

**APPROVED**  
BY THE CITY COUNCIL

**MAY 25 1999**

OFFICE OF THE  
CITY CLERK



1.18

OFFICE OF THE  
CITY CLERK

VALERIE A. BURROWES, CMC/AAE  
CITY CLERK

VIRGINIA K. HENRY, CMC/AAE  
ASSISTANT CITY CLERK

CITY OF SACRAMENTO  
CALIFORNIA

CITY HALL  
915 I STREET  
ROOM 304  
SACRAMENTO, CA  
95814-2671

FAX 916-264-7672  
HTTP://WWW.SACTO.ORG

ADMINISTRATION  
PH 916-264-5799

OPERATIONAL SERVICES  
PH 916-264-5427

SPECIALIZED SERVICES  
PH 916-264-7200

May 18, 1999

City Council  
Sacramento, California

Honorable Members in Session:

**SUBJECT:** ORDINANCE AMENDING CHAPTER 37.03 OF THE SACRAMENTO CITY  
CODE RELATING TO PUBLIC CONSUMPTION OF MARIJUANA

**LOCATION/COUNCIL DISTRICT:** All Districts

**RECOMMENDATION:** Adopt Ordinance

**CONTACT PERSON:** Valerie Burrowes, City Clerk, 264-5442

**FOR COUNCIL MEETING OF:** May 25, 1999

**SUMMARY:**

The intent of this report is to provide for an amendment in numbering of Chapter 37.03 of Title 37 and will re-chapter and re-number the chapter relating to the public consumption of marijuana to Chapter 37.04. The amendment will not affect, in any manner, Chapter 37.03, prohibiting self-service merchandising of tobacco products.

**BACKGROUND INFORMATION:**

Ordinance No. 99-001, adopted on January 26, 1999, added a chapter to Title 37 of the Sacramento City Code relating to Public Consumption of Marijuana. The chapter number used [37.03] was already in existence prohibiting self-service merchandising of tobacco products. Therefore, the chapter that was added regarding the public consumption of marijuana needs to be renumbered to Chapter 37.04 and its sections renumbered accordingly.

**City Council**  
**Chapter 37.03 of Ordinance No. 99-001 - Amendment**  
**May 18, 1999**

**FINANCIAL CONSIDERATIONS:**

There would be no fiscal impact incurred with this action.

**ENVIRONMENTAL CONSIDERATIONS:**

There are no environmental considerations to be applied to this report.

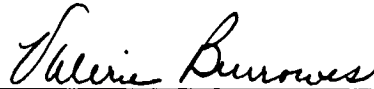
**POLICY CONSIDERATIONS:**

In compliance with Charter and Council Rules of Procedure.

**ESBD CONSIDERATION:**

Not applicable to this report.

Respectfully submitted,



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VALERIE A. BURROWES,  
City Clerk

**APPROVED FOR COUNCIL INFORMATION:**



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ROBERT P. THOMAS  
City Manager

**APPROVED**  
BY THE CITY COUNCIL

**MAY 25 1999**

OFFICE OF THE  
CITY CLERK

**ORDINANCE NO. 99-027**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE AMENDING CHAPTER 37.03 OF THE  
SACRAMENTO CITY CODE, RELATING TO PUBLIC  
CONSUMPTION OF MARIJUANA.**

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

**SECTION 1.**

On January 26, 1999, the Sacramento City Council added to the Sacramento City Code Chapter 37.03, relating to the public consumption of marijuana. At the time that this chapter was added, there was already in existence Chapter 37.03 of the Sacramento City Code, prohibiting self-service merchandising of tobacco products. Therefore, the chapter that was added regarding the public consumption of marijuana needs to be renumbered to Chapter 37.04, and its sections renumbered accordingly.

The sole intent of this amendment is to rechapter and renumber the ordinance relating to the public consumption of marijuana. Thus, this amendment does not affect, in any manner, Chapter 37.03, prohibiting self-service merchandising of tobacco products.

**SECTION 2.**

Chapter 37.03 relating to Public Consumption of Marijuana, is rechaptered and renumbered as follows:

37.04 Public Consumption of Marijuana.

37.04.400 Findings and Purposes.

On November 5, 1996, the voters of the State of California approved Proposition 215 enacting section 11362.5 of the Health and Safety Code (the "Compassionate Use Act"). That section permits, for purposes of state law, the limited use, cultivation and

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ORDINANCE NO. \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

possession of marijuana for specified medical purposes. However, the use, cultivation and possession of marijuana for other purposes remains illegal within this State and is presently illegal under federal laws.

While recognizing the enactment of Health and Safety Code section 11362.5, the City Council believes that the open and public use of marijuana, which might otherwise be permitted by that section, is injurious to public health in many of the same ways that tobacco consumption is injurious to public health, due to exposure to second-hand smoke. Further, the open and public consumption of marijuana is potentially harmful to youths in that it sets a deleterious example regarding the use of illicit drugs. Therefore, the City Council believes it is necessary to balance the uses of marijuana permitted by section 11362.5 with the concerns for public health and safety.

37.04.401 Places Where Consumption of Marijuana is Prohibited.

(a) Notwithstanding California Health and Safety Code section 11362.5 or any preceding provisions of this Title 37, the consumption of marijuana, by or through "smoking," as defined in section 37.01.003 (g), is prohibited at any of the following locations to which members of the public have access:

- (1) Upon or within one thousand (1,000) feet of the grounds of any school or park;
- (2) In or within one hundred (100) feet of any building or facility to which members of the public have access, except in a health facility or clinic; or
- (3) Within one hundred (100) feet of any other person, other than a "primary caregiver," as that term is defined in California Health and Safety Code section 11362.5 (e).

(b) As used in this section, the following definitions shall apply:

- (1) "School" means any institution of learning for minors, whether public or private, including any special institution of education or any nursery, elementary, middle, junior high, or senior high school. This definition does not include a vocational or professional institution of higher education, including a junior or community college, college or university.
- (2) "Park" means and includes all parks, parkways, malls, plazas, greenbelts, gardens, lakes and other property owned by the City of Sacramento and

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used, operated or maintained for recreational purposes.

- (3) "Health facility" means a facility, place or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical and mental, including convalescence and rehabilitation, or for any one of those purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer.
- (4) "Clinic" means an organized outpatient health facility which provides medical, surgical, dental, optometric, podiatric, or psychological advice, services, or treatment to patients who remain less than 24 hours.

37.04.402 Penalty.

a. First violation: Any first violation of this chapter by a person shall be an infraction, and shall be subject to punishment as provided in California Government Code Section 36900(b).

b. Second and subsequent violations: Except as provided below, any second and subsequent violation of this chapter by a person shall be a misdemeanor, punishable by a fine not to exceed one thousand dollars (\$1,000.00) imprisonment in County Jail for a term not to exceed six (6) months, or both such fine and imprisonment.

Exception: Notwithstanding the above, a violation of this chapter is an infraction when the complaint is filed charging the offense as an infraction, in which case the violation shall be subject to and punishable as provided in California Government Code section 36900(b).

37.04.403 Non-exclusivity.

Nothing in this chapter shall limit or preclude the enforcement of other applicable laws.

DATE PASSED FOR PUBLICATION:  
DATE ENACTED:  
DATE EFFECTIVE:

\_\_\_\_\_  
MAYOR

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DATE ADOPTED: \_\_\_\_\_

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ATTEST:

\_\_\_\_\_  
CITY CLERK

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DATE ADOPTED: \_\_\_\_\_

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