

ORDINANCE NO. 2013-0024

Adopted by the Sacramento City Council

October 1, 2013

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 5.150 OF THE SACRAMENTO CITY CODE; AMENDING SECTIONS 17.228.700 AND 17.228.755 OF, AND ADDING SECTION 17.228.760 TO, TITLE 17 OF THE SACRAMENTO CITY CODE (THE PLANNING AND DEVELOPMENT CODE); AND REPEALING ORDINANCE 2012-041, RELATING TO MEDICAL MARIJUANA DISPENSARIES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

A. Section 5.150.020 of the Sacramento City Code is amended as follows:

1. The definition of special permit is repealed.
2. A new definition for conditional use permit is added to read as follows:

“Conditional use permit” means any conditional use permit issued by the city pursuant to the Planning and Development Code related to the operation of a medical marijuana dispensary.

B. Except as amended in Section A, section 5.150.020 remains unchanged and in full force and effect.

SECTION 2.

Subsection D of section 5.150.040 of the Sacramento City Code is amended to read as follows:

D. Notwithstanding the provisions of section 5.150.030, a person may continue to operate a registered medical marijuana dispensary without a dispensary permit until February 7, 2011. If a phase one or phase two application for a dispensary permit is or has been properly filed and has not been denied, a

person may continue to operate that dispensary without a dispensary permit until December 31, 2014, and while the application approval or denial is pending.

SECTION 3.

Subsection B.10 of section 5.150.050 of the Sacramento City Code is amended to read as follows:

10. Response to the Planning and Development Code. An explanation of how the dispensary complies or expects to comply with the Planning and Development Code, including but not limited to, the location requirements.

SECTION 4.

Section 5.150.070 of the Sacramento City Code is amended to read as follows:

5.150.070 Review of phase two application.

A. If the city manager notifies the applicant that it may continue to phase two in the application process the applicant shall, no later than March 31, 2014, file a phase two application with the city manager's office, that includes the following:

1. A nonrefundable dispensary permit program fee in the amount established by resolution of the city council. The dispensary permit program fee shall be in addition to any other fee imposed by this code.

2. Security Plan. A detailed security plan, prepared by a qualified professional, outlining the measures that will be taken to ensure the safety of persons and to protect the dispensary property from theft.

3. Floor Plan. A scaled floor plan for each level of the entire building showing the interior configuration of the dispensary building, 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 distributing marijuana to members. The floor plan must be professionally prepared by a licensed civil engineer or architect.

4. Site Plan. A scaled site plan of the parcel of real property on which the dispensary building is located, including the outline of all structures,

driveways, parking and landscape areas, and boundaries of the parcel. The site plan must be professionally prepared by a licensed civil engineer or architect.

5. 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, Title 24 of the California Code of Regulations and the Americans with Disabilities Act. The evaluation must be professionally prepared by a licensed civil engineer or architect.

6. Neighborhood Context Map. An accurate straight-line drawing depicting the boundaries of the dispensary property, the boundaries of all other properties within 1,000 feet of the dispensary property, and the uses of those properties, specifically including, but not limited to, any use identified in the location requirements of the Planning and Development Code. The map must be professionally prepared by a licensed civil engineer or architect.

7. Lighting Plan. A lighting plan showing existing and proposed exterior and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use.

8. Planning and Development Code Compliance. A copy of a valid conditional use permit approved by the city's zoning administrator or planning and design commission for the proposed dispensary location.

9. A copy of the dispensary's commercial general liability insurance policy and all other insurance policies related to the operation of the dispensary.

10. A copy of the dispensary's annual budget for operations.

11. A copy of the dispensary's most recent year's financial statement and tax return.

12. A list of the most recent prices for all products and services provided by the dispensary.

13. Applicant's Certification. A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the phase one and phase

two applications, that the information contained therein is true and correct, and that the applications have been completed under their supervision.

14. Other Information. Such other information as deemed necessary by the city manager to demonstrate compliance with this code.

B. Complete Application.

1. Upon receiving a phase two application, the city manager shall determine whether the application is complete. If the city manager determines that the application is incomplete or has been completed improperly, the city manager shall notify the applicant. The city manager may grant the applicant an extension up to ten days to complete the phase two application.

2. An application is not to be considered incomplete for purposes of this subsection B if the sole document remaining to be filed is a copy of the conditional use permit referenced in subsection A.8 of this section.

3. If the phase two application is incomplete, or remains incomplete upon the expiration of any extension, the city manager may deny the application. If the city manager denies the phase two application for being incomplete, pursuant to the provisions of this section, written notice of denial shall be served on the applicant. Notwithstanding any provisions of this code to the contrary, the decision of the city manager shall be final and not subject to administrative appeal.

4. In the event of denial, for any reason, the applicant shall cease operating the dispensary within 15 days from the date notice of denial is served on the applicant. Continued operations shall be unlawful and subject to the penalties in section 5.150.220.

5. If the city manager determines that the application is complete, the completion date of a phase two application shall be the date when the city manager notifies the applicant that it has received all of the information or materials required, including compliance with subsection A.8 of this section; has determined that the content in the submitted documents is responsive to the requirements; and has deemed the application complete.

SECTION 5.

Section 5.150.110 of the Sacramento City Code is amended to read as follows:

5.150.110 Issuance of dispensary permit.

- A. After the phase two application is complete, as specified in section 5.150.070.B.5, the city manager shall either grant or deny a dispensary permit on or before December 31, 2014.
- B. In granting a permit, the city manager may impose conditions on the permit.
- C. Conditions placed on the medical marijuana dispensary conditional use permit issued under the Planning and Development Code shall be conditions of the dispensary permit. Violations of the conditional use permit's conditions are grounds for suspending or revoking the dispensary permit. Nothing in this section shall be construed to limit the authority of the city manager to place additional conditions upon the dispensary permit.

SECTION 6.

Subsection N of section 5.150.130 of Title 5 of the Sacramento City Code is amended to read as follows:

N. Indemnification. Every application filed or permit issued under this chapter shall contain a term or condition requiring the dispensary, through its management members, to execute an agreement in a form approved by the city attorney whereby the dispensary: (1) releases the city, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from: (a) any repeal or amendment of this chapter and/or the Planning and Development Code relating to medical marijuana dispensaries, or (b) any arrest or prosecution of the dispensary or its management members, employees, or members for violation of state or federal laws; and (2) defends, indemnifies and holds harmless the city and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution of medical marijuana provided at the dispensary.

SECTION 7.

A. Section 17.228.700 of the Sacramento City Code is amended as follows:

1. The definition of "registered medical marijuana dispensary" is amended to read as follows:

"Registered medical marijuana dispensary" means a medical marijuana dispensary:

(i) That was properly registered with the city manager pursuant to Ordinance No. 2009-033; and

(ii) That was operating at the location for which a conditional use permit is requested under this article on October 26, 2010 and that has not subsequently operated at any other location; and

(iii) That is organized and operates as a cooperative or a collective within the meaning of Chapter 5.150; and

(iv) The location of which does not meet the location requirements stated in section 17.228.715; and

(v) The owner and operator of which has not been cited or convicted of maintaining a public nuisance or of a public safety violation of state or local law relating to the operation of a medical marijuana dispensary by the city or other governmental law enforcement agency.

2. A new definition of "title 5 registered medical marijuana dispensary" is added to read as follows:

"Title 5 registered medical marijuana dispensary" shall have the same meaning as "registered medical marijuana dispensary" in subdivision A of section 5.150.040.

B. Except as amended in Section A, above, section 17.228.700 remains unchanged and in full force and effect.

SECTION 8.

Section 17.228.755 of Title 17 of the Sacramento City Code is amended to read as follows:

17.228.755 Registered medical marijuana dispensaries.

The following limitations and requirements shall apply to registered medical marijuana dispensaries applying for conditional use permits, and these limitations and requirements shall control over any other provisions of this title that may conflict:

- A. A planning and design commission conditional use permit shall be required for a registered medical marijuana dispensary.
- B. The applicant for the conditional use permit must be the same owner or principal named on the medical marijuana dispensary's registration as of July 27, 2010, and must be a managing member of the registered medical marijuana dispensary. The application must be for the registered dispensary's location established as of October 26, 2010.
- C. The location requirements stated in section 17.228.715 shall not apply.
- D. The conditional use permit shall expire for discontinuance of use and shall thereafter be void if the medical marijuana dispensary ceases operation at any time, voluntarily or involuntarily, for 30 consecutive days.
- E. The conditional use permit shall become void upon transfer of ownership or management control of the dispensary to another person.
- F. The conditional use permit shall be deemed automatically revoked upon revocation of the medical marijuana dispensary permit issued under chapter 5.150.
- G. A conditional use permit modification may not be approved to allow an expansion of the registered medical marijuana dispensary.

SECTION 9.

Section 17.228.760 is added to the Sacramento City Code to read as follows:

17.228.760 Title 5 registered medical marijuana dispensary.

The location requirements stated in subsection A.1, A.2 and A.3 of section 17.228.715 may be modified by a conditional use permit for a title 5 registered medical marijuana dispensary.

SECTION 10.

Ordinance 2012-041, entitled "An Interim Ordinance Relating to Special Permits for Medical Marijuana Dispensaries," is repealed.

SECTION 11.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or ineffective by any court of competent jurisdiction, or by reason of any preemptive legislation, that invalidity shall not affect the validity of the remaining provisions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, subdivision, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or words be declared invalid.

Adopted by the City of Sacramento City Council on October 1, 2013 by the following vote:

Ayes: Councilmembers Cohn, Hansen, McCarty, Schenirer and Warren

Noes: Councilmember Ashby

Abstain: Councilmember Pannell

Absent: Councilmember Fong and Mayor Johnson

Attest:

Shirley Concolino

Digitally signed by Shirley Concolino
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City
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Shirley Concolino, City Clerk

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