



OFFICE OF THE CITY ATTORNEY

ROCKARD J. DELGADILLO

CITY ATTORNEY

REPORT NO. R 0 8 - 0 1 1 5
APR 1 4 2008

REPORT RE:

**DRAFT OF 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

Honorable Members:

Pursuant to your request of August 1, 2007, we are transmitting to you for your action, approved as to form and legality, a final draft ordinance establishing regulations regarding medical marijuana collectives.

CEQA Findings

Regarding a finding pursuant to the California Environmental Quality Act (CEQA), the Department of Planning determined that the proposed ordinance is exempt from the requirements of CEQA pursuant to State CEQA Guidelines 15061(b)(3) and City CEQA Guidelines Article II, Section 1 because it can be seen with certainty that the registration procedures, which include minor signage and security requirements that are required by or more restrictive than existing codes, will not have a significant effect on the environment. Also, for the same reasons, the registration procedures are also exempt under (1) State CEQA Guidelines 15306, City CEQA Guidelines Article III, Section 1(f) (Class 6) (Information Collection); and (2) State CEQA Guidelines 15311, City CEQA Guidelines Article III, Section 1(k) (Class 11) (Accessory Structures). If the City Council concurs, it must make this finding prior to or concurrent with its action on the ordinance.

**PLANNING & LAND
USE MANAGEMENT**

APR 1 4 2008



Summary of Ordinance Provisions

The attached ordinance is in compliance with California Health and Safety Code Section 11362.5, *et seq.*, and 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. However, nothing in this ordinance purports to permit activities that are otherwise illegal under federal or state law.

The draft ordinance establishes a requirement for obtaining a registration certificate from the City Clerk for all medical marijuana collectives in the City. It requires all medical marijuana collectives to comply with all provisions of the Los Angeles Municipal Code, including the zoning ordinance, as well as the California Health and Safety Code. The ordinance also establishes a list of requirements that all medical marijuana collectives must meet. These requirements are designed to assure that the collectives are consistent with state law, minimize their impacts on neighboring communities. The requirements are also designed to enhance the security of collectives.

Council Rule 38 Referral

A copy of the final draft ordinance was sent, pursuant to Council Rule 38, to the Office of the City Clerk, the Los Angeles Police Department and the Department of Building and Safety. We have incorporated many of the comments from the Police Department and asked that the Clerk's Office and the other departments report any further comments directly to you.

If you have any questions, please feel free to contact Senior Assistant City Attorney Claudia Culling at (213) 978-7182. She or another member of this staff will be available to answer any questions you may have when you consider this matter.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By *Claudia Culling*
CLAUDIA CULLING
Special Counsel - Municipal

CC:lee
Transmittal

ORDINANCE _____

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

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

Sec. 45.19.6. Purposes and Intent.

The ordinance codified in this article, in compliance with California Health and Safety Code Section 11362, *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. 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 Section 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 who, as an unincorporated association, associate at a particular location within the City of Los Angeles in order to collectively or cooperatively cultivate marijuana for medical purposes, as defined in strict accordance with California Health and Safety Code Section 11362.5, *et seq.*

Sec. 45.19.6.2. Registration. All medical marijuana collectives shall register for a medical marijuana collective certificate with the City Clerk. The medical marijuana collective shall file an application for a certificate. Each member of the collective must sign the application under penalty of perjury. The application shall contain the following information: a telephone number, the place of operation of the medical marijuana collective, and any other information reasonably required 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 application and also that the owner has received a copy of the information contained in and with the application. The collective shall file an application for a revised certificate within fifteen days of any changes in the information provided in the original application for certification or any change in status of compliance with the regulations set forth in Section 45.19.6.3. This revision shall include the names of any new members and their signatures under penalty of perjury that the information provided is true and correct.

Sec. 45.19.6.3. Regulations.

(a) 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.

(b) 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 is 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) Only cultivation will be allowed. No further refinement of marijuana, or the preparation of marijuana products, such as but not limited to hashish, "hash oil" or marijuana butter is allowed, subject to the following:

This prohibition does 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 use, provided the amount of dried marijuana used is in accordance with the provisions of California Health and Safety Code Section 11362.5, *et seq.*

This prohibition does 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 use by the qualified patient(s) for whom he or she serves as primary caregiver, provided the amount of dried marijuana used for each qualified patient is in accordance with the provisions of California Health and Safety Code Section 11362.5, *et seq.*;

(9) No sale of marijuana-enhanced or edible products or the manufacturing of these products for sale is permitted;

(10) No persons under the age of eighteen are allowed on site, unless that individual is a qualified patient 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 eight ounces of dried marijuana and either six mature or twelve immature marijuana plants per qualified patient or a person with an identification card whose medical marijuana is provided by that medical marijuana collective. Subject to these limits, the total amount of dried marijuana possessed by a medical marijuana collective shall not exceed five pounds and the total number of plants possessed by a medical marijuana collective shall not exceed 100.

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 on or around a medical marijuana collective for an illegal purpose is prohibited by California Penal Code Section 647(e)";

(13) A medical marijuana collective may provide medical marijuana only to the qualified patients and designated primary caregivers who participate in the collective cultivation of marijuana at that medical marijuana collective;

(14) 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/or primary caregivers who participate in the collective cultivation; (3) the full name, address, and telephone number(s) of all qualified patients to whom the collective provides medical marijuana; (4) the designation, by qualified patient(s), of any and all primary caregivers who participate in the collective cultivation; (5) the amount of compensation, if any, received by any primary caregiver who participates in the collective cultivation for actual expenses associated with the services provided to his or her qualified patient(s) to enable the patient(s) to use medical marijuana in accordance with state law; any services for which compensation is received shall be clearly delineated, as shall the exact amount(s) received by the primary caregiver for those services;

(15) No cultivation of medical marijuana shall be at a location that is visible with the naked eye from any public or other private property. If any cultivation occurs outdoors, the location of the cultivation shall be secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry;

(16) 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);

(17) The owner(s) of the property on which the medical marijuana collective is located shall remove graffiti from the premises within 24 hours of its occurrence;

(18) 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; and

(19) All dried medical marijuana must be secured in structures consisting of at least four walls and a roof, and shall be stored in a locked vault, safe, or other secure storage structure preventing the easy theft of the dried medical marijuana. If the dried medical marijuana is located in a locked vault, safe, or other means, that safe or vault shall be bolted to the floor or structure of the facility.

Sec. 45.19.6.4. Marijuana Produced for On-Site Consumption.

Medical marijuana cultivated at registered medical marijuana collectives may not be consumed on-site, in the parking areas, inside vehicles, or in those areas already restricted by the California Health and Safety Code Section 11362.79. However, this prohibition does not apply to a qualified patient who resides at the location of the medical marijuana collective with respect to use of medical marijuana for his or her own use, provided the amount of dried marijuana used is in accordance with the provisions of California Health and Safety Code Section 11362.5, *et seq.*

Sec. 45.19.6.5. Violation and Penalties.

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 are authorized to enforce the provisions of this article.

Any violation of this article shall be deemed a misdemeanor unless the circumstances that create the violation are subject to prosecution as a felony under state or federal law. Any violation of this article shall also be deemed a public nuisance and may be enforced by any remedy available to the City for abatement of public nuisances. Enforcement may be brought against the property owner and any or all members of the medical marijuana collective.

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 claudia culling
CLAUDIA CULLING
Senior Assistant City Attorney

Date 4/14/08

File No. _____

COUNTY CLERK'S USE
CITY CLERK'S USE

CITY OF LOS ANGELES

OFFICE OF THE CITY CLERK
ROOM 615, CITY HALL EAST
LOS ANGELES, CALIFORNIA 90012
CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION
(Article III, Section 3—City CEQA Guidelines)

Submission of this form is optional. The form shall be filed with the County Clerk, 111 No. Hill St., Los Angeles, California 90012, pursuant to Public Resources Code Section 21252 (b). Pursuant to Public Resources Code Section 21188 (d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations being extended to 180 days.

LEAD CITY AGENCY City of Los Angeles	LOG REFERENCE Council File No. 05-0872 S1	COUNCIL DISTRICT All
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PROJECT TITLE:
An ordinance adding a new Article 5.1 to Chapter IV of the Los Angeles Municipal Code (LAMC) to implement the Compassionate Use Act and the Medical Marijuana Program Act.

PROJECT LOCATION:
Citywide

DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT:
A proposed ordinance amending the L.A.M.C. to implement the Compassionate Use Act and the Medical Marijuana Program Act by requiring registration of medical marijuana collectives and providing certain regulations regarding the activities of these cooperatives.

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT, IF OTHER THAN LEAD CITY AGENCY:
N/A

CONTACT PERSON Thomas Rothmann	TELEPHONE NUMBER 213-978-1370
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EXEMPT STATUS: (Check One)	CITY CEQA GUIDELINES	STATE EIR GUIDELINE
<input type="checkbox"/> MINISTERIAL	Art. III, Sec. 2b	Sec. 15073
<input type="checkbox"/> DECLARED EMERGENCY	Art. III, Sec. 2a (1)	Sec. 15071 (a)
<input type="checkbox"/> EMERGENCY PROJECT	Art. III, Sec. 2a (2) & (3)	Sec. 15071 (b) & (c)
<input checked="" type="checkbox"/> GENERAL EXEMPTION	Art. II, Sec. 1	Sec. 15061 (b) (3)
<input type="checkbox"/> CATEGORICAL EXEMPTION	Art. VII, Sec. 1	Sec. 15100
<input type="checkbox"/> OTHER	(See Public Resources Code Sec. 21080 (b) and set forth state and city guideline provision. Exemption Art. II, Sec. 2 (m))	

JUSTIFICATION FOR PROJECT EXEMPTION: The proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines 15061(b)(3) and City CEQA Guidelines Article II, Section 1 because it can be seen with certainty that the registration procedures, which include minor signage and security requirements that are required by or more restrictive than existing codes, will not have a significant effect on the environment. Also, for the same reasons, the registration procedures are also exempt under (1) State CEQA Guidelines 15306, City CEQA Guidelines Article III, Section 1(f) (Class 6) (Information Collection); and (2) State CEQA Guidelines 15311, City CEQA Guidelines Article III, Section 1(k) (Class 11) (Accessory Structures).

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.

SIGNATURE	TITLE City Planner	DATE April 11, 2008	
FEE: N/A	RECEIPT NO. N/A	RECEIVED BY N/A	DATE N/A

DISTRIBUTION: (1) County Clerk, (2) City Clerk, (3) Agency Record
Form Gen. 183 (Rev. 8-90) (Appendix A) (C.S. 4/98)

THE APPLICANT CERTIFIES THAT HE OR SHE UNDERSTANDS THE FOLLOWING:
Completion of this form by an employee of the City constitutes only a staff recommendation that an exemption from CEQA be granted. A Notice of Exemption is only effective if, after a public review and any required public hearings, it is adopted by the City agency having final jurisdiction (including any appeals) over the project application. If a CEQA exemption is found inappropriate, preparation of a Negative Declaration or Environmental Impact Report will be required. IF THE INFORMATION SUBMITTED BY THE APPLICANT IS INCORRECT OR INCOMPLETE SUCH ERROR OR OMISSION COULD INVALIDATE ANY CITY ACTIONS ON THE PROJECT, INCLUDING CEQA FINDINGS.

THOMAS ROTHMANN
NAME (PRINTED)

Thomas Rothmann
SIGNATURE