

ITEM No. 18

MOTION

I MOVE that the matter of Discussion and Consideration of Ordinance First Consideration, Reports, and Motions relative to amending the Los Angeles Municipal Code to establish regulations regarding medical marijuana collectives, Item No. 18 on today's Council Agenda (CF 08-0923) BE AMENDED as follows:

1. Amend the Ordinance as follows:

Modify Registration, Sec. 45.19.6.2E, as follows:

E. Registration Form. Modify to include in the registration form – “Upon collectives becoming a nuisance, the names of all persons who are members of the collective;” and to modify the last sentence – “In addition, the registration form shall confirm the consent by the collective, without requirement for a search warrant, subpoena or court order, for the inspection and copying by the Police Department of the recordings and records required to be maintained under Sections 45.19.6.3B.1 and 45.15.6.4 of this article.”

Modify accordingly Sec. 45.19.6.5 (Inspection and Enforcement Responsibilities) to be consistent with deletion of reference to records & Sec. 45.15.6.4. to read as follows:

Modify the second sentence to read as follows: In addition, the Police Department may enter and inspect the location of any collective and the recordings maintained pursuant to Section 45.19.6.3 and 45.19.6.4 of this article between the hours of 10am and 8pm, or at any reasonable time, to ensure compliance with Sections 45.19.6.2, 45.19.6.3B, 45.19.6.4, 45.19.6.6, 45.19.6.7 and 45.19.6.8 of this article.

Modify the third sentence to read as follows: It is unlawful...to refuse to allow, impede, obstruct or interfere with a valid inspection, review or copying of records and of closed-circuit monitoring authorized...or monitoring.”

Modify Regulations, Sec. 45.19.6.3A1, Preinspection Requirements, as follows:

Delete Preinspection Requirement #A1 (Defer to address in the land use component).

Modify Preinspection Requirements, Sec. 45.19.6.3A2 as follows:

No collective shall abut or be located across the street or alley from or have a common corner with a property improved with an exclusively residential building.

Modify Preinspection Requirements, Sec. 45.19.6.3A3 as follows:

No collective shall be located within a 500-foot radius of a school, public park, public library, religious institution, child care center, youth center, substance abuse rehabilitation center or within 1,000-foot radius of any other collectives to the closest property line of the lot on which the collective is located without regard to intervening structures;

Modify Conditions of Operation, Sec. 45.19.6.3B15 as follows:

To be consistent with the Joint Cte. Action on the sales & reimbursements issue under operation standard#6, delete operation standard #15 because no longer necessary.

DELETE entire operation standard#15 which reads as follows: “Nothing in this article shall prevent members engaged in the collective cultivation of medical marijuana in strict accordance with this article from sharing the actual, out-of-pocket costs of their collective cultivation. Actual, out-of-pocket costs shall not be recovered through the sale of marijuana. Nothing in this article shall pertain to or affect the reimbursements from qualified patients to their primary caregivers pursuant to California Health and Safety Code Section 11362.765.”

Modify Conditions of Operation, Sec. 45.19.6.3B8, to delete the language that specifies a specific amount and instead reference the state law and keep the rest.

Delete entire existing language and replace with the following:

No medical marijuana collective shall possess more dried marijuana plants of any size on the property than that permitted pursuant to state law, SB420 section 11362.77.

Technical Amendment: Modify Conditions of Operation, Sec. 45.19.6.3B14, to add clarifying sentences at the end relative to how background checks are to be processed.

Only members of the collective may be engaged in the management of the collective. A person who has been convicted within the previous 10 years of a felony or a crime of moral turpitude, or who is currently on parole or probation for the sale or distribution of a controlled substance, shall not be engaged directly or indirectly in the management of the collective and, further, shall not manage or handle the receipts and expenses of the collective. Verification shall be processed according to the US Department of Justice guidelines. Clearance of passing the background investigation shall be received by LAPD.

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City Resources / Effectiveness of the Ordinance

Amend the ordinance to include language that make the ordinance effective upon the fees becoming effective.

2. Instruct the CAO, CLA, LAPD, and Department of Building & Safety to report by March 2010 with a draft fee ordinance relative to establishing a Proactive Annual Inspection Program through the creation of a task force.

3. Instruct the Planning Department, in consultation with, the City Attorney and CLA to promptly prepare and present an ordinance on the land use and zoning aspects as detailed in the attached further proposed revisions (including addressing the request to add more discretionary review process into the permitting process); Planning to include analysis and recommendations when considering factors for discretionary review of on-site consumption and up to max 20% deviation from the distance requirements; Instruct planning to bring back the radius citywide map for 500' and 1000' from sensitive uses and certain zones along with analysis and recommendations that renders reasonable amount of acreage for locating of the medical marijuana collectives/cooperatives; Further instruct planning to include analysis and recommendations on establishing a cap on the number of collectives by LAPD Station area within the City.

4. Instruct the CAO, working in conjunction with, the CLA and relevant City departments to develop a fee study with regards to administration, implementation, enforcement of the revised City Attorney ordinance.; Instruct CAO working in conjunction with the CLA and relevant City departments to investigate the ability to implement a taxing scheme related to revised city attorney ordinance; Instruct CAO to bring back a report and ordinance for council action before the December 2009 holiday Council recess.

5. Instruct the Department of Building and Safety, the Police Department, the CLA and any other relevant city departments to form an intergovernmental Taskforce between the State of California, the County of Los Angeles, and the City to ensure communication, proper monitoring and enforcement; and to create an auditing mechanism for collectives to ensure no profits.

PRESENTED BY: _____

ED P. REYES
Councilman, 1st District

SECONDED BY: _____

November 18, 2009

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Medical Marijuana Collective Ordinance – required changes to the Planning and Zoning Code.

Definitions.

“Medical Marijuana Collective.” Xxxxx (Planning to define)

“Sensitive Uses.” Xxxx (Planning to revise or create new definition as needed)

Permitted Zoning Districts. Medical Marijuana Collectives may be permitted upon approval of a MMC Permit only within the following zones: C2, C4, C5, M1, M2, and M3.

Location Standards. The following location standards shall apply to Medical Marijuana Collectives and a building permit shall not be issued unless the MMC conforms to these standards:

- * A Medical Marijuana Collective shall not be established or located within 1000 feet of another permitted Medical Marijuana Collective, smoke shops which sell paraphernalia for consuming drug or tobacco products, any school, daycare, nursery, playground, park, library, or property zoned, planned, or otherwise designated for such use, or any Sensitive Use.

For 1 year after the effective date of this ordinance – A Medical Marijuana Collective shall not be established or located within 1000 feet of any establishment which was registered with the Los Angeles City Clerk’s office in accordance with the Interim Control Ordinance No. 179,027 before November 12, 2007.

Site/Building/Planning/Zoning Standards. The following standards shall apply to Medical Marijuana Collectives and a building permit shall not be issued unless the MMC conforms to these standards:

1. A Lobby/Waiting Area accessed from the street entrance of the establishment, of at least 250 square feet in size.
2. A Distribution Area, separated from the Lobby/Waiting Area and any Social Service Area by a lockable door and not accessible from the street entrance of the establishment, of at least 250 square feet in size. The Distributing Area shall be accessed by staff only.
3. If there is a Cultivation Area, it shall not be any greater than 25% of the gross floor area of the MMC. The Cultivation Area shall be within an enclosed building and any access points (doors or windows) shall be secured with locks or bars. The Cultivation area shall be served by the HVAC/Ventilation system for the MMC facility, not any HVAC/Ventilation system serving adjacent uses. Marijuana shall not be visible from the exterior of the building.

Attachment to CD1 Motion & List of Recommendations
Relative to Instruction to Planning for Follow-up on the Land Use / Zoning component
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4. Storage Area where Marijuana will be kept. This Storage Area shall be within an enclosed building and any access points (doors or windows) shall be secured with locks or bars. Marijuana shall not be visible from the exterior of the building.
5. If social services, including counseling, help with housing and meals, hospice and other care referrals, are provided on site, the Social Service Area shall be located adjacent to the Lobby/Waiting Area and separated from the Distribution Area.
6. Restrooms shall have operable locks. Consumption in restrooms shall be prohibited.
7. A HVAC/Ventilation system dedicated only to the MMC establishment and no other adjacent use. Controls for the HVAC/Ventilation system shall be located within the MMC establishment.
8. If on-site consumption is proposed, the Consumption Area shall be located adjacent to the Lobby/Waiting Area and separated from both the Distribution Area and any Social Service Area. The Consumption Area shall be served by the HVAC/Ventilation system for the MMC facility, not any HVAC/Ventilation system serving adjacent uses.
9. If the MMC dispenses consumable Medical Marijuana products (including, but not limited to, lollipops, brownies, cookies, ice cream, etc.), such products shall be pre-packaged. On-site preparation of consumable products is prohibited. Consumption of such products must be incidental to the distribution of medical marijuana and not a primary use.
10. Physician service shall not be provided on the premise. "Physician services" does not include social services, including counseling, help with housing and meals, hospice and other care referrals which may be provided on site.
11. Exterior signage shall consist of and be limited to site addressing, name of business, and emergency contact information including a name and phone number. Advertising of the goods and/or services shall be prohibited. Marijuana shall not be visible from the exterior of the building.
12. Interior signage in the Lobby/Waiting Area shall consist of the following:
 - a. If on-site consumption is not proposed, a sign stating "Smoking, ingesting or consuming marijuana within this building, in the parking area, or within 200 feet of this building or the parking area is prohibited at all times. Any violation of this can cause a revocation this dispensary's license to operate." Lettering on this sign shall be at least 0.5 inches in height.
 - b. If on-site consumption is proposed, a sign stating "Smoking, ingesting or consuming marijuana in any other part of this building than the Consumption Area, in the parking area, or within 200 feet of this building or the parking area is prohibited at all times. Any violation of this can cause a revocation of this collective's license to operate." Lettering on this sign shall be at least 0.5 inches in height.
 - c. A sign stating "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).” Lettering on this sign shall be at least 0.5 inches in height.
- d. A posting of the written notice given to all registered members, upon registration, detailing the operational requirements of the Collective. The posting shall be enlarged so that lettering is at minimum 0.3 inches in height.
 - e. A posting of emergency contact information including a name and phone number.
 - f. A posting of all applicable permits, including the Medical Marijuana Collective Permit.
 - i. If the MMC distributes consumable Medical Marijuana products (including, but not limited to, lollipops, brownies, cookies, ice cream, etc.), a posting of Los Angeles County Department of Health Services permit and approval for handling food products.
13. A covenant requirement (Planning to define).
14. The Collective may only be open between the hours of 9:00 a.m. and 8:00 p.m., Monday through Sunday.
15. No MMC shall sell, store, or distribute alcoholic beverages. Consumption of alcoholic beverages on site is prohibited.
16. During hours of business, no more than 10% of exterior windows shall be covered with material of any type, except for any security bars which are required by this section.
17. During hours of business the public entrance of the MMC from the street into the lobby/waiting area, shall not be obstructed for any reason.
18. The MMC shall install a security system, including cameras which cover at minimum the Lobby/Waiting Area, the Distribution Area, the Social Service Area (if any), the Storage Area, any adjacent Parking Area and all doors and windows.

Parking Requirements. For the purposes of planning and zoning requirements, Medical Marijuana Dispensaries shall be considered a Retail Use and parking requirements for MMCs shall be equal to the Retail Use requirement.

Variances and Deviations. MMCs may not apply for or obtain any variances from this Code.