cannabis patients of the City of Sacramento wrote this ordinance to ensure that regulations are put in place that 1. Provide for safe and legal access of medical cannabis. 2. Are not discriminatory to patients. 3. Promote community. 4. Promote business and the economy.

Contact:

Presenters:

Department:

Division: Government Affairs

Description/Analysis:

Issue:

The following (**in bold**) is taken from the City's proposed ordinance of April 6, 2010

In June 2009, the City Council directed staff to develop an ordinance to regulate medical cannabis operations. Proliferation of medical cannabis operations is an issue of statewide concern and there has not been a consistent response by other cities in California. On July 14, 2009, the City Council adopted Ordinance No. 2009-033, an emergency measure establishing a 45-day moratorium prohibiting new medical cannabis dispensing operations from opening and prohibiting existing dispensing operations from modifying or expanding their current setup. On August 25, 2009, the City Council approved extending the moratorium for an additional period of ten months and fifteen days. The moratorium will expire on July 13, 2010. On December 1, 2009 staff requested direction from the Law and Legislation Committee on key policy issues related to the development of an ordinance to regulate medical cannabis. Staff has researched ordinances of other cities regulating medical marijuana including visiting seven medical cannabis dispensing operations in Oakland, Sebastopol, and Sacramento. In addition, staff has conducted two separate outreach meetings with local medical cannabis dispensing operators / stakeholders. One prior to drafting the ordinance and the second one to review the key components of the

draft ordinance that staff is recommending to the Law and Legislation Committee. Staff also conducted four Neighbor Services Department Area meetings to present the key components of the proposed ordinance to residents and other interested groups. Feedback from these Neighborhood Services Department Area meetings and stakeholder meeting is contained in Attachment 5 of this report. This report reflects the direction received and recommends the Law and Legislation Committee approve the proposed ordinance to regulate medical cannabis dispensing operations and forward it for consideration to the full City Council.

Policy Considerations: The City Council has determined that it wishes to allow medical cannabis dispensing operations in the City and directed staff to develop an ordinance to regulate medical cannabis operations. Presently, the City's zoning code does not recognize or allow medical cannabis operations in the City.

Environmental Considerations: None

Rationale for Recommendation:

Due to the conflicting responses by other cities in regulating medical cannabis dispensing operations, no clear standard is applied in cities that do regulate these establishments. Based on the direction received by the Law and Legislation Committee on December 1, 2009, staff is recommending the Committee approve the key components of the proposed Permanent Ordinance. Additionally, staff is requesting direction on the second or companion ordinance that sets forth the Inaugural Application Process that will sunset after the initial 12 permits are issued or 365 days after the effective date of the ordinance, whichever is earliest. Upon the Committee's approval and direction, staff will bring forward the two ordinances to the full City Council with recommendation for approval.

Financial Considerations: None

Emerging Small Business Development (ESBD): None

BACKGROUND

“City Council directed staff to develop an ordinance to regulate medical cannabis operations. On July 14, 2009, the City Council adopted Ordinance No. 2009-033, an emergency measure establishing a 45-day moratorium prohibiting new medical cannabis dispensing operations from opening and prohibiting existing dispensing operations from modifying or expanding their current setup. On August 25, 2009, the City Council approved extending the moratorium for an additional period on ten months and fifteen days. This moratorium will expire on July 13, 2010. On December 1, 2009 staff requested direction from the Law and Legislation Committee on key policy issues related to the development of an ordinance to regulate medical cannabis. Attachment 3 of this report provides the details of a proposed application and three phase selection process to issue the initial 12 permits during what staff will identify as the Inaugural Application Period. This companion ordinance is proposed to be adopted at the same time as the Permanent Ordinance and sunset when the initial 12 permits are issued or 365 days after the effective date of the Inaugural Application Period Ordinance.

Attachment 4 of this report provides a matrix of cities in California regulating medical cannabis. Staff has researched the ordinances of these other cities regulating medical cannabis as well as conducting on-site visits to seven medical cannabis dispensing operations in Oakland, Sebastopol, and Sacramento. Staff identified key components of the proposed ordinance which was drawn on for community and medical cannabis dispensing operators outreach. Staff has conducted two outreach meetings with medical cannabis dispensing operators / stakeholders. One prior to drafting the ordinance and the second one to review the key components of the draft ordinance staff is recommending to the Law and Legislation Committee. Staff also conducted four Neighborhood Services Department Area meetings to present the key components of the proposed ordinance to residents and other interested groups.

During the outreach meetings several concerns were raised by the stakeholders and residents. The majority of the concerns were related to limiting the number of medical cannabis dispensing operations to twelve, restricting the location of these operations to commercial and industrial zones, and sensitive uses being too restrictive. Restricting industrial and commercial zones in combination with proposed sensitive uses may result in relocating dispensing operations to outlying areas where no public transportation is available. A summary of the concerns, suggestions and questions from the Neighborhood Services Department Area meetings and the second stakeholder meeting are contained in Attachment 6 of this report.⁴

Ordinance: Medical Cannabis Dispensing Operations April 6, 2010

Attachment 2

The following key components recommended for inclusion in the Proposed Permanent Ordinance regulating medical marijuana dispensaries incorporates the direction received from the Law and Legislation Committee at the December 1, 2009 meeting, feedback

from the medical cannabis dispensing operator's stakeholders, and research of best practices from other cities regulating medical cannabis operations."

Update: As of April 6, 2010 the City of Sacramento proposed an ordinance which restricts patient's right to safe and legal access of medical cannabis and is discriminatory to patients and collectives. The purpose of regulations is to ensure the safety of patients through quality standards. With respect to the City's proposed ordinance, patients and activists in Sacramento have come together to update the proposed ordinance in a way in which patient's rights and safety will be ensured.

Update: June 1, 2010 the City Council of Sacramento voted to extend the moratorium in order to have more time to form a working ordinance.

The key components of the proposed ordinance are outlined below:

Compliance with Existing State Law

- **Compassionate use Act of 1996 (Proposition 215)**
- **Medical Marijuana Program Act of 2003 (SB 420), and**
- **Guidelines issued by the Attorney General in 2008.**

Number of Dispensaries Allowed:

39 dispensaries currently registered with the City of Sacramento.

These dispensaries are

- 1. Registered pursuant to ordinance No. 2009-033 with the City Manager's Office on or before August 13, 2009.**
- 2. Have operated continuously since at least June 16, 2009**
- 3. Have not been cited by the City or other public entity for a nuisance or public safety violation of state or local law relating to marijuana offenses or the operation of a medical marijuana dispensary.**

Location:

Allow collectives in Commercial and Industrial Zones Only (No Residential Zones)

Requires a 300 foot buffer from Residential Zones, unless collective passes a residential review meeting and majority of neighbors within 300 feet accept collectives presence.

Must comply with same requirements as a "Retail" establishment for minimum building standards, parking , ADS, etc. for the zone that the particular collective is situated within.

Distance from Sensitive Uses:

Require 400 feet from public school.

Same requirements as pharmacies from sensitive use areas.

Conditions:

Dispensary size not to exceed 8,000 square feet maximum.

All collective shall check for I.D. and Doctor's recommendation upon admittance to collective.

Require on-site security during business hours.

Require fire, burglary, and robbery alarm system.

Lighting requirements.

Signage requirements- must comply with normal sign requirements for other businesses in that zone.

Require a door locking system.

Require security cameras.

Business Hours: May be open as early as 7am and stay open as late as 9pm.

No minors as employees or volunteers.

Restrooms- Only patients, volunteers and staff will be allowed to access restrooms. Access will be regulated by security.

No on-site consumption or sales of alcohol. Facility may not maintain an ABC license.

Labels: All edible cannabis products should be labeled as required by the health and safety code for food products.

Edible forms of marijuana: All edible forms of medical marijuana should be made in a certified kitchen by certified food handlers.

On Site Consumption: Medical marijuana may be consumed on-site only as follows:

- a. The smoking or vaporizing of medical marijuana shall be allowed provided that appropriate seating, restrooms, drinking water, ventilation, air purification system, and patient supervision are provided in room or enclosed area separate from other collective service areas.

Violations:

Misdemeanor, civil and administrative penalties for any person that violates the ordinance. Civil penalties of not less than two hundred fifty dollars (\$250.00) or more than one thousand (\$1000) for each day the violation continues.

Application:

An applicant must submit an application for a conditional use permit and business license and meet the requirements of this Chapter.

Application & Permit Requirements:

Applicant may not be on parole or probation for a felony.

Applicant must be the owner of the subject property or person with a lease signed by the owner providing the tenant consent to operate a dispensary at the location.

Security Plan. A detailed security plan outlining the proposed security arrangements for ensuring the safety of persons and to protect the premises from theft. The plan shall include installation of security cameras, a centrally-monitored burglar, robbery, and fire alarm system monitored by a licensed operator, and a security assessment of the site conducted by a qualified professional.

Floor Plan. A scaled floor plan for each level of the entire building showing the interior configuration of the premises, including a statement of the total floor area occupied by the dispensary. The floor plan must include, entrances, exits, restrooms, waiting area, office space, storage, and area for dispensing marijuana to qualified patients or primary caregivers. The floor plan must be professionally prepared by a licensed civil engineer or architect;

Site Plan. A scaled site plan of the parcel showing the exterior configuration of the premises, including the outline of all structures, driveways, parking and landscape areas, and property boundaries. The floor plan must be professionally prepared by a licensed civil engineer or architect;

Accessibility Evaluation. A written evaluation of accessibility by the physically disabled to and within the building and identification of any planned accessibility improvements to comply with all state and federal disability access laws, including, but not limited to, the American with Disabilities Act. The evaluation must be professionally prepared by a licensed civil engineer or architect; and

Neighborhood Context Map. An accurate straight-line drawing depicting the building and the portion thereof to be occupied by the dispensary, all properties and uses, specifically including, but not limited to, any sensitive use within 500 feet of the nearest property line of the property on which the dispensary permit is requested. The map must be professionally prepared by a licensed civil engineer or architect.

- b. The maximum occupancy of the separate room or enclosed area shall meet local occupancy requirements.
- c. The medical marijuana dispensing collective shall use an activated charcoal filter, or other device sufficient to eliminate all odors associated with medical marijuana use from adjoining businesses and public walkways. The fan used to move air through the filter shall have the capacity sufficient to ventilate the square footage of the separate room or enclosed area in which medical marijuana use is permitted.

Cultivation: No cultivation of medical marijuana shall be visible with the naked eye from any public or other private property. No outdoor cultivation shall occur at a location unless it is secured from public access by means of a locked gate and other security measures necessary to prevent unauthorized entry.

Permits:

Annual Renewal of business permit.

Non-Transferable unless approved by majority vote of city council.

Number of permits will be reviewed annually so that the City may add more permits than 39 if needed.

Number of permits shall not be less than 39.

Fees:

Fee schedule to provide for full recovery of program costs.

Annual Application Fee, Permit Fee, Pre-inspection Fee, and Renewal Fee.

Appeals:

All decisions are open to full right of appeal.

Enforcement:

On-going inspection & Monitoring by Code Enforcement.

\$100 a day fine for non-compliance. After 3 months of non-compliance collective may be shut down by City.

Code Enforcement will be the primary enforcement i.e. nuisance complaints, however criminal incidents will be dealt with through the Sacramento Police Department.

Hours of operation restricted to police response.

Inaugural Application Process:

By registering with the City of Sacramento, the thirty-nine operating collectives have already completed this process.

Applicants:

The thirty-nine collectives registered with the City of Sacramento **shall be immediately eligible to submit a Dispensary Permit Application. Priority applicants shall have 365 days from the effective date of the ordinance to complete the application process and get a permit. If they fail to timely complete the application or are denied a permit they must cease operations.** In the case that a collective is denied a permit, the collective will have full rights to appeal. **Sunset - The Inaugural Application Process will sunset after the initial 39 permits are issued or 365 days after the effective date of the ordinance, whichever is earliest.**

