



OFFICE OF THE CITY ATTORNEY
ROCKARD J. DELGADILLO
CITY ATTORNEY

REPORT NO. R09-0218

JUN 15 2009

REPORT RE:

**DRAFT OF ORDINANCE AMENDING THE MEDICAL MARIJUANA DISPENSARIES
INTERIM CONTROL ORDINANCE TO EXTEND THE PROVISIONS OF ORDINANCE
NO. 179027 UNTIL MARCH 15, 2010, AND DELETE THE HARDSHIP EXEMPTION**

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. 09-0964

Honorable Members:

Attached to this report is a final draft ordinance, approved as to form and legality, extending the existing Medical Marijuana Interim Control Ordinance, Ordinance No. 179027, until March 15, 2010, and deleting the hardship exemption. This ordinance has been disapproved by the Director of Planning on behalf of the City Planning Commission with a recommendation that it not be enacted. We note that a vote of not less than three-fourths of the members of Council is required to pass this ordinance.

Charter Findings

Pursuant to Charter Section 559, the Director of Planning has disapproved this draft ordinance on behalf of the City Planning Commission and recommended that you not adopt it. Should you adopt this ordinance, you may comply with the provisions of Charter Section 558 by either adopting the findings of the Director of Planning as set forth in her letter dated June 12, 2009, or by making your own findings.

Council Rule 38 Referral

A copy of the final draft of ordinance was sent, pursuant to Council Rule 38, to the Department of Building and Safety for its comments. The Department reports that it has no objections to the draft ordinance.



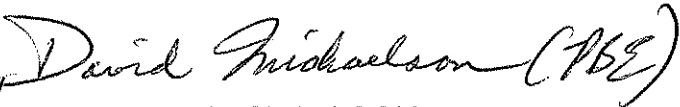
CEQA Findings

Regarding a finding pursuant to the California Environmental Quality Act (CEQA), the Department of Planning determined that the draft ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) and Article II, Section 1, Subsection (m) of the City of Los Angeles CEQA Guidelines because it will not have a negative impact on the physical environment because it will temporarily prohibit any new medical marijuana dispensary citywide while permanent legislation is developed to appropriately regulate their establishment. If you concur, you must take these actions and make these findings prior to or concurrent with your action on the ordinance.

If you have any questions regarding this matter, please contact Assistant City Attorney Jeri L. Burge at (213) 978-8233. She or another member of this office will be available to answer any questions you may have when you consider this matter.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By  (769)

DAVID MICHAELSON
Chief Assistant City Attorney

DM:JLB: pj
Transmittal

ORDINANCE NO. _____

An ordinance amending Ordinance No. 179027, commonly referred to as the Medical Marijuana Dispensaries Interim Control Ordinance.

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

Section 1. The first unnumbered paragraph of Section 2 of Ordinance No. 179027 is amended to read:

Notwithstanding any provisions of the LAMC to the contrary, for the period from the effective date of this ordinance until March 15, 2010, or until a permanent ordinance is adopted which establishes citywide regulations regarding Medical Marijuana Dispensaries, whichever occurs first:

Sec. 2. Section 4 of Ordinance No. 179027 is deleted.

Sec. 3. Section 5 of Ordinance No. 179027 is amended to read:

Sec. 5. ENFORCEMENT. The enforcement provisions set forth in LAMC Section 11.00 (l) and (m) shall apply to any violation of the provisions of this ordinance.

Sec. 4. URGENCY CLAUSE. The City Council finds and declares that this ordinance is required for the immediate preservation of the public peace, health and safety for the following reasons. Ordinance No. 179027 prohibited the establishment of new Medical Marijuana Dispensaries unless a hardship exemption was adopted by the City Council. During the pendency of Ordinance No. 179027 several hundred Medical Marijuana Dispensaries filed requests for hardship exemptions with the City Clerk's Office. The effect of all of these requests for hardship exemption is to encourage the unregulated proliferation of Medical Marijuana Dispensaries. The recommendations of a permanent ordinance reflecting the spirit and intent of the Compassionate Use Act could be undermined if new dispensaries are allowed. The number of dispensaries operating within the City is escalating. The Los Angeles Police Department has received complaints from neighbors, business owners, and concerned citizens regarding the negative impacts of dispensaries, including flyers, leaflets and stickers advertising dispensaries being placed on school grounds; smoking marijuana outdoors within 1,000 feet from schools; operating near sensitive uses; and constant activity around dispensaries at all hours. Citizens have raised concerns that children will have access to marijuana for recreational use, and that there will be an increase in crime particularly in areas in close proximity to residences, schools, places of worship and other sensitive uses, as well as concerns regarding a lack of regulations for the hours of operation. Without regulations for the location of a dispensary and hours of operation, the result has been the establishment of dispensaries in close proximity to sensitive uses operating at all hours. This ordinance will delete the hardship exemption provision

of Ordinance No. 179027 in order to prevent unregulated proliferation of new dispensaries and provide the City time to develop regulations relative to distances from sensitive uses, hours of operation, compatibility to surrounding uses, and other related land use issues.

Sec. 5. 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, by a vote of **not less than three-fourths** of all of its members, at its meeting of

JUNE LAGMAY, City Clerk

By _____ Deputy

Approved _____

Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By Jeri L. Burge
JERI L. BURGE
Assistant City Attorney

Date June 15, 2009

Pursuant to Charter Section 559, I **disapprove** this ordinance on behalf of the City Planning Commission and recommend that it not be adopted

June 15, 2009

See attached report.

S. Gail Goldberg
S. Gail Goldberg
Director of Planning

File No. CF No. 09-0964

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June 12, 2009

Council File No. 09-0964
CPC Case No. CPC-2007-0280-ICO

The Honorable Rockard J. Delgadillo
City Attorney
City Hall East, 7th Floor
200 North Main Street
Los Angeles, California 90012

Attention: Sharon Siedorf Cardenas
Assistant City Attorney

**RE: Draft of Ordinance Amending the Medical Marijuana Dispensaries
Interim Control Ordinance to Extend the Provisions of Ordinance No.
179,027 until March 15, 2010 and Delete the Hardship Exemption**

Dear Mr. Delgadillo:

Transmitted is a proposed draft Interim Control Ordinance (ICO) pertaining to medical marijuana uses. The proposed ordinance was prepared pursuant to a report from the Planning and Land Use Management (PLUM) Committee that was adopted by the City Council on June 9, 2009. The attached proposed ordinance amends Ordinance No. 179,027, approved by the City Planning Commission on March 22, 2007, by extending the date of expiry until March 15, 2010, and deleting the hardship exemption provision.

ENVIRONMENTAL IMPACT

The proposed ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) and City Guidelines for the implementation

thereof pursuant to Article II, Section 2, Subsection (m) of the City of Los Angeles CEQA Guidelines. The proposed ordinance will not have a negative impact on the physical environment, it will temporarily prohibit any new medical marijuana dispensaries citywide while new legislation can be developed appropriately regulating their establishment. As such, it will have no impact on the environment.

FINDINGS

1. In accordance with Charter Section 556, the attached, proposed ordinance is in substantial conformance with the purposes, intent and provisions of the City's General Plan, and will have a beneficial effect upon said plans as this ordinance will allow the time needed to develop appropriate regulations and standards that enhance compatibility and quality guidelines promoting Citywide General Plan Framework Element Goal 5-A: to develop "a livable City for existing and future residents and one that is attractive to future investment"; The proliferation of medical marijuana dispensaries in the City of Los Angeles has served as a negative influence and has adversely affected neighborhoods throughout the City; and
2. In accordance with Charter Section 558 (b) (2), the attached, proposed ordinance is in substantial conformance with the public necessity, convenience, general welfare, and good zoning practice, as it supports the General Plan Framework Element Policy P - 18, to "amend the Zone Ordinance to implement the policies and standards of the General Plan;" as the temporary ordinance is intended to mitigate potentially irreversible adverse impacts on the surrounding environment of the City of Los Angeles, while a permanent ordinance with standards and regulations is developed; and
3. In accordance with Charter Section 558 (b) (2), the attached, proposed ordinance is directly related to the General Plan, specific plans or other plans being prepared by the Planning Department in that it will further improve the physical environment of the City of Los Angeles by imposing a temporary prohibition on the establishment of medical marijuana dispensaries that could be associated with criminal activity or other negative behavior because it furthers the goal, and policy set forth above.

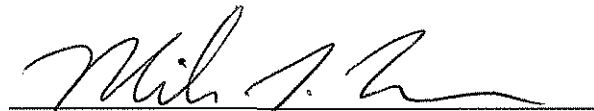
CHARTER SECTION 559

As provided under the authority of Charter Section 559, City Plan Case No. 13505-A, and the City Planning Commission Resolution of August 11, 2000, despite the foregoing findings, I disapprove the attached, proposed ordinance as the language contained therein is not substantially the same as that approved by the City Planning Commission on March 22, 2007. Further, I recommend that it

not be adopted by the City Council and find that my action conforms to all applicable portions of the General Plan.

Very truly yours,

S. GAIL GOLDBERG, AICP
Director of Planning

A handwritten signature in black ink, appearing to read "Mich. J. Logrande", written over a horizontal line.

MICHAEL LOGRANDE
Chief Zoning Administrator

GG:VB:ML:AB:DM

Attachment: Proposed Interim Control Ordinance