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April 5, 2006

Agenda No. 6
03/28/06

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: Ordinance Amending Title 22 - Planning and Zoning Relating to the Regulation of Establishment of Medical Marijuana Dispensaries

Dear Supervisors:

On March 28, 2006, your Board instructed our office to prepare a final ordinance to amend Title 22 of the Los Angeles County Code to establish regulations and use and development standards for medical marijuana dispensaries. As instructed, enclosed are the analysis and ordinance for your consideration and adoption. The ordinance includes the amendments approved at the hearing.

Very truly yours,

RAYMOND G. FORTNER, JR.
County Counsel

By
ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:

RAYMOND G. FORTNER, JR.
County Counsel

EML:di

Enclosures

HOA.357337.1

ANALYSIS

This ordinance amends Title 22 - Planning and Zoning of the Los Angeles County Code to establish regulations and use and development standards for medical marijuana dispensaries.

RAYMOND G. FORTNER, JR.
County Counsel

By
ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

EML:di

2/01/06 (requested)

3/30/06 (revised)

346685_2

ORDINANCE NO. _____

An ordinance amending Title 22 - Planning and Zoning of the Los Angeles County Code to regulate the establishment of medical marijuana dispensaries.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 22.08.130 is hereby amended to add the following definition in alphabetical order to read as follows:

22.08.130 M.

. . .

-- "Medical marijuana dispensary" means any facility or location which distributes, transmits, gives, or otherwise provides medical marijuana to qualified patients or primary caregivers in accordance with California Health and Safety Code section 11362.5 through section 11362.83, inclusive, commonly referred to as the Compassionate Use Act of 1996 and the Medical Marijuana Program.

. . .

SECTION 2. Subsections A of Sections 22.28.110, 22.28.160, 22.28.210, and 22.28.260 are hereby amended to add to the list of uses subject to permits in zones C-1, C-2, C-3, and C-M in alphabetical order as follows:

. . .

-- Medical marijuana dispensaries, subject to the requirements of Sections 22.56.085 and 22.56.196.

. . .

SECTION 3. Subsection A of Section 22.32.130 and subsection A.4 of Section 22.32.190 are hereby amended to add to the list of uses subject to permits in Zones M-1½, M-2, and M-4 in alphabetical order as follows:

. . .

-- Medical marijuana dispensaries, subject to the requirements of Sections 22.56.085 and 22.56.196.

. . .

SECTION 4. Subsection A of Section 22.56.085 is hereby amended to read as follows:

22.56.085 Grant or denial of minor conditional use permit by director.

A. Any person filing an application for a conditional use permit may request the director to consider the application in accordance with this section for the following uses:

-- Medical marijuana dispensaries, subject to the requirements of Section 22.56.196.

-- Wind energy conversion system, non-commercial (WECS-N).

SECTION 5. Section 22.56.196 is added to read as follows:

22.56.196 Medical marijuana dispensaries.

A. Purpose. This section is established to regulate medical marijuana dispensaries in a manner that is safe, that mitigates potential impacts dispensaries may have on surrounding properties and persons, and that is in conformance with the provisions of California Health and Safety Code section 11362.5 through

section 11362.83, inclusive, commonly referred to as the Compassionate Use Act of 1996 and the Medical Marijuana Program.

B. Minor conditional use permit required. The establishment and operation of any medical marijuana dispensary requires a minor conditional use permit in compliance with the requirements of Section 22.56.085 and this section.

C. Application procedure.

1. County department review. In addition to ensuring compliance with the application procedures specified in Sections 22.56.020, 22.56.030, 22.56.040, 22.56.050, and 22.56.085, the director shall send a copy of the application and related materials to the department of health services, sheriff's department, business license commission, and all other relevant county departments for their review and comment.

2. Disclaimer. A warning and disclaimer shall be put on medical marijuana zoning application forms and shall include the following:

a. A warning that dispensary operators and their employees may be subject to prosecution under federal marijuana laws; and

b. A disclaimer that the county will not accept any legal liability in connection with any approval and/or subsequent operation of a dispensary.

D. Findings. In addition to the findings required in Section 22.56.090, approval of a minor conditional use permit for a medical marijuana dispensary shall require the following findings:

1. That the requested use at the proposed location will not adversely affect the economic welfare of the nearby community;

2. That the requested use at the proposed location will not adversely affect the use of any property used for a school, playground, park, youth facility, child care facility, place of religious worship, or library;

3. That the requested use at the proposed location is sufficiently buffered in relation to any residential area in the immediate vicinity so as not to adversely affect said area; and

4. That the exterior appearance of the structure will be consistent with the exterior appearance of structures already constructed or under construction within the immediate neighborhood, so as to prevent blight or deterioration, or substantial diminishment or impairment of property values within the neighborhood.

E. Conditions of Use. The following standards and requirements shall apply to all medical marijuana dispensaries unless a variance is granted pursuant to Part 2 of Chapter 22.56:

1. Location.

a. Dispensaries shall not be located within a 1,000-foot radius of schools, playgrounds, parks, libraries, places of religious worship, child care facilities, and youth facilities, including but not limited to youth hostels, youth camps, youth clubs, etc., and other similar uses.

b. Dispensaries shall not be located within a 1,000-foot radius of other dispensaries.

2. Signs.

a. Notwithstanding the wall sign standards specified in subsection A of Section 22.52.880, dispensaries shall be limited to one wall sign not to exceed 10 square feet in area.

b. Notwithstanding the building identification sign standards specified in subsection A.3 of Section 22.52.930, dispensaries shall be limited to one building identification sign not to exceed two square feet in area.

c. Notwithstanding the provisions of subsection E of Section 22.52.880 and subsection C of Section 22.52.930, dispensary wall and building identification signs may not be internally or externally lit.

d. All dispensaries shall display on their wall sign or identification sign, the name and emergency contact phone number of the operator or manager in letters at least two inches in height.

e. Dispensaries shall post a legible indoor sign in a conspicuous location containing the following warnings:

i. That the diversion of marijuana for non-medical purposes is a violation of state law;

ii. That the use of medical marijuana may impair a person's ability to drive a motor vehicle or operate machinery; and

iii. That loitering on and around the dispensary site is prohibited by California Penal Code section 647(e).

3. Hours of Operation. Dispensary operation shall be limited to the hours of 7:00 a.m. to 8:00 p.m.

4. Lighting.

a. Lighting shall adequately illuminate the dispensary, its immediate surrounding area, any accessory uses including storage areas, the parking lot, the dispensary's front façade, and any adjoining public sidewalk to the director's satisfaction.

b. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

5. Graffiti. The owner(s) of the property on which a dispensary is located shall remove graffiti from the premises within 24 hours of its occurrence.

6. Litter. The owner(s) of a property on which a dispensary is located shall provide for removal of litter twice each day of operation from, and in front of, the premises.

7. Alcohol prohibited. Provision, sale, or consumption of alcoholic beverages on the grounds of the dispensary, both interior and exterior, shall be prohibited.

8. Edibles. Medical marijuana may be provided by a dispensary in an edible form, provided that the edibles meet all applicable county requirements. In addition, any beverage or edible produced, provided, or sold at the facility which contains marijuana shall be so identified, as part of the packaging, with a prominent and clearly legible warning advising that the product contains marijuana and that is to be consumed only with a physician's recommendation.

9. On-site consumption. Medical marijuana may be consumed on-site only as follows:

a. The smoking of medical marijuana shall be allowed provided that appropriate seating, restrooms, drinking water, ventilation, air purification system, and patient supervision are provided in a separate room or enclosure; and

b. Consumption of edibles by ingestion shall be allowed subject to all applicable county requirements.

10. Devices for inhalation. Dispensaries may provide specific devices, contrivances, instruments, or paraphernalia necessary for inhaling medical marijuana, including, but not limited to, rolling papers and related tools, pipes, water pipes, and vaporizers. The above may only be provided to qualified patients or primary caregivers and only in accordance with California Health and Safety Code section 11364.5.

11. Security. Dispensaries shall provide for security as follows:

a. An adequate and operable security system that includes security cameras and alarms to the satisfaction of the director; and

b. A licensed security guard present at all times during business hours. All security guards must be licensed and possess a valid department of consumer affairs "security guard card" at all times.

12. Cultivation and cuttings. Marijuana shall not be grown at dispensary sites, except that cuttings of the marijuana plant may be kept or maintained on-site for distribution to qualified patients and primary caregivers as follows:

a. The cuttings shall not be utilized by dispensaries as a source for the provision of marijuana for consumption on-site, however, upon provision to a qualified patient or primary caregiver, that person may use the cuttings to cultivate marijuana plants off-site for their own use and they may also return marijuana from the resulting mature plant for distribution by the dispensary.

b. For the purposes of this Section, the term "cutting" shall mean a rootless piece cut from a marijuana plant, which is no more than six inches in length, and which can be used to grow another plant in a different location.

13. Loitering. Dispensaries shall ensure the absence of loitering consistent with California Penal Code section 647(e).

14. Distribution of emergency phone number. Dispensaries shall distribute the name and emergency contact phone number of the operator or manager to anyone who requests it.

15. Minors. It shall be unlawful for any dispensary to provide medical marijuana to any person under the age of 18 unless that person is a qualified patient or is a primary caregiver with a valid identification card in accordance with California State Health and Safety Code section 11362.7.

16. Compliance with other requirements. Dispensaries shall comply with applicable provisions of the California Health and Safety Code section 11362.5 through section 11362.83, inclusive, and with all applicable county requirements.

17. Additional conditions. Prior to approval of any dispensary, the director, hearing officer, or the regional planning commission may impose any other

conditions deemed necessary for compliance with the findings specified in subsection D of this section.

18. Release of the county from liability. The owner(s) and permittee(s) of each dispensary shall release the county, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from any arrest or prosecution of dispensary owners, operators, employees, or clients for violation of state or federal laws in a form satisfactory to the director.

19. County indemnification. The owner(s) and permittee(s) of each dispensary shall indemnify and hold harmless the county and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary, and for any claims brought by any of their clients for problems, injuries, damages or liabilities of any kind that may arise out of the distribution and/or on- or off-site use of marijuana provided at the dispensary in a form satisfactory to the director.

F. Previously existing dispensaries. Notwithstanding the provisions of Part 10 (Nonconforming Uses, Buildings and Structures) of Chapter 22.56, dispensaries determined not to be operating illegally which were established prior to the effective date of this ordinance, shall be brought into full compliance with the provisions of this section within one year of the effective date of the ordinance establishing this section.

G. Liability. The provisions of this Section shall not be construed to protect dispensary owners, permittees, operators, and employees, or their clients from prosecution pursuant to any laws that may prohibit the cultivation, sale, use, or

possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of marijuana remain violations of federal law as of the date of adoption of the ordinance creating this section and this section is not intended to, nor does it, protect any of the above described persons from arrest or prosecution under those federal laws. Owners and permittees must assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from operation of a medical marijuana dispensary. Further, to the fullest extent permitted by law, any actions taken under the provisions of this section by any public officer or employee of the County of Los Angeles or the County of Los Angeles itself, shall not become a personal liability of such person or the liability of the county.

SECTION 6. Upon the effective date of this ordinance, Interim Ordinance No. 2005-0042U as extended by Interim Ordinance No. 2005-0059U, shall terminate and shall be of no further force and effect.

[Title22-MMD-ELCC]