



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R09-0048
FEB 06 2009

REPORT RE:

**SECOND REVISED DRAFT ORDINANCE ESTABLISHING REGULATIONS
REGARDING MEDICAL MARIJUANA COLLECTIVES**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File No. 08-0923

Honorable Members:

Pursuant to the request of your Honorable Body, this office prepared and transmitted for your action a draft ordinance, approved as to form and legality, that would establish regulations regarding medical marijuana collectives (City Attorney Report No. R08-0115). We subsequently transmitted a revised draft ordinance which included introductory recitals and several non-substantive wording changes (City Attorney Report No. R09-0031).

We have prepared and transmit with this Report a second revised draft ordinance, approved as to form and legality, that includes a few additional non-substantive wording changes, mainly in Section 45.19.6.7 ("Existing Medical Marijuana Dispensaries"). Copies of the second revised draft ordinance were sent, pursuant to Council Rule 38, to the Los Angeles Police Department, the Department of Building and Safety, and the Office of the City Clerk with a request that all comments, if any, be presented directly to your Honorable Body at the time this matter is considered.



If you have any questions, please contact Deputy City Attorney Heather Aubry at (213) 978-8393. She, or another member of this office, will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By



DAVID MICHAELSON
Chief Assistant City Attorney

DM:HA:lee
Transmittal

ORDINANCE NO. _____

An ordinance amending the Los Angeles Municipal Code to implement the Compassionate Use Act and the Medical Marijuana Program Act.

WHEREAS, in 1996, California voters approved the Compassionate Use Act in order to exempt seriously ill patients and their primary caregivers from criminal liability for possession and cultivation of marijuana;

WHEREAS, the City of Los Angeles has a compelling interest in ensuring that marijuana is not distributed in an illicit manner;

WHEREAS, the Medical Marijuana Program Act of 2003 provides for the association of primary caregivers and qualified patients to cultivate marijuana;

WHEREAS, the regulation of these associations is essential to preserve the peace and quiet of the neighborhoods in which these associations are established and operate;

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. A new Article 5.1 is added to Chapter IV of the Los Angeles Municipal Code to read:

Article 5.1. MEDICAL MARIJUANA CULTIVATION

Sec. 45.19.6. Purposes and Intent.

The ordinance codified in this article, in compliance with California Health and Safety Code Sections 11362.5, *et seq.*, does not interfere with a patient's right to medical marijuana, nor does it criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, pursuant to state law. Under state law, only qualified patients, persons with identification cards and primary caregivers may cultivate medical marijuana collectively. Medical marijuana collectives shall otherwise comply with all provisions of the Los Angeles Municipal Code, including the zoning ordinance, and the California Health and Safety Code. Nothing in this ordinance purports to permit activities that are otherwise illegal under federal or state law.

Sec. 45.19.6.1. Definitions.

The following phrases, when used in this chapter, shall be construed as defined in California Health and Safety Code Sections 11362.5 and 11362.7:

“Person with an identification card;”

”Identification card;”

“Attending physician;”

“Primary caregiver;” and

“Qualified patient.”

The following phrases, when used in this chapter, shall be construed as defined below:

“Medical marijuana collective.” Qualified patients, persons with identification cards and designated primary caregivers of qualified patients and persons with identification cards who associate, as an incorporated or unincorporated association, at a particular location within the City of Los Angeles in order to collectively or cooperatively cultivate marijuana for medical purposes, in strict accordance with California Health and Safety Code Sections 11362.5, *et seq.*

Sec. 45.19.6.2. Registration. All medical marijuana collectives shall register with the City Clerk by completing a registration form. Each member of the collective must sign the form under penalty of perjury. The form shall, at a minimum, contain the following information: the names of all members of the medical marijuana collective, the location of the medical marijuana collective, a telephone number, the name and address of a person authorized to accept service of process, and any other information reasonably required on the form provided by the City Clerk to show that the medical marijuana collective meets the requirements of this article. The collective shall also provide proof that the owner of the property was given notice that the collective is filing the registration form and also that the owner has received a copy of the information contained in and with the form. The collective shall file a new registration form within fifteen days of any changes in the information provided in the original form or any change in status of compliance with the regulations set forth in Section 45.19.6.3. The new form shall include the names of any new members and their signatures under penalty of perjury that the information provided is true and correct. The City Clerk shall provide proof of registration to the person authorized to accept service of process.

Sec. 45.19.6.3. Regulations.

The location at which a medical marijuana collective cultivates and distributes medical marijuana must meet the following requirements:

- (1) The location shall comply with the provisions of Chapters I and IX of the Los Angeles Municipal Code;
- (2) Exterior signage shall be limited to site addressing only;
- (3) The location shall be monitored at all times by web-based closed circuit television for security purposes. The camera and recording system must

be of adequate quality, color rendition and resolution to allow the ready identification of any individual committing a crime anywhere on the site;

(4) The location shall have a centrally-monitored alarm system;

(5) Interior building lighting, exterior building lighting and parking area lighting must be in compliance with Los Angeles Municipal Code Sections 93.0104, 93.0107 and 93.0117 and must be of sufficient foot-candles and color rendition, so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet (a distance that should allow a person reasonable reaction time upon recognition of a viable threat);

(6) Windows and roof hatches shall be secured with bars on the windows so as to prevent unauthorized entry; and be equipped with latches that may be released quickly from the inside to allow exit in the event of emergency;

(7) Absolutely no cultivated marijuana or dried marijuana product may be visible from the building exterior;

(8) No refinement of marijuana, or the preparation of marijuana products, such as but not limited to hashish, "hash oil" or marijuana butter shall be allowed;

(9) No sale of marijuana or marijuana-enhanced or edible products shall be allowed, nor shall the manufacturing of these products for sale be permitted;

(10) No persons under the age of eighteen shall be allowed on site, unless the individual is a qualified patient or person with an identification card and accompanied by his or her licensed attending physician, parent or documented legal guardian;

(11) At any given time, no medical marijuana collective may possess more than five pounds of dried marijuana or more than 100 plants. No medical marijuana collective may possess marijuana that was not cultivated either on-site or at a previous location, registered in accordance with Section 45.19.6.2, by that medical marijuana collective;

(12) A sign shall be posted in a conspicuous location inside the structure advising: "The diversion of marijuana for non-medical purposes is a violation of State law. The use of marijuana may impair a person's ability to drive a motor vehicle or operate heavy machinery. Loitering at the location of a medical marijuana collective for an illegal purpose is prohibited by California Penal Code Section 647(h)";

(13) No medical marijuana collective may provide medical marijuana to any persons other than qualified patients or persons with identification cards and designated primary caregivers who participate in the collective cultivation of

marijuana at that medical marijuana collective. No medical marijuana provided to a primary caregiver may be supplied to any person(s) other than the primary caregiver's qualified patient(s) or person(s) with an identification card;

(14) 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 any other security measures necessary to prevent unauthorized entry;

(15) No medical marijuana collective shall be located within a 1,000-foot radius of schools, playgrounds, parks, libraries, places of religious worship, licensed child care facilities, licensed youth facilities, including youth hostels, youth camps, and youth clubs, or other medical marijuana collective(s);

(16) No medical marijuana collective shall cause or permit the establishment or maintenance of the sale or dispensing of alcoholic beverages for consumption on the premises or off-site of the premises;

(17) No dried medical marijuana shall be stored in structures without at least four walls and a roof, or stored in an unlocked vault or safe, or other unsecured storage structure; nor shall any dried medical marijuana be stored in a safe or vault that is not bolted to the floor or structure of the facility; and

(18) Medical marijuana cultivated at registered medical marijuana collectives may not be consumed on-site, in the parking areas, or in those areas already restricted by the California Health and Safety Code Section 11362.79.

Sec. 45.19.6.4. Exemptions.

(1) The prohibition in Section 45.19.6.3 (8) shall not apply to a qualified patient or a person with an identification card who resides at the location of the medical marijuana collective with respect to cooking, refining or otherwise preparing dried marijuana cultivated at the location for his or her own medical use, in accordance with the provisions of California Health and Safety Code Section 11362.5, *et seq*;

(2) The prohibition in Section 45.19.6.3 (8) shall not apply to a primary caregiver who resides at the medical marijuana collective with respect to cooking, refining or otherwise preparing dried marijuana cultivated at the location for delivery to and medical use by the qualified patient(s) or person(s) with an identification card for whom he or she serves as primary caregiver;

(3) The prohibition in Section 45.19.6.3 (18) shall not apply to a qualified patient or a person with an identification card who resides at the location of the medical marijuana collective with respect to use of marijuana for his or her own medical purposes;

(4) Nothing in this section shall be deemed to authorize the chemical extraction of marijuana resin or production of concentrated cannabis in violation of California Health and Safety Code section 11379.6.

Sec. 45.19.6.5 Maintenance of Records.

Medical marijuana collectives shall maintain records reflecting: (1) the full name, address, and telephone number(s) of the owner or lessee of the property; (2) the full name, address, and telephone number(s) of all qualified patients and persons with identification cards and/or primary caregivers who participate in the collective cultivation; (3) the full name, address, and telephone number(s) of all qualified patients and persons with identification cards to whom the collective provides medical marijuana; (4) the designation, by qualified patient(s) and person(s) with identification cards, of any and all primary caregivers who participate in the collective cultivation; (5) the amount of compensation, if any, for specified cultivation-related services received by any primary caregiver in accordance with Health and Safety Code section 11362.765, and; (6) proof of registration with the City Clerk in conformance with section 45.19.6.2.

Sec. 45.19.6.6. Inspection Authority.

The Los Angeles Department of Building and Safety and the Los Angeles Police Department may inspect every medical marijuana collective location at any reasonable time to ensure compliance with the provisions of this article and both Departments, within their respective jurisdictions, are authorized to enforce the provisions of this article.

Sec. 45.19.6.7. Existing "Medical Marijuana Dispensaries".

Any marijuana cultivation operation or dispensary, including any "Medical Marijuana Dispensary," as that term is defined in Interim Control Ordinance No. 179,027, that does not comply with the requirements of this Article must cease operation until it complies fully with the requirements of this Article.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of _____.

KAREN E. KALFAYAN, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By 
RICHARD H. LLEWELLYN, JR.
Chief Deputy City Attorney

Date 2/6/09

File No. _____