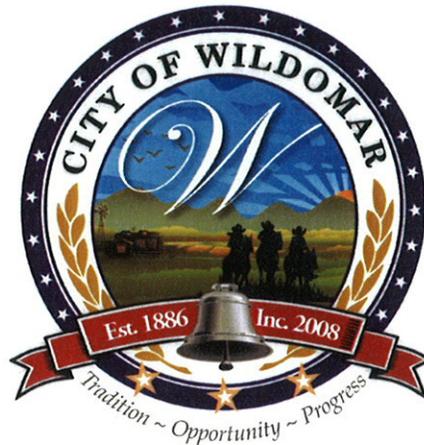


CITY OF WILDOMAR CITY COUNCIL
AGENDA

7:00 P.M. – REGULAR MEETING

APRIL 28, 2010
Council Chambers
23873 Clinton Keith Road



Bridgette Moore, Mayor
Marsha Swanson, Mayor Pro Tem
Sheryl Ade, Council Member
Bob Cashman, Council Member
Scott Farnam, Council Member

City Manager
Frank Oviedo

City Attorney
Julie Hayward Biggs

WILDOMAR CITY COUNCIL REGULAR MEETING AGENDA APRIL 28, 2010

ORDER OF BUSINESS: Public sessions of all regular meetings of the City Council begin at 7:00 P.M. Closed Sessions begin at 6:00 P.M. or such other time as noted.

REPORTS: All agenda items and reports are available for review at: Wildomar City Hall, 23873 Clinton Keith Road; Mission Trail Library, 34303 Mission Trail Blvd.; and on the City's website, www.cityofwildomar.org. Any writings or documents provided to a majority of the City Council regarding any item on this agenda (other than writings legally exempt from public disclosure) will be made available for public inspection at City Hall during regular business hours.

PUBLIC COMMENTS: Prior to the business portion of the agenda, the City Council will receive public comments regarding any agenda items or matters within the jurisdiction of the governing body. This is the only opportunity for public input except for scheduled public hearing items. The Mayor will separately call for testimony at the time of each public hearing. If you wish to speak, please complete a "Public Comment Card" available at the Chamber door. The completed form is to be submitted to the City Clerk prior to an individual being heard. Lengthy testimony should be presented to the Council in writing (10 copies) and only pertinent points presented orally. The time limit established for public comments is three minutes per speaker.

ADDITIONS/DELETIONS: Items of business may be added to the agenda upon a motion adopted by a minimum 2/3 vote finding that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the agenda being posted. Items may be deleted from the agenda upon request of staff or upon action of the Council.

CONSENT CALENDAR: Consent Calendar items will be acted on by one roll call vote unless Council members, staff, or the public request the item be discussed and/or removed from the Consent Calendar for separate action.

PLEASE TURN ALL CELLULAR DEVICES TO VIBRATE OR OFF FOR THE DURATION OF THE MEETING. YOUR COOPERATION IS APPRECIATED.

CALL TO ORDER

ROLL CALL

MOMENT OF SILENCE

FLAG SALUTE

Boy Scout Troop 604

PRESENTATIONS

Proclamation - Mormon Helping Hands Day - May 8, 2010

William Collier Students and Boy Scout Pack 332 Recycling Projects

Presentation to Scott Nowak, Outgoing Planning Commissioner

PUBLIC COMMENTS

This is the time for citizens to comment on issues not listed on the agenda. Under the provisions of the Brown Act, the City Council is prohibited from discussing or taking action on items not listed on the agenda. Each speaker is asked to fill out a "Public Comments Card" (located on the table by the Chamber door) and give the card to the City Clerk prior to the start of the meeting. Comments are limited to three (3) minutes per speaker. The Council encourages citizens to address them so that questions and/or concerns can be heard.

APPROVAL OF THE AGENDA AS PRESENTED

1.0 CONSENT CALENDAR

All matters listed under the Consent Calendar are considered routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the Council, the public, or staff request specific items be removed from the Consent Calendar for discussion and/or separate action.

1.1 Reading of Ordinances

RECOMMENDATION: Approve the reading by title only of all ordinances.

1.2 Minutes – April 14, 2010 Regular Meeting

RECOMMENDATION: Approve the Minutes as submitted.

1.3 Warrant Register

RECOMMENDATION: Approve Warrant Register dated April 21, 2010 in the amount of \$31,670.00.

1.4 Treasurer's Report – March 2010

RECOMMENDATION: That the City Council approve the Treasurer's Report for March, 2010.

1.5 Second Reading of Ordinance No. 49 – Zoning Ordinance Amendment 10-01 – Rural Residential Zone Building Setbacks

RECOMMENDATION: Staff recommends that the City Council adopt an Ordinance entitled:

ORDINANCE NO. 49
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
WILDOMAR, CALIFORNIA, AMENDING CHAPTER 17.16 OF
MUNICIPAL CODE OF THE CITY OF WILDOMAR PERTAINING TO
BUILDING SETBACKS IN THE RURAL RESIDENTIAL ZONING
(ZONING CODE AMENDMENT 10-01)

2.0 PUBLIC HEARINGS

No Public Hearings scheduled.

3.0 GENERAL BUSINESS

3.1 FY2009/10 3rd Quarter Budget Report and FY2010/11 Budget Program

RECOMMENDATION: That the City Council:

1. Receive and review the FY 2009/10 3rd Quarter Budget Report; and
2. Discuss the City's Visions and provide implementation concepts/strategies for FY2010/11 Budget planning.

3.2 Medical Marijuana Dispensary Educational Report

RECOMMENDATION: That the City Council accept the Medical Marijuana Dispensary Educational Report as a Receive and File, and, if appropriate, provide further direction to Staff.

CITY MANAGER REPORT

CITY ATTORNEY REPORT

COUNCIL COMMUNICATIONS

FUTURE AGENDA ITEMS

ADJOURNMENT

2010 City Council Regular Meeting Schedule

May 12	September 8
May 26	September 22
June 9	October 13
June 23	October 27
July 14	November 10
July 28	November 24
August 11	December 8
August 25	December 22

If requested, the agenda and backup materials will be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans With Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

Any person that requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting, may request such modification, accommodation, aid or service by contacting the City Clerk either in person or by phone at (951) 677-7751, no later than 10:00 A.M. on the day preceding the scheduled meeting.

POSTING STATEMENT: On April 23, 2010, by 5:00 p.m., a true and correct copy of this agenda was posted at the three designated posting locations:
Wildomar City Hall, 23873 Clinton Keith Road
U.S. Post Office, 21392 Palomar Street
Mission Trail Library, 34303 Mission Trail Blvd

**CITY OF WILDOMAR
CITY COUNCIL REGULAR COUNCIL MEETING MINUTES
APRIL 14, 2010**

The regular meeting of April 14, 2010, of the Wildomar City Council was called to order by Mayor Moore at 7:00 p.m.

City Council Roll Call showed the following Members in attendance: Mayor Moore, Mayor Pro Tem Swanson, Council Members Ade, Cashman, and Farnam.

Staff in attendance: City Manager Oviedo, Assistant City Manager Nordquist, Assistant City Attorney Jex, Public Works Director Kashiwagi, Planning Director Hogan, Police Chief Cleary, and City Clerk Lee.

MOMENT OF SILENCE

A moment of silence was observed.

FLAG SALUTE

Boy Scouts Crew 912 presented colors and led the flag salute.

PRESENTATIONS

Mayor Moore presented certificates to children from Cornerstone Church who raised money for Haitian Support.

Agnes Rita, Librarian, introduced herself to the City as she is the new Librarian at the Mission Trail Library. She then gave an update of the Library.

Chief Beach was not available for the Fire Department monthly update.

Henry Silvestre presented the Chamber of Commerce monthly update.

PUBLIC COMMENTS

Henry Silvestre, Wildomar Rotary, invited everyone to the BBQ that will take place on April 17, 2010, at Marna O'Brien Park.

Doug Lech, resident, complimented the Police Department on their great service to the business owners and citizens of Wildomar. He contacted the Chief of Police regarding an incident at his business and within one week the individuals involved were arrested. He also encouraged more Neighborhood Watch groups.

Wayne Williams, We the People, stated they have CDs of the Town Hall meeting in Lake Elsinore regarding medical marijuana. He then left several copies for anyone interested.

Sunni Almond, Korrie's Pilates Place, thanked the City for their support of the Wishes for Children event. This year it will be held on May 22 and invited everyone to attend.

Gary Andre, resident, spoke regarding the State Water Resources Board on the new construction general permit. He urged the Council to have the speaker that was presenting the information to come to a future meeting to present this important information.

John Lloyd, Parks Committee, stated the committee has been together for many years and transitioned over after incorporation of the City. He thanked everyone for all the work done. Because the City really does not have the funds for a Parks and Recreation program, he feels the committee needs an energetic cheerleader to get volunteers involved and coordinate the efforts for parks and recreation. He has decided to step down from the committee as he feels there would be someone who could do this job better than he could.

Mayor Moore and Mayor Pro Tem Swanson, who also serve on the Parks and Recreation Committee, thanked Mr. Lloyd for his help and guidance over the last ten years.

Mr. Lloyd also expressed thanks to Code Enforcement for quick service regarding the illegal fruit vendors in the City.

Diane O'Malley, resident, (received donated time from Gina Castanon and Tim Underdown), spoke regarding a code of ethics which she urged the City Council to adopt.

APPROVAL OF THE AGENDA AS PRESENTED

A MOTION was made by Mayor Pro Tem Swanson, seconded by Council Member Farnam, to approve the agenda as presented.

Roll call vote: Ayes – 5; Nays – 0. Motion carried.

1.0 CONSENT CALENDAR

A MOTION was made, and amended, by Mayor Pro Tem Swanson, seconded by Council Member Farnam, to approve the Consent Calendar, with the exception of item #1.6, as presented.

Roll call vote: Ayes – 5; Nays – 0. Motion carried.

1.1 Reading of Ordinances

Approved the reading by title only of all ordinances.

1.2 Minutes – March 24, 2010 Regular Meeting

Approved the Minutes as submitted.

1.3 Warrant and Payroll Registers

Approved:

1. Warrant Register dated March 24, 2010, in the amount of \$200,391.65;
2. Warrant Register dated April 2, 2010, in the amount of \$199,221.94;
3. Warrant Register dated April 8, 2010, in the amount of \$90,551.78; and
4. Payroll Warrant Register dated April 2, 2010, in the amount of \$288.50.

1.4 Consultant Service Agreement with Psomas

Adopted:

RESOLUTION NO. 2010 – 15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR ASSESSMENT ENGINEERING SERVICES FOR COMMUNITY SERVICE AREAS 22, 142, AND 103 AND LANDSCAPE MAINTENANCE DISTRICT 2006-1 FOR A NOT-TO-EXCEED AMOUNT OF \$37,115.00

1.5 Planning Commission Vacancy

1. Accepted the resignation of Planning Commissioner Scott Nowak and declared a vacancy, effective April 23, 2010, on the Planning Commission; and
2. Directed the City Clerk to advertise the vacancy, starting April 23, 2010, for a period of 30 calendar days.

ITEMS REMOVED FROM THE CONSENT CALENDAR

1.6 Second Reading of Ordinance No. 48 – Kasiri-Nauert Zone Change

Council Member Cashman stated he opposed this at the first reading because he does not like approving things that have no definition. A Developer Agreement was discussed at the last reading and he would like to know how that would help in this situation.

Assistant City Attorney Jex stated he was not at the last meeting but the basics of a developer agreement is a contract in which they agree to certain things, such as construction deadlines, or elements of construction. The City agrees to such things as freezing impact fees should those go up.

ORDINANCE NO. 48

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AMENDING THE OFFICIAL ZONING MAP FOR THE CITY OF WILDOMAR FROM RURAL RESIDENTIAL (R-R) TO MANUFACTURING-SERVICE COMMERCIAL (M-SC) FOR PROPERTY LOCATED AT 36030 JANA LANE AND KNOWN AS ASSESSOR'S PARCEL NO. 380-290-008

A MOTION was made by Council Member Farnam, seconded by Mayor Pro Tem Swanson, to adopt Ordinance No. 48.

Roll call vote: Ayes – 3; Nays – 2, Council Members Ade and Cashman. Motion carried.

2.0 PUBLIC HEARINGS

2.1 Zoning Ordinance Amendment 10-01 - Rural Residential Zone Building Setbacks

City Clerk Lee presented an Ordinance entitled:

ORDINANCE NO. 49

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AMENDING CHAPTER 17.16 OF MUNICIPAL CODE OF THE CITY OF WILDOMAR PERTAINING TO BUILDING SETBACKS IN THE RURAL RESIDENTIAL ZONING (ZONING CODE AMENDMENT 10-01)

Which title was read.

Mayor Moore opened the public hearing.

City Planner Hogan presented the staff report.

SPEAKERS:

Gary Andre, resident, stated he spoke with the County Deputy Director regarding this. He then read information from the County regarding Rural Residential Zones and what the setbacks are.

There being no further speakers, Mayor Moore closed the public hearing.

Council Member Ade stated in the staff report it states there are no setbacks, yet they are on the County's website. She would like this tabled as she does not understand why this was done. This already existed within the Code the City adopted. The areas of concern are not half-acre and she feels it is not the appropriate way to approach this. She is also concerned about the percent buildable.

A MOTION was made by Council Member Ade, seconded by Council Member Cashman, to table the item.

Planning Director Hogan stated he has a copy of the zoning ordinance the City adopted and it has no setbacks. He added that buildable area and lot coverage are two different standards. The buildable area is the potential area to build on after you take out the building setbacks. The lot coverage standards are in place no matter what. The greater the buildable area, the more flexibility the owner has, and that is what prompted Staff to come forward with the item.

Discussion ensued regarding water, sewer, septic systems in various areas of the City including Cottonwood Canyon and Sedco Hills; consistency zoning;

Roll call vote: Ayes – 2; Nays – 3, Mayor Moore, Mayor Pro Tem Swanson, Council Member Farnam. Motion failed.

A MOTION was made by Council Member Farnam, seconded by Mayor Pro Tem Swanson, to introduce Ordinance No. 49, as amended: for lots 69 feet or less in width: front 20 feet, side 5 feet, rear 20 feet; For lots

greater than 70 feet wide: front 20 feet, side 5 & 10 feet, rear 20 feet.

Roll call vote: Ayes – 3; Nays – 2, Council Members Ade and Cashman.
Motion carried.

2.2 Zoning Ordinance Amendment 10-01 – Second Dwelling Units

Mayor Moore opened the public hearing.

City Planner Hogan presented the staff report.

Speakers:

Gary Andre, Planning Commissioner, stated he is not opposed to second units. He gave a handout to the City Council. He added that he worked with the County for years on the General Plan for this area prior to incorporation. He related how the City needs to preserve the integrity of ranch properties. He voted no on this at the Planning Commission because this is not what the people wanted, they wanted to keep the rural feel of the community.

Veronica Langworthy, resident, stated they would like to build a second unit, completely separate from the main house. She showed a picture of the type of unit she would like to build.

Greg Langworthy, resident, stated he understands the concerns of the City, but they are just under the 20,000 square foot lot size and they would like to build the second unit. He would like the Council to reconsider.

George Taylor, resident, stated he would like to clarify that this would not affect The Farm.

Planning Director Hogan verified that it is true.

There being no further speakers, Mayor Moore closed the public hearing.

Discussion ensued regarding variances for unusually shaped lots, such as the Langworthy property; businesses that would be home-based in second units; impacts on the community; environmental issues.

A MOTION was made by Council Member Farnam, seconded by Council Member Ade, to table this item to an undetermined date.

Roll call vote: Ayes – 3; Nays – 2, Council Members Ade and Cashman.
Motion carried.

3.0 GENERAL BUSINESS

3.1 Review and Approval of the Policy, Process and Procedures for Implementation of the Unpaved Roadway Enhancement Program – CIP 0013

City Engineer Kashiwagi presented the staff report.

Mayor Pro Tem Swanson inquired if a group of property owners wanted to get this done sooner, could they each put in a set amount of money per property to get their street done sooner.

City Engineer Kashiwagi answered the City would welcome that.

Council Member Ade inquired what happens when, during the five year assessment, the maintenance amount goes up.

City Engineer Kashiwagi answered that is one of the risks the City takes on and the City would have to take that on.

A MOTION was made by Mayor Pro Tem Swanson, second by Council Member Ade, to approve the Process and Procedures for Implementation of the Unpaved Roadway Enhancement Program – CIP 0013 and direct Staff to proceed with completion of an application form, posting and soliciting applications for potential projects on the City's web site, and bring back to the City Council a recommended list of unpaved roadway applications for further approval.

Roll call vote: Ayes – 5; Nays – 0. Motion carried.

3.2 City Council Meeting Norms

City Manager Oviedo presented the staff report.

There were no speakers present (Martha Bridges submitted a speaker form but was not present).

It was the consensus of the City Council for the following norms:

- * Time limits on Presentations at the beginning of the meeting
10 minutes maximum per presentation; 30 minutes total time for all presentations.
- * Time limits on Speakers
9 minutes total; maximum of 2 donations of time - list the names, and all donators must be present in the room at the time of speaking.
- * Scheduling of Closed Sessions
All closed sessions will be scheduled before the regular meeting.
- * Meeting time limitations and durations
The meeting is to last no longer than 10:00 p.m.; Should the Council still be session at 10:00 p.m., the Mayor will stop the meeting to inquire if the City Council would like to continue past the 10:00 p.m. limitation.

CITY MANAGER REPORT

City Manager Oviedo stated there was a traffic collision at Clinton Keith and Hidden Springs. As a result the signal was on flash for a while. There does appear to be damage to the signal as a result of the accident. The contractor who handles the signals in the City will be working on it tomorrow.

Discussion ensued regarding Caltrans not informing the City of the ramp closures, nor did they place the signs appropriately.

City Manager Oviedo stated staff will be meeting with FEMA tomorrow regarding the storm damage. He then commended Les Chapman, Public Works, regarding his handling of the water line that is going through on Palomar.

CITY ATTORNEY REPORT

There was nothing to report.

COUNCIL COMMUNICATIONS

Council Member Cashman stated he would like to be working on the budget, as a Council Member, rather than waiting until it is presented to the Council. He also commented on the Hospital and the fines being imposed on them.

Council Member Ade stated she is going to the SCAG General Assembly in May.

Council Member Farnam stated the California Transportation Commission unanimously approved for RCTC to move forward on the 91 Freeway expansion. Some money has been obtained on AB811 by WRCOG.

Mayor Pro Tem Swanson stated she had a teleconference meeting with PARSAC to close some considerable claims. She also attended the EVMWD art event. She voiced her thanks to John Lloyd for his service on the Parks Committee and also commended Community Services Director Willette for the success of the Farmer's Market.

Mayor Moore stated she agrees with Mayor Pro Tem Swanson regarding the Farmer's Market. She also attended the Art event. She did get pictures of the Census Baby who was born on April 1. She did go to The Storm baseball game on April 2 to recognize students who are involved in a recycling project. She attended a LEUSD meeting. She met with the Tobacco Coalition. She attended the VFW ceremony to re-present the Proclamation for Viet Nam Veterans. She encouraged everyone to attend the BBQ on Saturday. On May 15 there will be a bicycle safety event in the parking lot at City Hall.

Council Member Farnam thanked Community Services Director Willette for getting the new City pins done and handed out.

FUTURE AGENDA ITEMS

Council Member Ade inquired if anyone on Staff is communicating with SCAG regarding monies they have for the General Plan update. Some of these have deadlines and it is in May. The City missed it last year and would not want to miss it again. She also suggested putting the cemetery committee under Intergovernmental as it is appropriate.

It was the consensus of the City Council to add that to the Intergovernmental Committee.

ADJOURNMENT

There being no further business, at 9:40 p.m. Mayor Moore declared the meeting adjourned.

Respectfully submitted by:

Debbie A. Lee, CMC
City Clerk

CITY OF WILDOMAR CITY COUNCIL
Agenda Item #1.3
CONSENT CALENDAR ITEM
Meeting Date: April 28, 2010

TO: Mayor and City Council
FROM: Gary Nordquist, Assistant City Manager
SUBJECT: Warrant Register dated April 21, 2010.

STAFF REPORT

RECOMMENDATION:

Approve Warrant Register dated April 21, 2010 in the amount of \$31,670.00.

BACKGROUND:

The City of Wildomar requires that the City Council audit payments of demands and direct the City Manager to issue checks. The Warrant Registers are submitted for approval.

DISCUSSION:

None

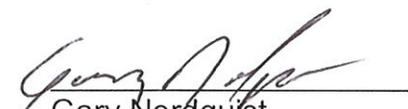
FISCAL IMPACTS:

These Warrant Registers will have a budgetary impact in the amount noted in the recommendation section of this report. These costs are included in the Fiscal Year 2009-10 Budget.

ALTERNATIVES:

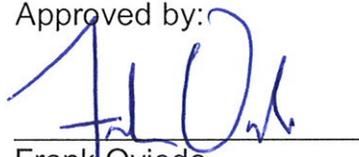
1. Take no action
2. Provide staff with further direction.

Submitted by:



Gary Nordquist
Assistant City Manager

Approved by:



Frank Oviedo
City Manager

**City of Wildomar
Check Detail
April 21, 2010**

Date	Num	Name	Memo/Description	Amount
4/21/2010	2355	DataQuick	Code Enforcement - Software - March 2010	\$ 159.57
4/21/2010	2356	Image Printing System	New Stationery - Logo	\$ 880.88
4/21/2010	2357	OnTrac	Ovenight Delivery Services - March 2010	\$ 41.24
4/21/2010	2358	Edison	March 2010 - CSA's & Lamps	\$ 18,235.05
4/21/2010	2359	Verizon	City Hall Telephone Charges for March 2010	\$ 606.59
4/21/2010	2360	Bio-Tox Laboratories	RC Sheriff - Lab Services	\$ 745.75
4/21/2010	2361	CR&R	Dump & Return 40 yd box; Disposal Fee	\$ 295.77
4/21/2010	2362	North County Times	Notice of Public Hearing - RR Z one Setbacks	\$ 109.68
4/21/2010	2363	Diamond Enviromental Services	Removal of Burned Unit of 3/17/10 @ Windsong Park	\$ 775.00
4/21/2010	2364	Department of Conservation	SMIP Fees - 1st QTR - 2010	\$ 1,006.25
4/21/2010	2365	Aetna	Insurance Premium for City Council & City Clerk - April 2010	\$ 4,835.00
4/21/2010	2366	DirecTV	Monthly Office Television Service - 4/12/10 - 5/11/10	\$ 83.99
4/21/2010	2367	California Building Standards Commission	1st QTR Building Standards - 1/1/10 - 3/31/10	\$ 345.23
4/21/2010	2368	US Electric Company	Parking Lot Light pole Receptacles @ Marna O'Brien, Install new lamp	\$ 3,550.00
Total:				\$ 31,670.00

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1.4
CONSENT CALENDAR
Meeting Date: April 28, 2010

TO: Mayor and City Council
FROM: Gary Nordquist, Assistant City Manager
SUBJECT: Treasurer's Report, March 2010

STAFF REPORT

RECOMMENDATION:

Staff recommends that the City Council approve the Treasurer's Report for March 2010.

BACKGROUND/DISCUSSION:

Attached is the Treasurer's Report for Cash and Investments for the month of March 2010.

FISCAL IMPACTS:

None at this time.

ALTERNATIVES:

1. Take no action
2. Provide staff with further direction.
- 3.

Submitted by:



Gary Nordquist
Assistant City Manager
Finance & Administration

Approved by:



Frank Oviedo
City Manager

ATTACHMENTS: Treasurer's Report

**CITY OF WILDOMAR
TREASURER'S REPORT FOR
CASH AND INVESTMENT PORTFOLIO
March 2010**

CITY CASH

FUND	ACCOUNT	INSTITUTION	BALANCE	RATE
All	All	WELLS FARGO	\$ 2,397,718.21	0.00%
		TOTAL	\$ 2,397,718.21	

FUND	ACCOUNT	INSTITUTION	BEGINNING BALANCE	+ DEPOSITS	(-) WITHDRAWALS	ENDING BALANCE	RATE
All	All	WELLS FARGO	\$ 2,919,794.32	\$ 302,364.88	\$ (824,440.99)	\$ 2,397,718.21	0.000%
		TOTAL	\$ 2,919,794.32	\$ 302,364.88	\$ (824,440.99)	\$ 2,397,718.21	

CITY INVESTMENT

FUND	ISSUER	BOOK VALUE	FACE VALUE	MARKET VALUE	PERCENT OF PORTFOLIO	DAYS TO MAT.	STATED RATE
All	LOCAL AGENCY INVESTMENT FUND	\$ 1,520,139.58	\$ 1,520,139.58	\$ 1,520,139.58	100.00%	0	0.547%
	TOTAL	\$ 1,520,139.58	\$ 1,520,139.58	\$ 1,520,139.58	100.00%		

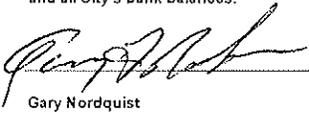
CITY - TOTAL CASH AND INVESTMENT \$ 3,917,857.79

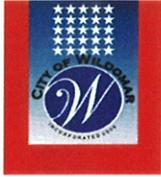
CITY INVESTMENT

FUND	ISSUER	BEGINNING BALANCE	+ DEPOSITS/ PURCHASES	(-) WITHDRAWALS/ SALES/ MATURITIES	ENDING BALANCE	STATED RATE
All	LOCAL AGENCY INVESTMENT FUNDS	\$ 1,520,139.58	\$ 0.00	\$ 0.00	\$ 1,520,139.58	0.547%
	TOTAL	\$ 1,520,139.58	\$ 0.00	\$ 0.00	\$ 1,520,139.58	

In compliance with the California Code Section 53646, as the Director of Finance/ City Treasurer of the City of Wildomar, I hereby certify that sufficient investment liquidity and anticipated revenues are available to meet the City's expenditure requirements for the next six months and that all investments are in compliance to the City's Statement of Investment Policy.

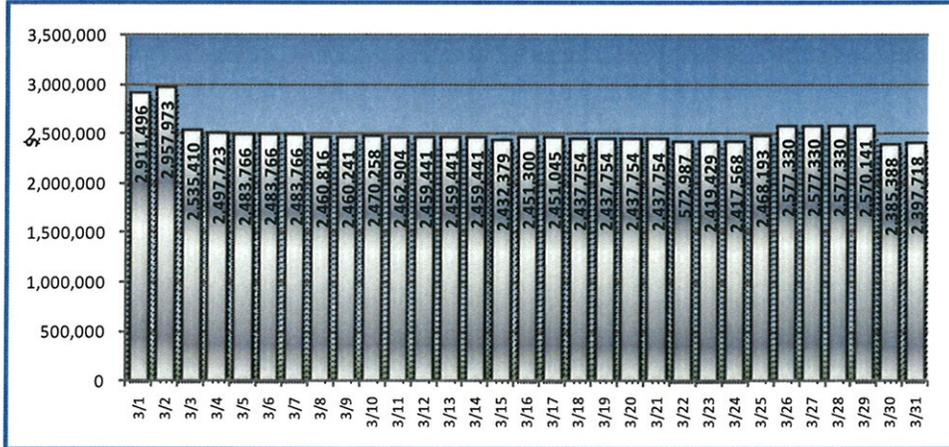
I also certify that this report reflects all Government Agency pooled investments and all City's bank balances.


4-23-10
 Gary Nordquist Date
 ACM Finance & Administration /
 City Treasurer



March 2010

Daily Cash Balance
All Funds Checking Only
Pool Report Balance



March 2010

2008-2009	Ending Balance	Monthly Net Activity
July	\$ 20,855	\$ 20,855
August	2,297,920	2,277,065
September	2,402,083	104,163
October	2,340,436	(61,647)
November	2,203,169	(137,267)
December	747,664	(1,455,505)
January	826,502	78,838
February	733,251	(93,251)
March	571,857	(161,394)
April	644,285	72,428
May	687,746	43,461
June	1,266,750	579,004
July	2,027,072	760,322
August	4,745,827	2,718,755
September	4,201,825	(544,002)
October	3,674,234	(527,592)
November	3,098,110	(576,124)
December	2,963,884	(710,350)
January	2,801,810	(296,300)
February	2,919,794	117,984
March	2,397,718	(522,076)

Date	Ending Balance In Whole \$	Net Change from Prior Day
3/1	2,911,496	(186,614)
3/2	2,957,973	46,477
3/3	2,535,410	(422,563)
3/4	2,497,723	(37,687)
3/5	2,483,766	(13,957)
3/6	2,483,766	-
3/7	2,483,766	-
3/8	2,460,816	(22,950)
3/9	2,460,241	(575)
3/10	2,470,258	10,017
3/11	2,462,904	(7,354)
3/12	2,459,441	(3,463)
3/13	2,459,441	-
3/14	2,459,441	-
3/15	2,432,379	(27,062)
3/16	2,451,300	18,921
3/17	2,451,045	(255)
3/18	2,437,754	(13,291)
3/19	2,437,754	-
3/20	2,437,754	-
3/21	2,437,754	-
3/22	2,420,129	(17,625)
3/23	2,419,429	(700)
3/24	2,417,568	(1,861)
3/25	2,468,193	50,625
3/26	2,577,330	109,137
3/27	2,577,330	-
3/28	2,577,330	-
3/29	2,570,141	(7,189)
3/30	2,385,388	(184,753)
3/31	2,397,718	12,330

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #1.5
PUBLIC HEARING
Meeting Date: April 28, 2010

TO: Mayor and Council Members
FROM: David Hogan, Planning Director
SUBJECT: Second Reading of Ordinance No. 49 - Zoning Ordinance Amendment 10-01 - Rural Residential Zone Building Setbacks

STAFF REPORT

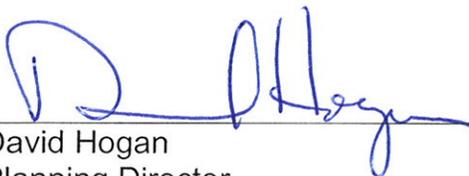
RECOMMENDATION:

This is the second reading of this Ordinance. The Ordinance was introduced and approved at the April 14, 2010 City Council meeting. Staff is recommending that the City Council adopt the Ordinance entitled:

ORDINANCE NO. 49

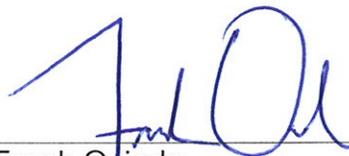
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AMENDING CHAPTER 17.16 OF MUNICIPAL CODE OF THE CITY OF WILDOMAR PERTAINING TO BUILDING SETBACKS IN THE RURAL RESIDENTIAL ZONE (ZONING CODE AMENDMENT 10-01)

Submitted by:



David Hogan
Planning Director

Approved by:



Frank Oviedo
City Manager

ORDINANCE NO. 49

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AMENDING CHAPTER 17.16 OF MUNICIPAL CODE OF THE CITY OF WILDOMAR PERTAINING TO BUILDING SETBACKS IN THE RURAL RESIDENTIAL ZONE (ZONING CODE AMENDMENT 10-01)

The City Council of the City of Wildomar ordains as follows:

SECTION 1. ENVIRONMENTAL FINDINGS. The City Council, in light of the whole record before it, including but not limited to, the City's Local CEQA Guidelines and Thresholds of Significance, the recommendation of the Planning Director as provided in the Staff Report dated April 14, 2010 and documents incorporated therein by reference, and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2) within the record or provided at the public hearing of this matter, hereby finds and determines that the proposed ordinance is exempt from CEQA review pursuant to Section 15061(b)(3) which states that if an activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 2. CONSISTENCY WITH THE GENERAL PLAN. The proposed amendments to the Zoning Ordinance are consistent with and do not conflict with the provisions of the General Plan.

SECTION 3. AMENDMENT TO SECTION 17.16.020 OF THE ZONING ORDINANCE. Subsection 17.16.020.D of the Wildomar Municipal Code is hereby added to read as follows:

"D. Minimum yard requirements for residential uses are as follows:

1. The front yard shall be not less than twenty (20) feet, measured from the existing street line or from any future street line as shown on any specific plan of highways, whichever is nearer the proposed structure.
2. The side yards for interior and through lots that are seventy (70) feet in width or greater, the minimum side yard shall be not less than five (5) feet on one side and ten (10) feet on the other side. For lots that are less than seventy (70) feet in width, the minimum side yard shall be not less than five (5) feet; except that corner and reversed corner lots shall be not less than ten (10) feet from the existing street line or from any future street line as shown on any specific plan of highways.
3. The rear yard shall not be less than twenty (20) feet.

4. No structural encroachments shall be permitted in the front, side or rear yard except as provided for in Section 17.172.140.”

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Certification and Publication. The City Clerk shall certify to the adoption of this ordinance and, within 15 days after its adoption, shall cause it to be published in accord with California law.

SECTION 6. Effective Date. This ordinance shall take effect thirty (30) days after its enactment in accordance with California law.

PASSED, APPROVED, AND ENACTED this 28th day of April, 2010.

Bridgette Moore, Mayor

APPROVED AS TO FORM:

ATTEST:

Julie Hayward Biggs
City Attorney

Debbie A. Lee, CMC
City Clerk

CITY OF WILDOMAR – CITY COUNCIL
Agenda Item #3.1
GENERAL BUSINESS
Meeting Date: April 28, 2010

TO: Mayor and City Council
FROM: Gary Nordquist, Assistant City Manager
SUBJECT: FY 2009/10 3rd Quarter Budget Report and FY 2010/11 Budget Program

STAFF REPORT

RECOMMENDATIONS:

That the City Council:

1. Receive and Review the Fiscal Year 2009-10 3rd Quarter Budget Report; and
2. Discuss the City's Visions and Provide Implementation Concepts/Strategies for FY 2010-11 Budget planning.

BACKGROUND:

The Finance Department prepares quarterly budget updates for the City Council. On June 24, 2009, the City Council adopted the fiscal year 2009-10 Operating Budget for the City of Wildomar and the Capital Improvement Program ("CIP"). At the September 9, 2009, meeting, the City Council adopted budget amendments for various Landscape Maintenance Districts/CSA's which were passed on to the City from the County after July 1, 2009 and several Grant programs which were awarded to the City in August 2009. The City's First Quarter Budget Report was provided at the December 9, 2009, City Council meeting and the Mid-Year Report was provided at the February 24, 2010, City Council meeting.

The purpose of the City's 3rd quarter budget status report is to conduct a comprehensive review of all eleven of the City's funds. This report provides the detail financial activities, from July 1, 2009 to March 31, 2010, at the account number level and provides fund balance information. The financial data provided includes "Actuals" as compared to "Budgeted" revenues and expenditures. Where appropriate, "Actuals" from FY 2008-09 (the prior fiscal year) are provided for comparative purposes.

DISCUSSION:

The City's initial 2009/10 budget was approved June 24, 2009, and amended September 9, 2009, adding the fiscal impacts of activities formerly provided by Riverside County. Specifically, several non-general fund programs such as the Parks Landscape Maintenance Measure a transportation programs and several Community Services Areas (CSA's). The first quarter budget report was provided for review at the City Council meeting held on December 9, 2009, and the staff report was given at the January 13, 2010, City Council meeting. At that time there were no recommended budget changes. The Mid-Year report, presented at the February 24, 2010, City

Council meeting recommend several budget changes to more accurately align the plan with recent fiscal activities and proposed projects. While the recommend changes were minor in nature, they do reflect a continued conservative theme for the City's fiscal future.

At the nine month mark of the fiscal year, staff is not recommending any changes to the current amended budget. A pre-forth quarter budget report will be conducted at the June 23, 2010, City Council meeting to further align the budget with anticipated actual year end expenditures and revenues.

To date the City's General Fund fiscal outlook continues to be extensively reviewed and budgeted expenditures are enacted with extreme caution. The depressed local economy continues to limit the City's fiscal ability to aggressively enact its vision and plans. The revenues to date are 55% of the annual budgeted amount. Ideally, at this 75% mark of the fiscal year, revenues should be at the 70 to 80 % level (with consideration to payment lags and accounting accruals). Property Tax and Development Related Revenues are the primary concerns. Recent property improvements, retail store openings and the recent issuing of building permits for residential construction is encouraging and thus no budget changes are recommend at this time.

The City's General Fund actual expenditures are also at 55% of the annual budget. With recognition of outstanding invoices not yet received by the City for the period, the expenditures are inline and controllable. This "Control" factor is key to meeting the year end fiscal targets. Using the "Contract" model of providing service levels reflective of demand, has allowed the City to control its expense plans quicker than other models. Conscious and only necessary spending will continue to be the recommended practice until the end of this fiscal year.

FY 2010-11 Budget Program

At the April 14, 2010, City Council Meeting, staff was provided with direction to facilitate an opportunity for budgeting input and discussion prior to the FY 2010-11 Annual Budget Public Hearing to be held prior to July 1, 2010.

Possible Discussion Points for Budget Program Planning could be:

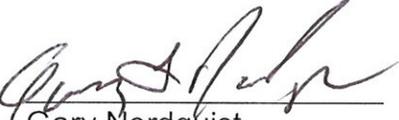
- City's Fiscal Outlook for Next Year and Beyond
 - Non-Discretionary Revenues and Expenses and What's Left?
- Budgeting for the City's Visions,
 - Performing and Creative Arts
 - Infrastructure
 - Design Guidelines
 - Community Center and Social Services
 - Parks and Recreation
 - Higher Education
 - Business Foundation
 - Traffic Enforcement
 - No New Taxes
 - Maintain Rural Open Space

Other budget planning ideas and input are encouraged to be discussed and strategized.

ALTERNATIVES:

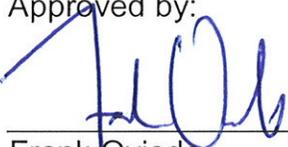
1. Take no action
2. Provide staff with further direction.

Submitted by:



Gary Nordquist
Assistant City Manager

Approved by:



Frank Oviedo
City Manager

Attachment A

Third Quarter FY 2009-10
Budget and Actual
Revenues and Expenditures
by
Fund and Account

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
General Fund Revenues	5,135,307	9,348,700	(4,213,393)	55%	9,483,481
General Fund Expenditures	4,954,545	9,015,300	4,060,155	55%	9,601,590
Net Revenue (Expense)	<u>180,762</u>	<u>333,400</u>	<u>(153,238)</u>		<u>(118,109)</u>
Other Financing Sources (County Debt)					
Prior Year Fund Balance		1,276,268			1,394,377
Fund Balance at 6/30/2010		<u>1,609,668</u>			<u>\$ 1,276,268</u>
Total Non- General Fund Revenues	1,161,985	3,100,768	(1,938,783)	44%	1,665,692
Total Non -General Fund Expenditures	981,652	2,957,352	(36,592)	33%	686,427
Net Revenue (Expense)	<u>180,333</u>	<u>143,416</u>	<u>(1,975,375)</u>		<u>979,265</u>
Other Financing Sources (County Debt)					
Prior Year Fund Balance		1,362,507			383,242
Fund Balance at 6/30/2010		<u>1,505,923</u>			<u>\$ 1,362,507</u>

General Fund Revenues

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
10 3100 1 Sales & Use Tax	687,926	900,000	(\$ 212,074)	76%	\$ 855,459
10 3101 1 Sales & Use Tax TFL	-	175,000	(175,000)	0%	411,537
10 3102 1 Prop. Tax ILO Sales	-	350,000	(350,000)	0%	-
10 3105 1 Property Tax	1,388,206	3,155,900	(1,767,694)	44%	3,589,773
10 3110 1 Property Transfer Tax	82,722	135,000	(52,278)	61%	130,518
10 3116 1 Bus. License Regist.	8,520	10,000	(1,480)	85%	6,390
10 3150 1 Motor Veh ILO Fees	2,146,298	2,200,000	(53,702)	98%	2,555,318
10 3152 1 County Augmentation	-	237,000	(237,000)	0%	237,579
10 3200 1 Planning Fees	40,317	25,000	15,317	161%	289
10 3201 1 Code Enforcement Fee	-	2,000	(2,000)	0%	-
10 3202 1 Abandoned Prop Registration	6,660	9,000	(2,340)	74%	1,610
10 3210 1 B&S/Engineering Fees	-	5,000	(5,000)	0%	-
10 3211 1 Engineering Fees	9,186	5,000	4,186	184%	-
10 3212 1 Build. & Safety Fees	70,620	104,000	(33,380)	68%	82,583
10 3218 1 Building Standards Fee	595	-	595		37
10 3219 1 SMIP	1,237	-	1,237		48
10 3220 1 Franchise Fees - Solid Waste	20,648	170,000	(149,352)	12%	158,938
10 3221 1 Franchise Fees - Elec	-	150,000	(150,000)	0%	127,629
10 3222 1 Franchise Fees - Gas	-	52,000	(52,000)	0%	95,560
10 3224 1 Franchise Fees - Cable	45,127	120,000	(74,873)	38%	138,160
10 3225 1 Franchise Fees - Telecommunications	28,909	48,000	(19,091)	60%	26,893
10 3226 1 Franchise Fees - Trash	40,859	-	40,859		0.00
10 3230 1 Animal License Fees	-	-	-		28,526
10 3240 1 Developer Revenue	433,856	959,800	(525,944)	45%	868,409
10 3250 1 Fines & Forfeitures	56,899	70,000	(13,101)	81%	149,272
10 3251 1 Public Safety Revenue	11,425	15,000	(3,575)	76%	-
10 3260 1 Interest Income	-	10,000	(10,000)	0%	3,558
10 3270 1 Special Event Rev	18,783	25,000	(6,217)	75%	6,090
10 3271 1 Parks & Recreation Revenue	2,451	5,000	(2,549)	49%	-
10 3800 1 Misc. Revenues	34,063	235,000	(200,937)	14%	9,305
10 3890 1 Other	-	176,000	(176,000)	0%	-
Total General Fund Revenues	5,135,307	9,348,700	(4,213,393)	55%	9,483,481

General Fund Expenses

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
City Council					
10 411 11 Payroll Tax Liability	(274)	-	274		-
10 411 13 Stipends	11,611	18,000	6,389	65%	18,914
10 411 14 Health Benefits	58,981	77,000	18,019	77%	56,650
10 411 15 PERS	1,583	3,600	2,017	44%	610
10 411 20 Travel/Meetings	5,207	22,900	17,693	23%	22,686
10 411 21 Utilities	3,007	4,500	1,493	67%	4,184
10 411 22 Membership Due	4,808	2,000	(2,808)	240%	-
10 411 23 Supplies/Services	1,052	7,000	5,948	15%	12,366
10 411 27 Legal Fees	4,324	6,000	1,676	72%	-
Total City Council	90,299	141,000	50,701	64%	115,410
City Manager's Office					
10 412 10 Salaries	84,111	120,000	35,889	70%	-
10 412 11 Payroll Tax Liability	20,065	40,000	19,935	50%	-
10 412 12 Other Compensation	26,260	36,400	10,140	72%	-
10 412 14 Health Benefits	995	10,200	9,205	10%	-
10 412 15 PERS	8,867	36,000	27,133	25%	-
10 412 20 Travel/Meetings	11,814	8,000	(3,814)	148%	16,655
10 412 22 Professional Memberships	13,211	2,000	(11,211)	661%	-
10 412 23 Supplies/Services	5,053	12,300	7,247	41%	23,018
10 412 25 Contractual Services	173,547	190,000	16,453	91%	569,472
10 412 27 Legal Fees	5,006	10,000	4,994	50%	-
Total City Manager's Office	348,929	464,900	115,971	75%	609,145

City of Wildomar
Budget vs. Actuals: 3rd Qtr FY 09-10

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
City Clerks Office					
10 413 10 Salaries	41,504	59,200	17,696	70%	9,175
10 413 11 Payroll Tax Liability	10,328	14,800	4,472	70%	2,461
10 413 14 Health Benefits	6,787	23,030	16,243	29%	790
10 413 15 PERS	5,829	14,770	8,941	39%	2,462
10 413 20 Travel/Meetings	934	2,000	1,066	47%	-
10 413 23 Supplies/Services	1,568	4,600	3,032	34%	57,752
10 413 24 - Legal Notices - City Clerk	837	3,000	2,163	28%	-
10 413 25 Contractual Services	58,519	34,800	(23,719)	168%	96,105
10 413 27 Legal Services	5,758	5,000	(758)	115%	-
10 413 30 Elections	-	-	-	-	13,558
Total City Clerks Office	132,064	161,200	29,136	82%	182,303
City Attorney					
10 414 27 Legal Services	97,923	150,000	52,077	65%	451,430
Total City Attorney	97,923	150,000	52,077	65%	451,430
Finance and Administration					
10 420 10 Salaries	51,018	72,000	20,982	71%	-
10 420 11 Payroll Tax Liability	2,427	18,000	15,573	13%	-
10 420 12 Other Compensation	1,860	5,200	3,340	36%	-
10 420 14 Health Benefits	3,195	8,400	5,205	38%	-
10 420 15 PERS	980	19,000	18,020	5%	-
10 420 20 Travel/Meetings	247	800	553	31%	6,412
10 420 22 - Membership Dues	100	400	300	25%	-
10 420 23 Supplies/Services	9,338	13,000	3,662	72%	6,261
10 420 25 Contractual Services	168,141	232,600	64,459	72%	288,790
10 420 27 Legal Services	4,065	4,000	(65)	102%	-
Total Finance/Admin	241,371	373,400	132,029	65%	301,463

City of Wildomar
Budget vs. Actuals: 3rd Qtr FY 09-10

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
<i>Community Development Admin</i>					
10 430 13 Stipends	4,125	9,000	4,875	46%	3,000
10 430 20 Travel/Meetings	20	1,000	980	2%	-
10 430 23 Supplies/Services	1,393	2,500	1,107	56%	18,648
10 430 25 Contractual Services	22,667	45,000	22,333	50%	1,350,379
10 430 52 Equipment	-	-	-	-	1,258
Total Community Dev. Admin.	28,205	57,500	29,295	49%	1,373,285
<i>Building and Safety</i>					
10 431 23 Supplies/Services - B&S	1,985	3,000	1,015	66%	6,764
10 431 25 Contractual Services - B&S	221,213	449,500	228,287	49%	-
Total Building & Safety	223,198	452,500	229,302	49%	6,764
<i>Planning</i>					
10 432 23 Supplies/Services - Planning	1,148	4,000	2,852	29%	51
10 432 24 Legal Notices - Planning	4,313	4,000	(313)	108%	-
10 432 25 Contractual Services - Planning	128,095	94,500	(33,595)	136%	75,768
10 432 27 Legal Fees	93,515	130,000	36,485	72%	-
Total Planning	227,071	232,500	5,429	98%	75,819
<i>Private Development</i>					
10 433 25 Private Development Processing	406,644	543,400	136,756	75%	-
Total Private Development	406,644	543,400	136,756	75%	-

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
Development Engineering					
10 434 23 Supplies/Services - Dev. Eng.	-	1,000	1,000	0%	-
10 434 25 Contractual Services - Dev. Eng.	61,575	159,300	97,725	39%	-
10 434 27 Legal Services	165	500	335	33%	-
Total Dev. Eng.	61,740	160,800	99,060	38%	
Code Enforcement					
10 435 23 Supplies/Services - Code Enf.	2,237	3,000	763	75%	-
10 435 25 Contractual Services - Code Enf.	85,528	130,000	44,472	66%	45,997
10 435 27 Legal Services	25,259	25,000	(259)	101%	-
Total Code Enforcement	113,024	158,000	44,976	72%	45,997
Public Works					
10 450 21 Utilities	3,029	2,500	(529)	121%	-
10 450 23 Supplies/Services	226	200	(26)	113%	2,104
10 450 25 Public Works Contractual Services	38,282	34,000	(4,282)	113%	364,806
10 450 26 AB939 & NPDES	-	57,000	57,000	0%	-
10 450 27 Legal Services	13,147	13,000	(147)	101%	-
10 450 52 Equipment	3,286	3,300	14	100%	-
Total Public Works	57,970	110,000	52,030	53%	366,910
Police Services					
10 461 20 Travel & Meetings - Police Services	12	100	88	12%	-
10 461 23 Supplies/Services - Sheriff	42,740	281,341	238,601	15%	75,076
10 461 25 Cont. Serv. - Sheriff	1,657,028	3,416,859	1,759,831	48%	3,908,445
Total Police	1,699,768	3,698,300	1,998,432	46%	3,983,521
Fire Services					
10 465 23 Supplies/Services - Fire	1,882	21,000	19,118	9%	-
10 465 25 Cont. Serv. - Fire	887,234	1,748,800	861,566	51%	1,412,649
Total Fire	889,116	1,769,800	880,684	50%	1,412,649
Animal Control					
10 466 25 Cont. Serv. - Animal Control	73,013	110,000	36,987	66%	151,310
Total Animal Control	73,013	110,000	36,987	66%	151,310

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
Emergency Preparedness Office					
10 467 20 Travel & Meeting - Emergency Preparedness	3,573	6,000	2,427	60%	-
10 467 23 Supplies/Services - Emergency Preparedness	350	1,000	650	35%	-
10 467 25 Cont. Serv. - Emergency Preparedness	16,515	16,000	(515)	103%	-
Total Emergency Prep.	20,438	23,000	2,562	89%	-
Community Services					
10 470 20 Travel and Meetings	1,393	2,000	607	70%	912
10 470 21 Utilities	300	500	200	60%	-
10 470 23 Supplies & Services	10,414	59,800	49,386	17%	3,869
10 470 24 - Legal Notices - Comm. Services	-	500	-	-	-
10 470 25 Contractual Services	46,981	64,400	17,419	73%	14,712
10 470 27 - Legal Services - Comm. Services	75	-	(75)	-	-
Total Community Services	59,163	127,200	67,537	47%	19,493
Non-Departmental					
10 480 21 Utilities	14,029	24,000	9,971	58%	11,988
10 480 23 Misc. Serv./Supplies	24,618	30,600	5,982	80%	160,611
10 480 25 Contractual Services	50,410	70,200	19,790	72%	30,571
10 480 27 Legal Services	494	500	6	99%	-
10 480 28 LAFCO Fee	-	3,000	3,000	0%	-
10 480 29 Insurance	7,347	31,100	23,753	24%	59,034
10 480 32 City Hall Lease & Ops	87,711	122,400	34,689	72%	231,834
10 480 51 Furniture & Fixtures	-	-	-	-	12,053
Total Non Departmental	184,609	281,800	97,191	66%	506,091
Total General Fund Expenses					
	4,954,545	9,015,300	4,060,155	55%	9,601,590
<i>City with out Police, Fire and Animal Control</i>	<i>2,292,648</i>	<i>3,437,200</i>	<i>1,144,052</i>	<i>67%</i>	<i>4,054,110</i>
Net Revenue (Expense)					
	180,762	333,400	(152,638)	54%	(118,109)
Other Financing Sources (County Debt)					
Prior Year Fund Balance		1,276,268			1,394,377
Fund Balance at 6/30/2010		1,609,668			\$ 1,276,268

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
Gas Tax Fund					
Gas Tax Revenue					
20 3130 1 GTSIF Section 2105 GT	80,654	250,000	(169,346)	32%	246,091
20 3131 1 GTSIF Section 2106 GT	49,404	126,500	(77,096)	39%	150,515
20 3132 1 GTSIF Section 2107 GT	108,560	300,000	(191,440)	36%	327,539
20 3133 1 GTSIF Section 2107.5	6,000	6,000	-	100%	12,000
20 3260 GTSIF Interest Income 2107.5	-	-	-		5,547
	244,618	682,500	(437,882)	36%	741,692
Gas Tax Revenue					
20 450 21 GTSIF Utilities	15,523	12,000	(3,523)	129%	-
20 450 23 Supplies & Services	4,247	4,000	(247)	106%	-
20 450 25 GTSIF Contractual S.	488,402	550,000	61,598	89%	686,427
20 450 XX General Fund Allocation	-	68,000	68,000	0%	-
	508,172	634,000	125,828	80%	686,427
Gas Tax Expense					
	(263,554)	48,500	(312,054)	-543%	55,265
Gas Tax Net Revenue (Expense)					
Other Financing Sources (County Debt)					
Prior Year Fund Balance		438,508			383,243
Fund Balance at 6/30/2010		<u>487,008</u>			<u>\$ 438,508</u>
AQMD Fund					
25 3130 1 AQMD AB2766 - Subvention Fund	17,178	11,000	6,178	156%	35,773
25 3260 1 AQMD AB2766 - Interest	-	-	-		238
Total Revenue	17,178	11,000	6,178	156%	36,011
Net Revenue (Expense)	17,178	11,000	6,178	156%	36,011
Other Financing Sources					
Prior Year Fund Balance		36,011			-
Fund Balance at 6/30/2010		<u>47,011</u>			<u>\$ 36,011</u>

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
Measure A					
28 3153 1 Measure 'A' Revenue	181,706	559,000	(377,294)	33%	546,084
Measure A Expense					
28 450 25 Contractual Servies - Measure A	153,284	150,000	3,284	102%	-
28 901 25 Access Improvements	-	45,000	-	-	-
28 902 25 Roadway Safety	-	50,000	-	-	-
28 903 25 Slurry Seal	-	80,000	-	-	-
28 904 25 Traffic Signal Program	-	550,000	-	-	-
28 905 25 Unpaved Roadway Enhancements	-	59,000	-	-	-
28 450 99 Gen Fund allocation	-	55,000	-	-	-
Total Measure A Expense	153,284	989,000	3,284		-
Net Revenue (Expense)	28,422	(430,000)	(374,010)	-7%	546,084
Other Financing Sources					
Prior Year Fund Balance		546,084			-
Fund Balance at 6/30/2010		116,084			\$ 546,084
TCRP Fund					
30 3153 1 TCRP (Prop 42) Revenue	-	233,000	(233,000)	0%	260,869
30 3260 1 TRCP Interest	-	-	-	-	2,675
Total Revenue	-	233,000	(233,000)	0%	263,544
30 450 XX General Fund Allocation	-	-	-	-	-
30 450 25 TCRP (Prop 42) Contractual Services	2,134	23,000	20,866	9%	-
Total Expenses	2,134	23,000	20,866	9%	-
Net Revenue (Expense)	(2,134)	210,000	(212,134)	-1%	263,544
Other Financing Sources					
Prior Year Fund Balance		263,544			-
Fund Balance at 6/30/2010		473,544			\$ 263,544

City Development Impact Fees

42 3153 1 Dev. Impact Fee
 42 3260 1 Interest

42 420 450 XX General Fund Allocation

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
	532,959	-	532,959		75,978
	-	-	-		344
Total Revenue	<u>532,959</u>	<u>-</u>	<u>532,959</u>		<u>76,322</u>
	-	-	-		-
	-	-	-		-
Total Expenses	<u>-</u>	<u>-</u>	<u>-</u>		<u>-</u>
Net Revenue (Expense)	<u>532,959</u>	<u>-</u>	<u>532,959</u>		<u>76,322</u>
Other Financing Sources					-
Prior Year Fund Balance		76,322			
Fund Balance at 6/30/2010		<u>76,322</u>			<u>\$ 76,322</u>

LMD 2006-1 "Parks"

50 3153 1 LMD 2006-1 Revenue
 50 3260 1 Interest

Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
92,174	192,024	(99,850)	48%	-
<u>92,174</u>	<u>192,024</u>	<u>(99,850)</u>	<u>48%</u>	<u>901</u>

Total Revenue

Expenses

50 450 21 Utilities - Public Works - CSA103	-	-	-	-
50 450 23 Supplies and Services	-	-	-	-
50 450 25 LMD 2006-1 Contractual Services	4,170	(4,170)	119%	-
50 470 21 LMD Utilities	103	(103)	60%	-
50 470 23 Supplies and Services	35	(35)	73%	-
50 470 24 Legal Notices	645	(645)	72%	-
50 470 25 LMD Contractual Services	27,704	(4,404)	115%	-
50 471 21 LMD Utilities - Marna O'Brien Park	38,236	29,964	81%	-
50 471 23 LMD Supplies & Services - Marna O'Brien Park	4,236	1,564	69%	-
50 471 25 LMD Contractual Services - Marna O'Brien Park	27,766	10,934	60%	-
50 472 21 LMD Utilities - Heritage Park	12,650	(1,650)	179%	-
50 472 23 LMD Supplies & Services - Heritage Park	1,132	268	67%	-
50 472 25 LMD Contractual Services-Heritage Park	11,603	5,097	-	-
50 473 21 LMD Utilities - Windsong Park	9,303	6,097	-	-
50 473 23 LMD Supplies & Services - Windsong Park	2,505	(1,105)	-	-
50 473 25 LMD Contractual Services - Windsong Park	9,497	4,703	-	-
Total Expenses	149,585	42,515		

Net Revenue (Expense)
 Other Financing Sources
 Prior Year Fund Balance
 Fund Balance at 6/30/2010

(57,411)	(76)	47,612	75541%	901
	<u>901</u>			
	<u>825</u>			<u>\$ 901</u>

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
LLMD 89-1					
51 3153 1 LLMD 89-1 Revenue	(0)	288,792	(288,792)	0%	-
51 3260 1 Interest	-	-	-	-	-
Total Revenue	(0)	288,792	(288,792)	0%	-
51 450 24 LLMD Legal Notices	15	100	85	15%	-
51 470 25 LLMD Contractual Services	-	288,692	288,692	0%	-
Total Expenses	15	288,792	288,777	0%	-
Net Revenue (Expense)	(15)	-	(15)		-
Other Financing Sources					-
Prior Year Fund Balance					-
Fund Balance at 6/30/2010					\$ -
CSA -22					
55 3153 1 CSA-22 Revenue	13,958	29,600	(15,642)	47%	-
55 3260 1 Interest	-	-	-	-	115
Total Revenue	13,958	29,600	(15,642)	47%	115
Expenses					
55 450 21 CSA-22 Utilities	24,064	21,900	(2,164)	110%	-
55 450 24 CSA-22 Legal Notices	15	100	85	15%	-
55 450 24 Legal Notices for CSA-22	62	100	38	62%	-
55 450 25 Contractual Services CSA-22	-	3,500	3,500	0%	-
55 470 25 - Community Service - Contractual Services	2,581	4,000	1,419	65%	-
Total Expenses	26,722	29,600	2,878		-
Net Revenue (Expense)	(12,764)	-	(12,764)		115
Other Financing Sources					-
Prior Year Fund Balance					115
Fund Balance at 6/30/2010					\$ 115

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
CSA 103					
56 3153 1 CSA-103 Revenue	64,782	178,000	(113,218)	36%	-
56 3260 1 Interest	-	-	-		806
Total Revenue	64,782	178,000	(113,218)	36%	806
56 450 21 Utilities CSA-103	90,733	120,700	29,967	75%	-
56 450 23 CSA 103 Supplies and Services	70	-	(70)		-
56 450 24 CSA-103 Legal Notices	77	200	123	39%	-
56 470 25 Community Service - Contractual Services	13,080	26,000	12,920	50%	-
56 474 21 Utilities - CSA 103 - Cervera Street	16,487	8,000	(8,487)	206%	-
56 474 23 Supplies & Services - CSA 103 - Cervera Street	604	1,000	396	60%	-
56 474 25 Contractual Services - CSA 103 - Cervera Street	3,459	22,100	18,641	16%	-
Total Expenses	124,510	178,000	53,490		
Net Revenue (Expense)	189,292	356,000	(59,728)	53%	806
Other Financing Sources					-
Prior Year Fund Balance		806			
Fund Balance at 6/30/2010		<u>356,806</u>			<u>\$ 806</u>
CSA 142					
57 3153 1 CSA-142 Revenue	14,610	48,100	(33,490)	30%	-
57 3260 1 Interest	-	-	-		217
Total Revenue	14,610	48,100	(33,490)	30%	217
57 450 21 Utilities CSA-142	14,726	27,900	13,174	53%	-
57 450 24 CSA-142 Legal Notices	77	100	23	77%	-
57 450 25 CSA 142 Contractual Services	848	1,900	1,052	45%	-
57 470 25 Community Service - Contractual Services	1,549	3,000	1,451	52%	-
Total Expenses	17,200	32,900	15,700	52%	-
Net Revenue (Expense)	(2,590)	15,200	(17,790)	-17%	217
Other Financing Sources					-
Prior Year Fund Balance		217			
Fund Balance at 6/30/2010		<u>15,417</u>			<u>\$ 217</u>

Grants Fund

61 3153 1 Grant Funds Revenue
 61 3260 1 Grant Funds Interest Income

	Actuals 7/1/09 to 3/31/10	Annual Budget	Budget Variance Favorable (Unfavorable)	Actuals as a % of Budget	FY 2008-09 Audited Actuals
Total Revenue	-	589,960	(589,960)	0%	-
	-	288,792	(288,792)	0%	-
	-	878,752	(878,752)	0%	-
61 610 24 Legal Notices - Grant Funds	15	403,200	(403,185)	0%	-
61 611 24 Legal Notices - Grant Funds	15	186,760	(186,745)	0%	-
Total Expenses	30	589,960	(589,930)	0%	-
Grants Net Revenue (Expense)	(30)	288,792	(288,822)	0%	-

CITY OF WILDOMAR – COUNCIL
Agenda Item #3.2
GENERAL BUSINESS
Meeting Date: April 28, 2010

TO: Mayor and City Council
FROM: Frank Oviedo, City Manager
SUBJECT: Medical Marijuana Dispensary Educational Report

STAFF REPORT

RECOMMENDATION:

That the City Council accepts the Medical Marijuana Dispensary Educational Report as a Receive and File, and, if appropriate, provide further direction to staff.

BACKGROUND:

The issue of medical marijuana came to the City Staff's attention as a result of three applicants seeking business registrations to conduct business in the community by opening dispensaries. Prior to this, the City has not had to address this issue.

In January, 2010, the City received an application for a business registration from a medical marijuana delivery service who was interested in opening in the City of Wildomar. The home based business seeking a City business registration is currently registered as a nonprofit association in the State of California as Westcoast Weeds. At the time Staff did not approve the registration since it was not authorized by ordinance to do business within the City boundaries.

Then in February, 2010, a representative from the Wildomar Patients Compassionate Group (WPCG) visited City Hall and informed Staff they intended to open a medical marijuana collective in Wildomar. Similarly they were told that it was not an authorized use under the City's zoning code. Several weeks later the City was made aware that the facility had in fact opened without registering as a business in the City of Wildomar and in violation of the City's zoning ordinance. On March 9, 2010, the City issued a cease and desist letter stopping the business operation. Since that time the WPCG has closed its doors and has not reopened.

At the March 10, 2010, City Council meeting a number of individuals came to speak under public comment specifically about the need to have a location to acquire medical marijuana. Several Council Members commented that they did not know enough about the issue and felt more information would be helpful. As a result, Council directed Staff to come back with a report providing information so the City Council could make an informed decision regarding the issue.

Since that time a third application for a business registration from Alt Meds has been submitted to the City. This business would focus primarily on cultivating marijuana in a sterilized environment.

Interestingly, all three applications have very different business models. In the first case, the applicant is a delivery service. In the second case, the applicant is a brick and mortar medical marijuana dispensary operated from a fixed site run by a collective. And in the third case, the business focus of the application is primarily cultivation.

The following report provides an overview of the issue from the standpoint of city administration of the law as it pertains to zoning and land use. It is not the function of a local municipality to determine whether medical marijuana has medicinal value or not. Under California Law, medical marijuana use was made legal forcing local governments to deal with the issue at a local government level. While the discussion is important and may be something each Council Member is interested in knowing about as they consider this issue, it is not something the City has an interest in from a land use and zoning regulation standpoint.

This report covers three basic areas and will be augmented with invited speakers to provide testimony on this topic. The first section of the report will provide an overview of the law as it pertains to medical marijuana in the State of California. The second section briefly describes, in very broad terms, how the Riverside County Sheriff is handling medical marijuana in the County. The final section covers the land use and zoning questions that the City Council may want to consider in addressing the zoning and business registration requests from the above listed businesses.

LEGAL

State Law Allows People to Obtain and Use Medical Marijuana Under Specified Circumstances.

In 1996, California voters approved Proposition 215, also known as the "Compassionate Use Act of 1996," codified as Health & Safety Code section 11362.5 *et seq.*¹ The stated purpose of the Proposition is "to ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where the medical use . . . has been recommended by a physician."² Under Proposition 215, the basic elements for the "legal" possession of marijuana are: (1) a physician's oral or written recommendation or approval, and (2) possession or cultivation for personal medical purposes.³

In 2003, the State Legislature approved Senate Bill 420 which enacted additional statutory guidance for those involved with medical marijuana use.⁴ Senate Bill 420 created a voluntary medical marijuana ID card program, set the quantity of marijuana that a qualified patient or primary caregiver can possess, and created additional

¹ Proposition 215 passed by over a million votes, 55.6% in favor to 44.4% opposed, although the vote split showed more counties voted against Proposition 215 than voted in favor of medical marijuana.

² (Cal. Health & Safety Code § 11362.5(b)(1)(A).)

³ (Cal. Health & Safety Code § 11362.5(d).)

⁴ (Cal. Health & Safety Code §§ 11362.7-11362.83.)

immunities from state marijuana laws, among other things.⁵ Together, the statutes enacted by Proposition 215 and Senate Bill 420 comprise the legal framework for medical marijuana in California.

Qualified Patients and Primary Caregivers May Cultivate and Possess Medical Marijuana

Proposition 215 provides that not only the patient, but also the patient's primary caregiver, may possess or cultivate marijuana for the patient's personal medical use.⁶ Section 11362.5(e) defines a "primary care giver" as "the individual designated by the [qualified patient] who has consistently assumed responsibility for the housing, health, or safety of that patient or person." However, Senate Bill 420 placed limits on how much marijuana a patient or primary caregiver can possess at any given time. Thus, under state law, persons residing in the City who are qualified patients or primary caregivers may cultivate and possess marijuana up to legal quantities (8 ounces of dried marijuana, plus 6 mature marijuana plants or 12 immature marijuana plants per qualified patient, unless a doctor authorizes more) for medical use.⁷ The California Supreme Court recently ruled on the validity of the provisions limiting the amount of marijuana a patient may possess. The Supreme Court held that these provisions are invalid to the extent that they burden a defense authorized by the Compassionate Use Act, but otherwise are valid. This means that even if a patient or primary caregiver is in possession of more marijuana than is allowed under Senate Bill 420, he or she can assert as a valid defense that he or she possessed or cultivated an amount of marijuana reasonably related to meet his or her current medical needs.⁸

Primary Caregiver May Serve Unlimited Number of Qualified Patients

Section 11362.7(d)(2) expressly provides that there is no limit on the number of qualified patients one single primary caregiver can serve, as long as the patients reside in the same county as the primary caregiver. When read together, Sections 11362.7(d)(2) and 11362.77(a) provide virtually no limit to the amount of medical marijuana or medical marijuana plants a primary caregiver can possess.

Medical Marijuana Dispensaries

One year after the passage of Proposition 215, the First District Court of Appeal considered the legality of medical marijuana dispensaries in *People v. Peron*.⁹ The Court held that Proposition 215 does not allow individuals who are not qualified patients or primary caregivers to cultivate and possess marijuana for the purpose of selling or distributing the marijuana to qualified patients.¹⁰ The Court found that the medical marijuana dispensary at issue in that case was a commercial enterprise and not a primary care giver because a primary care giver must be a person "which has

⁵ (Cal. Health & Safety Code §§ 11362.7-11362.83.)

⁶ (Cal. Health & Safety Code § 11362.5.)

⁷ (Cal. Health & Safety Code §11362.77.)

⁸ *People v. Kelley* (2010) 47 Cal.4th 1008.

⁹ (*People v. Peron*, 59 Cal.App.4th 1383, 1400 (1997).)

¹⁰ (59 Cal. App. 4th 1383, 1390.)

consistently assumed responsibility for the housing, health, or safety of” the patient.¹¹ The *Peron* court held that a patient cannot simply designate before a marijuana purchase a seller (such as a club manager or employee) as his or her primary caregiver.¹² Thus, medical marijuana dispensaries that are owned and operated by individuals who are not qualified patients or primary care givers are illegal.

After the *Peron* case, the Legislature adopted Health and Safety Code section 11362.775 to clarify that medical marijuana may be cultivated collectively by qualified patients and primary caregivers, and distributed among the collective’s members. Under this section, qualified patients who are unwilling or unable to cultivate marijuana on their own can still have access to marijuana by joining together with other qualified patients and their primary caregivers to form a collective. This section does not give collectives of qualified patients and primary caregivers the right to operate a medical marijuana dispensary. However, proponents of medical marijuana argue that the right to operate a medical marijuana dispensary is implicit in the right to collectively cultivate medical marijuana. Litigation involving this issue is currently pending. In the absence of any case law finding an implicit right to operate medical marijuana dispensaries in Section 11362.775, the City may prohibit medical marijuana dispensaries since such a prohibition would not conflict with state law.

Conflicts Between State and Federal Law

Of course, as is well-known by now, there is a major conflict between State and Federal laws relating to the legality of medical marijuana. Under the federal Controlled Substances Act (“CSA”), 21 U.S.C. § 801 *et seq.*, marijuana is classified as a “Schedule I” drug, one that “has a high potential for abuse” and which “has no currently accepted medical use.”¹³ Despite the passage of Proposition 215 and Senate Bill 420 in California, from a federal perspective any marijuana possession, use, transportation, or distribution is illegal and carries criminal penalties and risk of imprisonment.¹⁴ There is no “medical necessity” exception to these prohibitions.¹⁵ Furthermore, the U.S. Supreme Court, in *Gonzales v. Raich*, 545 U.S. 1 (2004), affirmed that the CSA, and its lack of a medical necessity exception, is constitutional as applied to the states.

Nevertheless, the California Attorney General’s Office responded to the ruling in *Gonzales v. Raich* by issuing bulletins and press releases stating that the decision did not overrule Prop 215 and SB 420, and that medical marijuana will be legal in California until a federal court specifically rules that State Law is preempted by Federal Law.¹⁶ Since California medical marijuana law has not yet been expressly invalidated by the Federal and State Courts, agencies are likely to continue enforcing it. Furthermore, though the Bush Administration took a tough stance on medical marijuana and the Drug Enforcement Agency was very active in raiding medical marijuana dispensaries and

¹¹ (59 Cal. App. 4th at 1396 (emphasis added).)

¹² (59 Cal. App. 4th at 1397.)

¹³ (21 U.S.C. § 812(b)(1).)

¹⁴ (21 U.S.C. § 841(a) & (b); see also *Gonzales v. Raich*, 125 S. Ct. 2195, 2211 (2004).)

¹⁵ (*United States v. Oakland Cannabis Buyers’ Cooperative*, 532 U.S. 483 (2001).)

¹⁶ (See Robert Anderson, Bulletin to All California Law Enforcement Agencies (June 9, 2005; June 22, 2005); see also Office of the Attorney General Press Release, June 6, 2005.)

cooperatives, the Obama Administration has publicly stated that it will not go after medical marijuana facilities that are operating within State Law.

Local Regulation of Medical Marijuana Dispensaries

Section 17.12.040 of the Wildomar Municipal Code prohibits the establishment of medical marijuana dispensaries within the City. Section 17.12.050 defines a medical marijuana dispensary as:

“[A]ny facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed to, or distributed by, one or more of the following: a primary caregiver, a qualified patient, or a patient with an identification card A “medical marijuana dispensary” shall not include the following uses, provided that such uses comply with this chapter and all other applicable laws, . . . , a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.”

This definition of medical marijuana dispensary does not make any exception for collectives of qualified patients and primary caregivers. Therefore, under the Wildomar Municipal Code, medical marijuana collectives are considered to be dispensaries and are prohibited. This definition is similar to the definition of “medical marijuana dispensary” adopted by the City of Anaheim. Anaheim’s definition is different in that it defines a medical marijuana dispensary as a facility that provides medical marijuana to three or more qualified patients, primary caregivers, or persons with an identification card. Anaheim prohibits medical marijuana dispensaries citywide, and this prohibition is currently being considered by the Fourth District Court of Appeal. The critical issue to be determined in this case is whether the prohibition on collectives violates the Compassionate Use Act. The outcome of this litigation could impact the validity of the City’s prohibition on medical marijuana dispensaries.

If the court holds Anaheim’s prohibition on collectives is illegal, the City will have to amend its ordinance to allow such uses consistent with the decision. But regardless of the decision in the Anaheim case, the California courts have already determined that medical marijuana dispensaries owned and operated by individuals who are not primary caregivers or qualified patients are illegal, and the City may continue to prohibit this use.

It should be noted that a recent decision by the Court of Appeal for the Second District held that the City of Claremont could abate a medical marijuana dispensary located within the City as a public nuisance because the dispensary opened without first

obtaining a business license and use permit.¹⁷ In that case, the City denied the business license and permit application of the Defendant and then, while the Defendant's appeal of the decision to the City Council was still pending, adopted a temporary moratorium on medical marijuana dispensaries, rendering the Defendant's appeal moot. The Defendant proceeded to open up his medical marijuana dispensary without a permit or business license from the City, and the City commenced a code enforcement action against the Defendant. The City obtained a permanent injunction preventing the Defendant from operating a medical marijuana dispensary anywhere within the City, and the Court of Appeal upheld that injunction.

Therefore, if a medical marijuana dispensary opens up within the City of Wildomar without first obtaining a business license, the City can commence a code enforcement action against the dispensary and obtain an injunction prohibiting the operation of the dispensary as a public nuisance.

Legal Conclusion

Though Federal Law clearly prohibits medical marijuana dispensaries, it is uncertain at this point whether a State Court would uphold an outright ban on all dispensaries, in light of the State Law protecting the right of qualified patients and primary caregivers to collectively cultivate and distribute medical marijuana. At this time, the City may continue to enforce its existing prohibition on medical marijuana dispensaries. However, once a decision in the Anaheim litigation is reached, the City may be forced to amend its ordinance consistent with that decision. In addition, the City can commence code enforcement actions against any medical marijuana dispensary that opens without first receiving the appropriate zoning approval or a business license from the City.

LAW ENFORCEMENT

As discussed in the legal section of this report, the marijuana laws at the State and Federal levels are in conflict. Hence, local governments, and more specifically local law enforcement agencies, have had to adapt to this environment. In the case of Riverside County, the Sheriff's Department who serves as the City of Wildomar's Police Force, is no exception.

The Riverside County Sheriff's Office has provided a general outline how law enforcement officers in the field should handle legitimate medical marijuana users under California Law.

Generally, if an individual has all the proper paperwork, and a verified medical marijuana identification card through the State Department of Health Services, possessing marijuana is not a crime and the individual will not be arrested.

In contrast, the Federal Government, through the Drug Enforcement Agency (DEA), clearly holds the position that marijuana is an illegal drug. While the Obama Administration has publicly stated they are not going to go after medical marijuana facilities that are operating consistently with State Law even if it is still illegal at the

¹⁷ *City of Claremont v. Kruse* (2009) 177 Cal.App.4th 1153.

Federal level. In fact, the DEA website still lists the following as its official position on this matter:

“The campaign to legitimize what is called "medical" marijuana is based on two propositions: that science views marijuana as medicine, and that DEA targets sick and dying people using the drug. Neither proposition is true. Smoked marijuana has not withstood the rigors of science – it is not medicine and it is not safe. DEA targets criminals engaged in cultivation and trafficking, not the sick and dying. No state has legalized the trafficking of marijuana, including the twelve states that have decriminalized certain marijuana use.”

It's safe to say until both State and Federal Law is uniform there will continue to be a debate on the legality of medical marijuana. Further confusion over this matter will be thrust on to local governments if the newly qualified proposition in November is passed by voters legalizing the recreational use of marijuana for California residents over 21 years of age. Until such time, local governments throughout the State are attempting to cope under the existing interpretation of the law.

LAND USE AND PLANNING

The key policy question the Council may need to answer is whether or not medical marijuana dispensaries should be an allowable use under the zoning code. In other words, should this use be carved out in the zoning code to address this type of business activity or use within the City of Wildomar. The subsequent policy question, if the Council decides to allow this use, is related to the approach to permitting under the zoning ordinance. The approach to regulating land use type ranges from maintaining its prohibited status to allowing medical marijuana dispensaries. The range of options is described below:

- As a Prohibited Use. A prohibited use is not allowed or permitted either in an individual zone or (as is the case for medical marijuana dispensaries) anywhere within the City. This is the current zoning approach to medical marijuana dispensaries.
- As a Permitted Use. Permitted uses are considered to be typical of the uses permitted in a zone and are considered to be non-problematic or innocuous in all locations within the zoning district. Typical examples of permitted commercial land uses include a grocery store, a medical-related office, or other general retail establishment.
- As a Conditionally Permitted Use. Conditionally permitted uses are land uses that have some potential to be problematic in certain locations even though they generally fit into the overall character of the zoning district. In these circumstances, the conditional use permit allows the City to make a determination of appropriateness of the use in a specific location and to apply operational or site design requirements. Typical examples of conditionally permitted commercial land uses include liquor stores, convenience markets, and automotive paint shops.

- As a Special Use. The most stringent approach of local land use regulation are uses that require a special use permit (which can be considered as a highly structured form of conditional use permit) based upon specialized regulatory and performance criteria. The rationale for regulating a business or use in this manner is the concern that the business activity has a substantial potential for adverse effects on the surrounding community, and/or the exposure of children to inappropriate activities. The regulation of these types of uses is based upon specific prescriptions and performance standards. Typical examples of this type of commercial land use typically include adult businesses and night clubs.

Attached to this report are three regulatory examples of ordinances for the dispensing of medical marijuana. Those cities are Los Angeles, Oakland, and Palm Springs. While each City is different there are common provisions found in the various ordinances that are provided in Attachments A, B, and C, respectively.

For the above mentioned cities choosing to allow Medical Marijuana Dispensaries certain provisions have been incorporated in their final ordinances. Generally, the provisions that have been included cover the following areas:

- Registration
- Insurance
- Inspection
- Security
- Accurate Record Keeping
- On Site Use Prohibition
- Strict Building Code Operations
- Storage

As with any zoning use, the Council would have to consider a number of factors if medical marijuana were to be considered. The Council might think about using the factors from the list below:

1. Does this business activity or use have the potential to be intrusive or be a “bad neighbor” to other land uses or areas within the City?
2. Are there any sensitive land uses or sensitive groups within the local population that need special separations/protection from the business activity or use?
3. Does this business activity or use have a potential to create undesirable adverse impacts or to exacerbate existing or potential social problems in the City?
4. Is the business activity appropriate in any zoning district?
5. Is the business activity appropriate in any non-residential district?

6. Should the business activity be limited to number of zoning districts or locations?

7. Is this a taxable business that will pay for its use of City services?

CONCLUSION

In conclusion, the City Council must return to the fundamental question of whether or not medical marijuana dispensaries should be an allowable use under the zoning code. If the answer is no, or there is uncertainty about changing the existing policy, the Council may chose to do nothing at all.

FISCAL IMPACT:

Aside from the consultant and staff costs to provide this report, there is no fiscal impact resulting from Council hearing this item for educational purposes.

ATTACHMENTS:

- A. City of Los Angeles Ordinance
- B. City of Oakland Ordinance
- C. City of Palm Springs Ordinance

Submitted and approved by:



Frank Oviedo
City Manager

ATTACHMENT A

Los Angeles

ORDINANCE NO. 181069

An ordinance adding Article 5.1 to Chapter IV of the Los Angeles Municipal Code and amending Section 91.107.3.2 of the Los Angeles Municipal Code to implement the Compassionate Use Act and the Medical Marijuana Program Act consistent with the provisions of the Acts, but without violating state or federal law.

WHEREAS, although the possession and sale of marijuana remain illegal under both state and federal law, California voters approved the Compassionate Use Act ("CUA") in 1996 to exempt seriously ill patients and their primary caregivers from criminal liability for possession and cultivation of marijuana for medical purposes; and

WHEREAS, the Medical Marijuana Program Act of 2003 ("MMPA") provides for the association of primary caregivers and qualified patients to cultivate marijuana for specified medical purposes and also authorizes local governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, the City of Los Angeles enacted an Interim Control Ordinance in 2007 for the temporary regulation of medical marijuana facilities through a registration program, which resulted in the unintended proliferation of storefront medical marijuana dispensaries to a number currently estimated to exceed 500 such locations, presenting a substantial risk of unlawful cultivation, sale, and the illegal diversion of marijuana for non-medical uses; and

WHEREAS, there have been recent reports from the Los Angeles Police Department and the media of an increase in and escalation of violent crime at the location of medical marijuana dispensaries in the City of Los Angeles, and the California Police Chiefs Association has compiled an extensive report detailing the negative secondary effects associated with medical marijuana dispensaries; and

WHEREAS, medical marijuana that has not been collectively or personally grown constitutes a unique health hazard to the public because, unlike all other ingestibles, marijuana is not regulated, inspected, or analyzed for contamination by state or federal government and may, as with samples recently tested by a U.S. Food and Drug Administration laboratory, contain harmful chemicals that could further endanger the health of persons who are already seriously ill and have impaired or reduced immunities; and

WHEREAS, the City of Los Angeles has a compelling interest in ensuring that marijuana is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which medical marijuana collectives operate, and in providing compassionate access to medical marijuana to its seriously ill residents.

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 COLLECTIVE

SEC. 45.19.6. PURPOSES AND INTENT.

It is the purpose and intent of this article to regulate the collective cultivation of medical marijuana in order to ensure the health, safety and welfare of the residents of the City of Los Angeles. The regulations in this article, in compliance with the Compassionate Use Act, the Medical Marijuana Program Act, and the California Health and Safety Code (collectively referred to as "State Law") do not interfere with a patient's right to use medical marijuana as authorized under State Law, nor do they criminalize the possession or cultivation of medical marijuana by specifically defined classifications of persons, as authorized under State Law. Under State Law, only qualified patients, persons with identification cards, and primary caregivers may cultivate medical marijuana collectively. Medical marijuana collectives shall comply with all provisions of the Los Angeles Municipal Code ("Code"), State Law, and all other applicable local and state laws. Nothing in this article purports to permit activities that are otherwise illegal under state or local law.

SEC. 45.19.6.1. DEFINITIONS.

A. The following phrases, when used in this article, shall be construed as defined in California Health and Safety Code Sections 11006.5, 11018, 11362.5 and 11362.7:

"Attending physician;"
"Concentrated Cannabis;"
"Identification card;"
"Marijuana;"
"Person with an identification card;"
"Primary caregiver;" and
"Qualified patient."

B. The following phrases, when used in this article, shall be construed as defined below. Words and phrases not defined here shall be construed as defined in Sections 11.01, 12.03, 45.19.5, 45.21, and 56.45 of this Code.

“Location.” The lot or portion of a lot that is used by a medical marijuana collective.

“Medical marijuana.” Marijuana used for medical purposes in accordance with California Health and Safety Code Section 11362.5

“Medical marijuana collective (“collective”).” An incorporated or unincorporated association, composed solely of four or more qualified patients, persons with identification cards, and designated primary caregivers of qualified patients and persons with identification cards (collectively referred to as “members”) who associate at a particular location to collectively or cooperatively cultivate marijuana for medical purposes, in strict accordance with California Health and Safety Code Sections 11362.5, *et seq.*

“Member engaged in the management.” A member with responsibility for the establishment, organization, registration, supervision, or oversight of the operation of a collective, including but not limited to members who perform the functions of president, vice president, board member, director, owner, operating officer, financial officer, secretary, treasurer, or manager of the collective.

“Private medical record.” Documentation of the medical history of a qualified patient or person with an identification card. “Private medical record” shall not include the recommendation of an attending physician or doctor for the medical use of marijuana, an identification card, or the designation of a primary caregiver by a qualified patient or by a person with an identification card.

“Reasonable compensation.” Compensation commensurate with reasonable wages and benefits paid to employees of IRS-qualified non-profit organizations who have similar job descriptions and duties, required level of education and experience, prior individual earnings history, and number of hours worked. The payment of a bonus shall not be considered “reasonable compensation.”

SEC. 45.19.6.2. REGISTRATION.

A. Registration Required. No collective shall operate until after it has filed a registration form in accordance with the provisions of this article, has paid any adopted registration fees, and its registration has been accepted as complete by the Department of Building and Safety.

B. Maximum Number of Collectives.

1. The maximum number of collectives in the City shall be capped at 70. However, there may be fewer than 70 collectives if sufficient locations do not exist consistent with Section 45.19.6.3 A.2 of this article for 70 collectives. To the fullest extent that locations consistent with Section 45.19.6.3 A.2 of this article exist, the

70 collectives shall be proportionally distributed by Community Plan Area, based on each Community Plan Area's percentage share of the City's total Community Plan Area population, as estimated by the Department of City Planning as of October 1, 2008, as shown on Table 1, below:

TABLE 1

COMMUNITY PLAN AREA ("CPA")	POPULATION	PCT OF TOTAL	# of MMCs
ARLETA-PACOIMA	105,238	2.63%	2
BEL AIR-BEVERLY CREST	21,659	0.54%	0
BOYLE HEIGHTS	92,626	2.31%	2
BRENTWOOD-PACIFIC PALISADES	57,513	1.44%	1
CANOGA PARK-WEST HILLS-WINNETKA-WOODLAND HILLS	185,670	4.64%	3
CENTRAL CITY	31,900	0.80%	0
CENTRAL CITY NORTH	32,835	0.82%	1
CHATSWORTH-PORTER RANCH	96,251	2.40%	2
ENCINO-TARZANA	74,820	1.87%	1
GRANADA HILLS-KNOLLWOOD	60,843	1.52%	1
HARBOR GATEWAY	42,075	1.05%	1
HOLLYWOOD	226,137	5.65%	4
MISSION HILLS-NORTH HILLS-PANORAMA CITY	145,551	3.64%	3
NORTH HOLLYWOOD-VALLEY VILLAGE	149,245	3.73%	3
NORTHEAST LOS ANGELES	258,188	6.45%	5
NORTHRIDGE	67,415	1.68%	1
PALMS-MAR VISTA-DEL REY	122,666	3.06%	2
RESEDA-WEST VAN NUYS	106,125	2.65%	2
SAN PEDRO	81,921	2.05%	1
SHERMAN OAKS-STUDIO CITY-TOLUCA LAKE-CAHUENGA PASS	79,028	1.97%	1
SILVERLAKE-ECHO PARK	82,008	2.05%	1
SOUTH LOS ANGELES	275,400	6.88%	5
SOUTHEAST LOS ANGELES	274,583	6.86%	5
SUN VALLEY-LA TUNA CANYON	93,228	2.33%	2
SUNLAND-TUJUNGA-LAKEVIEW TERRACE-SHADOW HILLS-EAST LA TUNA CANYON	62,644	1.56%	1
SYLMAR	79,741	1.99%	1
VAN NUYS-NORTH SHERMAN OAKS	168,987	4.22%	3
VENICE	40,943	1.02%	1
WEST ADAMS-BALDWIN HILLS-LEIMERT PARK	182,584	4.56%	3
WEST LOS ANGELES	77,012	1.92%	1
WESTCHESTER-PLAYA DEL REY	54,441	1.36%	1
WESTLAKE	120,476	3.01%	2
WESTWOOD	53,491	1.34%	1
WILMINGTON-HARBOR CITY	80,991	2.02%	1
WILSHIRE	317,248	7.92%	6
TOTAL CPA POPULATION AS OF OCT 1, 2008	4,001,483	100%	70

2. Notwithstanding the maximum number of collectives described above, every medical marijuana collective, dispensary, operator, establishment, or provider that (1) was registered pursuant to Interim Control Ordinance No. 179,027 with the City Clerk's office on or before November 13, 2007, (2) has operated continuously at its registered location since on or before September 14, 2007, or has both moved once within the City due to an enforcement letter from a federal governmental entity and filed a hardship exemption application pursuant to Interim Control Ordinance No. 179,027, (3) has the same ownership and management as it identified in its registration with the City Clerk's office, (4) has not been cited by the City for a nuisance or public safety violation of State or local law, and (5) complies currently or identifies to the City during the preinspection process a new operating location that meets all of the distance requirements of Section 45.19.6.3 A.2 of this article may be eligible to register and operate if it immediately complies with all provisions of State Law, and within 180 days after the effective date of this ordinance completes its compliance in full with each provision of this article. Any collectives allowed to register and operate in excess of 70 shall also be proportionally distributed by Community Plan Area, based on each Community Plan Area's percentage share of the City's total Community Plan Area population, as estimated by the Department of City Planning as of October 1, 2008 on Table 1, above. In determining the number of collectives allowed in each Community Plan Area, the Department of City Planning shall apply these percentages to the total number of collectives that file their intent to register with the City Clerk pursuant to Subsection C.1, below.

3. The total population of the City, the population of the Community Plan Areas, and whether the citywide and Community Plan Area caps meet the needs of qualified patients, persons with identification cards, and their primary caregivers may be reviewed and the caps may be amended by ordinance after notice and hearing by the City Council.

C. Priority Order.

1. All collectives that meet the requirements set forth in Paragraph 2 of Subsection B, above, and that notify the City Clerk within one week after the effective date of this ordinance of their intention to register under this article at an identified location shall be eligible to apply for preinspection pursuant to Subsection D, below. The City Clerk shall use the date and time that these collectives registered with the City pursuant to Interim Control Ordinance No. 179,027, as evidenced by the date and time stamp placed on each registration form by the City Clerk, to determine the priority order in which the Department of Building and Safety will conduct the preinspections of these collectives.

2. If at any time after 180 days following the effective date of this ordinance, the total number of registered collectives in the City falls below 70, the City Clerk may hold one or more drawings for the purpose of determining the priority order in which the Department of Building and Safety will consider preinspection of these

additional collectives. Any collective that notifies the City Clerk within one week after the publication of the date of a priority drawing shall be eligible to participate in the drawings. However, no collective may participate in a drawing if one or more of its owners or members engaged in its management were convicted currently or within the previous 10 years of a felony or a crime of moral turpitude, or are currently on parole or probation for the sale or distribution of a controlled substance.

The City Clerk shall: create the entry form for participation in the drawings; set the deadline for submittal of all entry forms; establish and publish the drawings' dates, times, and places; publish the results of all drawings; and have the authority to promulgate additional drawing rules and regulations. All such rules and regulations shall be published once in a daily newspaper of general circulation in the City, and shall take effect upon publication. A member engaged in the management of the collective must be present at a drawing in order for the collective to participate.

The order established by the City Clerk in the drawing shall be used by the Department of Building and Safety to determine the order in which the Department of Building and Safety will conduct preinspections pursuant to Subsection D, below, of the collectives that are eligible to register pursuant to this subdivision.

D. Preinspection. A collective that is eligible to apply for preinspection pursuant to Subsections B or C, above, may thereafter apply to the Department of Building and Safety for preinspection to verify compliance with the standards set forth in Section 45.19.6.3 A of this article. The collective shall provide the address of the proposed collective location; the name, telephone number, and address of a person authorized to accept service of process for the collective; the name(s), telephone number(s), and address(es) of each member engaged in the management of the collective; and a 1,000-foot radius map signed by a licensed civil engineer, architect or land surveyor, that locates and identifies all sensitive uses set forth in Section 45.19.6.3 A.2 of this article. A preinspection fee pursuant to Section 91.107.3.2 of this Code, plus a research fee for a minimum of three hours of time pursuant to Section 98.0415 (f) of this Code, shall be paid to the Department of Building and Safety at the time of a request for preinspection. The Department of Building and Safety shall proceed by priority order within each Community Plan Area to evaluate the compliance of the proposed collectives with the requirements of Section 45.19.6.3 A of this article. Once the Department of Building and Safety has determined that the maximum number of collectives authorized by Subsection B of this section complies, the Department of Building and Safety shall stop determining the compliance of more collectives. Any collective not in compliance with the requirements of Section 45.19.6.3 A of this article, as determined by the Department of Building and Safety, or not considered for compliance because the cap had already been met, shall be notified by the Department of Building and Safety that it is disqualified from starting the preinspection and registration process and that it may enter any future drawing conducted in accordance with Subsection C, above.

E. Notice of Preinspection. Prior to accepting a request for preinspection, the Department of Building and Safety shall require proof that the collective has provided written notice to the Police Department, all property owners and occupants within and outside the City that are within 1,000 feet of the exterior boundaries of the location, and to the City Council member of the district in which the collective is proposed to be located, the Certified Neighborhood Council, and any Business Improvement District ("BID") representing the area in which the collective is located, of: the preinspection request; the proposed location of the collective; the name, telephone number, and address of a person authorized to accept service of process for the collective; the name(s), telephone number(s), and address(es) of each member engaged in the management of the collective; and the onsite telephone number at the collective and the name of the member engaged in the management of the collective who is responsible for receiving, logging, and responding to complaints regarding the collective. This notification shall be sent by certified mail, postage prepaid, and return receipt requested. Notices to property owners shall be sent to the last known name and address as shown on the records of the City Clerk or the records of the County Assessor; notices to occupants of all residential, commercial and industrial property can be mailed to "occupant". Proof of mailing shall be established if the collective files an affidavit of mailing with the Department of Building and Safety certifying the date on which the notice was sent, a copy of the notice, and a complete list of the names and addresses where the notice was sent.

F. Registration Form. Upon receipt of a Department of Building and Safety preinspection report verifying compliance with the standards set forth in Section 45.19.6.3 A of this article, the collective shall file a registration form with the Department of Building and Safety. The registration form shall require the following accurate and truthful information: the address and physical description (e.g., one-story commercial building, etc.) of the proposed location at and upon which the collective will be located; the name, telephone number, and address of a person authorized to accept service of process for the collective; the name(s), telephone number(s), and address(es) of each member engaged in the management of the collective; the onsite telephone number at the collective and the name of the member engaged in the management of the collective who is responsible for receiving, logging, and responding to complaints regarding the collective; and any other information reasonably required to show that the collective complies with this article. 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 45.19.6.3, 45.19.6.4, and 45.19.6.5 of this article, except that private medical records shall be made available by the collective to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order.

The collective shall file an updated registration form quarterly, but only if there were changes during the previous quarter to any of the information provided in the initial registration form or any change in status of compliance with the regulations set forth in Section 45.19.6.3 of this article. If an enforcement action has been filed against the

collective for any violation of this article, the updated registration form shall include the names of all of the members of the collective. A change of location cannot be accomplished by an updated registration form, but shall instead require a new preinspection and registration. Each and every member who is engaged in the management of the collective shall print his or her name and sign the initial registration form and any subsequent updated registration form, under penalty of perjury certifying that all information contained in the registration form is true and correct. It shall be the sole responsibility of the members engaged in the management of the collective to ensure that all forms and documents are submitted as required by this article and that the information provided is accurate, complete and timely submitted.

G. Additional Registration Documents. As attachments to the original and any subsequently updated registration form, the collective shall provide to the Department of Building and Safety: (1) proof that the property owner of the location, and landlord if applicable, was given written notice sent by certified mail, postage prepaid, and return receipt requested that the collective intends to file the registration form and that the owner of the location, and landlord if applicable, has received a copy of the information contained in the registration form; (2) for each member engaged in the management of the collective, a fully legible copy of one government-issued form of identification, such as a social security card, a state driver's license or identification card, or a passport; and (3) the collective's Certificate of Occupancy within 10 days of issuance.

H. Registration Timetables. All collectives that meet the requirements described in Subsection B, above, shall comply with the following timetable: (1) they shall notify the City Clerk of their intent to register under this article within one week after the effective date of this ordinance; (2) they shall complete their preinspection obligations under Subsections D and E, above, within thirty (30) days after receiving priority under Subsection C, above, to apply for preinspection; and (3) they shall comply in full with all registration and other provisions of this article within 180 days after the effective date of this ordinance. All other collectives shall comply with the following timetable: (1) they shall notify the City Clerk of their intent to register under this article within one week after the publication by the City Clerk of the date of a priority drawing that will be conducted because the total number of registered collectives in the City has fallen below 70; and (2) they shall complete their preinspection obligations under Subsections D and E, above, within thirty (30) days after receiving priority order under Subsection C, above, to apply for preinspection; and (3) they shall comply in full with all registration and other provisions of this article within 180 days after the publication by the City Clerk of the date of a priority drawing that will be conducted because the total number of registered collectives in the City has fallen below 70. A collective that does not comply with its applicable timetable shall be disqualified from further participation in the registration process.

For the purposes of this subsection, a collective shall be in compliance with Section 45.19.6.3 A of this article if it has obtained all required building permit(s) and the permit(s) is valid and has not been expired by the Department of Building and Safety pursuant to the provisions of Section 98.0602 of the Code. Notwithstanding the provisions of Section

12.26 A.3 of the Code, the submission of plans sufficient for a complete plan check and the payment of a fee shall not confer a vested right to establish a collective. The provisions of Section 91.106.4.3.1 of this Code shall apply to any building permit issued for a collective.

I. Completed Registration. The Department of Building and Safety, after verification that all required fees have been paid, shall mail proof of a completed registration and any subsequent updated registration to the person authorized to accept service of process on behalf of the collective, to the owner of the location, the City Council member of the district in which the collective is located, the Certified Neighborhood Council, and to any applicable Business Improvement District ("BID") in which the collective is located.

J. Term of Registration/Renewal. Each registration shall expire two years from the date the Department of Building and Safety mails proof of the completed registration to the person authorized to accept service of process on behalf of the collective or upon the sunset of this article, whichever occurs first. In the event of an extension of the sunset of this ordinance, a collective that has operated at all times in strict compliance with this article may seek to renew its registration 90 days prior to the registration's expiration. The process for renewal of the registration shall be the same as the process for the original registration as set forth in this section. Upon registration expiration, the collective shall cease all operations.

K. Registration Null and Void. A registration accepted as complete under this article shall become null and void upon the cessation of marijuana cultivation at the location for 90 days or longer, upon the relocation of the collective to a different location, upon conviction of the collective or any of its members for a violation of a provision of this article, two years after the issuance of the registration as set forth in Subsection I, above, or upon the expiration or sunset of this article.

SEC. 45.19.6.3. REGULATIONS.

The location at or upon which a collective cultivates and provides medical marijuana to its members must meet the following requirements:

A. Preinspection Requirements.

1. The location shall comply with the provisions of Chapter I and IX of the Code;
2. The location of the collective shall comply with the following distance requirements:
 - a. No collective shall be located within a 1,000-foot radius of a school, public park, public library, religious institution, licensed child care facility, youth center, substance abuse rehabilitation center, or any other

medical marijuana collective(s). The distances specified in this paragraph shall be the horizontal distance measured in a straight line from the property line of the school, public park, public library, religious institution, licensed child care facility, youth center, substance abuse rehabilitation center, or other medical marijuana collective(s), to the closest property line of the lot on which the collective is located without regard to intervening structures. This provision shall not apply to a collective that is also a licensed residential medical or eldercare facility; and

b. No collective shall be located on a lot abutting, across the street or alley from, or having a common corner with a residentially zoned lot or a lot improved with a residential use, including a mixed use residential building. This provision shall not apply to a collective that is also a licensed residential medical or eldercare facility;

3. Exterior building lighting and parking area lighting for the location must be in compliance with Sections 93.0104, 93.0107 and 93.0117 of the Code. In addition, the location shall be equipped with lighting fixtures of sufficient intensity to illuminate all interior areas of the lot with an illumination of not less than 1.5 foot-candles evenly distributed as measured at floor level, except that a licensed residential medical or eldercare facility shall not be required to comply with this provision;

4. No interior illumination of any exterior signs or any interior signs visible from the exterior shall be allowed;

5. Windows and roof hatches of the building or portion of the building where the collective is located shall be secured from the inside with bars so as to prevent unauthorized entry, and shall be equipped with latches that may be released quickly from the inside to allow exit in the event of emergency in compliance with all applicable building code provisions;

6. Exterior doors to the collective shall remain locked from the outside to prevent unauthorized ingress to the premises of the collective. Ingress shall be allowed by means of a remote release operated from within the premises of the collective. In all cases, doors shall remain openable from the inside to allow egress without the use of a key or special knowledge. If installed, access-controlled egress doors shall comply with Section 1008.1.3.4 of the California Building Code;

7. A sign shall be posted in a conspicuous location inside the structure at the location advising: "This collective is registered in accordance with the laws of the City of Los Angeles. The sale of marijuana and the diversion of marijuana for non-medical purposes are violations 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)"; and

8. A sign shall be posted at the entrance to the location containing the name and functioning telephone number of a 24-hour on-call member engaged in the management of the collective who shall receive, log, and respond to complaints and other inquires on behalf of the collective.

B. Conditions of Operation.

1. 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 or adjacent to the location. The recordings shall be maintained for a period of not less than ninety days and shall be made available by the collective to the Police Department upon request;

2. The location shall have a centrally-monitored fire and burglar alarm system and the building or the portion of the building where the collective is located shall contain a fire-proof safe;

3. No cultivation of medical marijuana at the location shall be visible with the naked eye from any public or other private property, nor shall cultivated marijuana or dried marijuana be visible from the building exterior. No cultivation shall occur at the location unless the area devoted to the cultivation is secured from public access by means of a locked gate and any other security measures necessary to prevent unauthorized entry;

4. No manufacture of concentrated cannabis in violation of California Health and Safety Code section 11379.6 is allowed;

5. No collective shall be open or provide medical marijuana to its members between the hours of 8:00 p.m. and 10:00 a.m. This prohibition shall not apply to a qualified patient's use of marijuana for his or her own medical needs if the qualified patient's permanent legal residence is the location;

6. No collective shall operate for profit. Cash and in-kind contributions, reimbursements, and reasonable compensation provided by members towards the collective's actual expenses of the growth, cultivation, and provision of medical marijuana shall be allowed provided that they are in strict compliance with State Law. All such cash and in-kind amounts and items shall be fully documented in accordance with Section 45.19.6.4 of this article;

7. No persons under the age of eighteen shall be allowed at the location, unless that minor is a qualified patient or person with an identification card and

accompanied by his or her licensed attending physician, parent or documented legal guardian;

8. No collective shall possess more dried marijuana or plants per member other than the amounts permitted pursuant to State Law. No collective shall possess or provide marijuana other than marijuana that was cultivated by the collective in strict accordance with State Law and this article;

9. The light fixtures required in Section 45.19.6.3 A.3, above, shall be turned on from dusk to dawn;

10. No collective may provide medical marijuana to any persons other than its members who participate in the collective cultivation of marijuana at or upon the location of that 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;

11. No collective shall cause or permit the sale, dispensing, or consumption of alcoholic beverages at the location or in the parking area of the location;

12. No dried medical marijuana shall be stored in buildings that are not completely enclosed, 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;

13. Medical marijuana may not be inhaled, smoked, eaten, ingested, or otherwise consumed at the location, in the parking areas of the location, or in those areas restricted under the provisions of California Health and Safety Code Section 11362.79. This prohibition shall not apply to a qualified patient's use of marijuana for his or her own medical needs if the qualified patient's permanent legal residence is the location, nor shall this prohibition limit the exceptions provided in local and state law that permit smoking in designated areas within licensed residential medical and eldercare facilities;

14. Only members of the collective may be engaged in the management of the collective. A person who has been convicted currently or 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, as determined by the Police Department, shall not be engaged directly or indirectly in the management of the collective and, further, shall not manage, handle, or benefit from the receipts and expenses of the collective. Verification shall be processed and received by the Police Department in accordance with the State of California Department of Justice guidelines. No person may be engaged in the management of more than one collective located within the City;

15. No qualified patient, person with an identification card, or primary caregiver may be a member, at the same time, of more than one collective located within the City, except that in the event of a medical emergency, a qualified patient, person with an identification card, or primary caregiver may obtain medical marijuana sufficient to meet that medical emergency from another collective located within the City. In addition to all other required documentation, for a medical emergency, the qualified patient, person with an identification card, or primary caregiver shall provide written proof of the medical emergency and, as applicable, his or her attending physician or doctor recommendation, identification card, and, in the case of a primary caregiver, the patient designation to both the member's collective and to the collective that is distributing the emergency medical marijuana. This written documentation shall be maintained in the records of both collectives;

16. Collectives shall not store more than \$200.00 in cash overnight at the location and shall make twice daily bank drops that include all cash collected on that day;

17. Collectives shall provide a state-licensed and uniformed security guard patrol for a two-block radius surrounding the location during all hours of operation. Security guards shall not possess firearms or tasers;

18. Collectives shall operate and maintain an onsite 24-hour telephone number at the collective for receiving complaints and other inquiries regarding the collective. A member engaged in the management of the collective shall be responsible for receiving, logging, and responding to these complaints and other inquiries. The log shall be maintained in the records of the collective; and

19. The results of the testing performed pursuant to Section 45.19.6.5 of this article shall be posted in a prominent location in the interior of the collective.

SEC. 45.19.6.4. MAINTENANCE OF RECORDS.

A medical marijuana collective shall maintain records at the location accurately and truthfully documenting: (1) the full name, address, and telephone number(s) of the owner, landlord and/or lessee of the location; (2) the full name, address, and telephone number(s) of all members who are engaged in the management of the collective and the exact nature of each member's participation in the management of the collective; (3) the full name, address, and telephone number(s) of all patient members to whom the collective provides medical marijuana, a copy of a government-issued identification card for all patient members, and a copy of every attending physician's or doctor's recommendation or patient identification card; (4) the full name, address, and telephone number(s) of all primary caregiver members to whom the collective provides medical marijuana and a copy of every written designation(s) by the primary caregiver's qualified patient(s) or the primary caregiver's identification card; (5) written documentation of all circumstances under which the collective provided medical marijuana to a non-member, including but not limited to the recipient's full name, address, and telephone number,

amount of medical marijuana received, and medical emergency justification; (6) all receipts of the collective, including but not limited to all contributions, reimbursements, and reasonable compensation, whether in cash or in kind, and all expenditures incurred by the collective for the cultivation of medical marijuana; (7) an inventory record documenting the dates, amounts, and content testing results of all marijuana cultivated by the collective, including the amounts of marijuana stored at the location at any given time; (8) a log documenting each transfer of marijuana reflecting the amount transferred, the date transferred, and the full name of the member to whom it was transferred; (9) a log documenting the date, nature, and response by the collective to all complaints received by the collective pursuant to Section 45.19.6.3 B.18 of this article; (10) a copy of the annual audit reports required pursuant to Section 45.19.6.5 A of this article; (11) the testing log required to be maintained pursuant to Section 45.19.6.5 C of this article; and (12) proof of registration with the Department of Building and Safety in conformance with Section 45.19.6.2 of this article, including evidence of an accepted registration form. These records shall be maintained by the collective for a period of five years and shall be made available by the collective to the Police Department upon request, except that private medical records shall be made available by the collective to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. In addition to all other formats that the collective may maintain, these records shall be stored by the collective at the location in a printed format in its fire-proof safe. Any loss, damage or destruction of the records shall be reported to the Police Department within 24 hours of the loss, destruction or damage. In addition to all other formats that the collective may maintain, these records shall be stored by the collective at the location in a printed format in its fire-proof safe. Any loss, damage or destruction of the records shall be reported to the Police Department within 24 hours of the loss, destruction or damage.

SEC. 45.19.6.5. AUDITS AND TESTING.

A. Annual Audits. No later than February 15 of every year, each collective shall file with the City Controller an audit of its operations of the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles. The audit shall include but not be limited to a discussion, analysis, and verification of each of the records required to be maintained pursuant to Section 45.19.6.4 of this article.

B. Testing of Medical Marijuana. The collective shall use an independent and certified laboratory to analyze a representative sample of dried medical marijuana and a representative sample of edible marijuana for pesticides and any other regulated contaminants pursuant to established local, state, or federal regulatory or statutory standards at levels of sensitivity established for the food and drug supply before providing the medical marijuana to its members. Any medical marijuana from which the representative sample analysis tested positive for a pesticide or other contaminant at a level which exceeds the local, state, or federal regulatory or statutory standard for the food and drug supply shall not be provided to members and shall be destroyed forthwith. Any medical marijuana provided to members shall be properly labeled in strict compliance with state and local laws.

C. Testing Log. The collective shall maintain a written log at the location documenting the date, type, and amount of marijuana tested; the name of the laboratory where the marijuana was tested; the laboratory report containing the results of the testing, including the name and level of the substance detected; and the disposition of the marijuana from which the contaminated sample was obtained, including the amount of marijuana and the date and manner of disposition.

SEC. 45.19.6.6. INSPECTION AND ENFORCEMENT RESPONSIBILITIES.

The Department of Building and Safety may enter and inspect the location of any collective between the hours of 10:00 a.m. and 8:00 p.m., or at any reasonable time, to ensure compliance with Section 45.19.6.3 A of this article. In addition, a designated unit within the Police Department may enter and inspect the location of any collective and the recordings and records maintained pursuant to Sections 45.19.6.3, 45.19.6.4, and 45.19.6.5 of this article between the hours of 10:00 a.m. and 8:00 p.m., or at any reasonable time, to ensure compliance with this article, except that the inspection and copying of private medical records shall be made available to the Police Department only pursuant to a properly executed search warrant, subpoena, or court order. It is unlawful for any owner, landlord, lessee, member (including but not limited to a member engaged in the management), or any other person having any responsibility over the operation of the collective to refuse to allow, impede, obstruct or interfere with an inspection, review or copying of records and closed-circuit monitoring authorized and required under this article, including but not limited to, the concealment, destruction, and falsification of any recordings, records, or monitoring.

SEC. 45.19.6.7. EXISTING MEDICAL MARIJUANA OPERATIONS.

Any existing medical marijuana collective, dispensary, operator, establishment, or provider that does not comply with the requirements of this article must immediately cease operation until such time, if any, when it complies fully with the requirements of this article; except that any medical marijuana collective, dispensary, operator, establishment, or provider that meets each of the requirements described in Section 45.19.6.2 B.2 of this article shall have 180 days from the effective date of this article during which to fully comply with the requirements of this article or to cease operation. No medical marijuana collective, dispensary, operator, establishment, or provider that existed prior to the enactment of this article shall be deemed to be a legally established use under the provisions of this article, and such medical marijuana collective, dispensary, operator, establishment, or provider shall not be entitled to claim legal nonconforming status.

SEC. 45.19.6.8 COMPLIANCE WITH THIS ARTICLE AND STATE LAW.

A. It is unlawful for any person to cause, permit or engage in the cultivation, possession, distribution or giving away of marijuana for medical purposes except as provided in this article, and pursuant to any and all other applicable local and state laws.

B. It is unlawful for any person to cause, permit or engage in any activity related to medical marijuana except as provided in Health and Safety Code Sections 11362.5 *et seq.*, and pursuant to any and all other applicable local and state laws.

C. It is unlawful for any person to knowingly make any false, misleading or inaccurate statements or representations in any forms, records, filings or documentation required to be maintained, filed or provided to the City under this article, or to any other local, state or federal government agency having jurisdiction over any of the activities of collectives.

D. It shall be the sole responsibility of the members engaged in the management of the collective to ensure that the collective is at all times operating in a manner compliant with all applicable state laws and this article. Nothing in this article shall be construed as authorizing any actions which violate state law with regard to the cultivation, transportation, provision, and sale of medical marijuana.

SEC. 45.19.6.9. VIOLATION AND ENFORCEMENT.

Each and every violation of this article shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by Section 11.00 of this Code. Additionally, as a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the collective's registration, revocation of the certificate of occupancy for the location, disgorgement and payment to the City of any and all monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The City may also pursue any and all remedies and actions available and applicable under local and state laws for any violations committed by the collective and persons related or associated with the collective.

Notwithstanding an initial verification of compliance by the collective with the preinspection requirements set forth in Section 45.19.6.3 A of this article prior to the filing of the registration form, any collective later found to be in violation of any of the preinspection requirements at any time is subject to the enforcement provisions provided in this section.

SEC. 45.19.6.10. SUNSET CLAUSE.

The provisions of this article shall sunset two years after the effective date of this ordinance and all collectives shall cease operation immediately, unless the City Council adopts an ordinance to extend these provisions.

Sec. 2. Section 91.107.3.2 of the Los Angeles Municipal Code is amended by adding a new item 5 to read:

5. Medical Marijuana Collective Preinspection. A preinspection fee pursuant to Section 45.19.6.2 D of the Los Angeles Municipal Code shall be

collected by the Department to verify compliance with Section 49.19.6.3 A of the Los Angeles Municipal Code. The preinspection fee shall be in addition to any other fee that the Department determines is necessary due to the nature of the work involved.

Sec. 3. Operative Date.

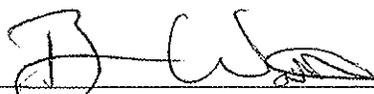
This ordinance shall not become effective until the registration fee specified in Section 1 of this ordinance becomes effective.

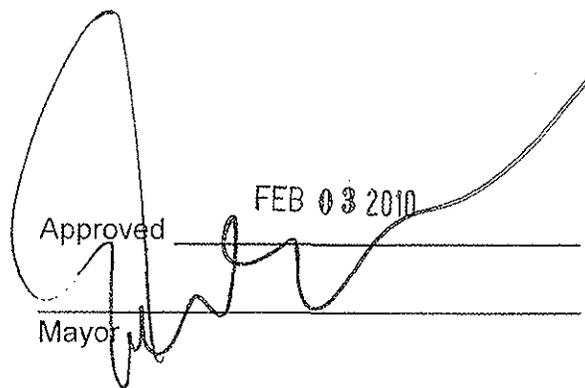
Sec. 4. Severability. Pursuant to the provisions of Los Angeles Municipal Code Section 11.00 (k), if any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provision, and, to this end, the provisions of this ordinance are declared to be severable.

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 the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles JAN 19 2010, and was passed at its meeting of JAN 26 2010.

JUNE LAGMAY, City Clerk

By 
Deputy

Approved FEB 03 2010

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By 
SHARON SIEDORF CARDENAS
Assistant City Attorney

Date January 19, 2010

File No. CF 08-0923

ATTACHMENT B

Oakland, California, Code of Ordinances >> Title 8 - HEALTH AND SAFETY >> Chapter 8.46 - MEDICAL CANNABIS >>

Chapter 8.46 - MEDICAL CANNABIS

Sections:

- [8.46.010 - Findings and purposes.](#)
- [8.46.020 - Definitions.](#)
- [8.46.030 - Medical cannabis distribution program.](#)
- [8.46.040 - No liability.](#)
- [8.46.050 - Qualified patients, primary caregivers, and medical cannabis provider associations.](#)
- [8.46.060 - Physician-patient confidentiality.](#)
- [8.46.070 - Transportation of medical cannabis.](#)
- [8.46.080 - Miscellaneous applications.](#)
- [8.46.090 - Violations and penalties.](#)

8.46.010 - Findings and purposes.

- A. On November 5, 1996, the voters of the state of California adopted by initiative the compassionate Use Act of 1996, codified at Health and Safety Code Section 11362.5, pertaining to medical use of marijuana. As stated therein, the purposes of the Compassionate Use Act of 1996 are in part to "ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person's health would benefit from the use of marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which marijuana provides relief" and to "ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction." The city of Oakland supports the use of medical cannabis in accordance with the Compassionate Use Act of 1996. The purposes of the Compassionate Use Act of 1996 are herewith also made purposes of this Chapter.
- B. Long before the passage of the Compassionate Use Act of 1996, the city of Oakland was on record as being in support of medical cannabis and in support of Oakland medical cannabis providers as exemplified by unanimously passed Oakland City Council Resolution numbered 72379 C.M.S. and 72516 C.M.S.
- C. The purpose of this chapter is to recognize and protect the rights of qualified patients, their caregivers, physicians, and medical cannabis provider associations, and to ensure access to safe and affordable medical cannabis pursuant to the Compassionate Use Act of 1996. In support of this purpose, the city of Oakland recognizes that a medical cannabis provider association, as defined herein, may provide educational information concerning access to safe, affordable, and lawful medical cannabis, and may also distribute safe and affordable medical cannabis in a consistent, reliable, and legal fashion.
- D. An additional purpose of this chapter is to provide immunity to medical cannabis provider associations pursuant to Section 885(d) of Title 21 of the United States Code, which provides that no liability shall be imposed under the federal Controlled Substance Act upon any duly authorized officer of a political subdivision of a state lawfully engaged in the enforcement of any municipal ordinance relating to controlled substances.

(Ord. 12077 § 1 (1), 1998)

8.46.020 - Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as herein defined:

"Cannabis" means marijuana and all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced

from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant are incapable of germination.

"Medical cannabis provider association" means a cooperative, affiliation, association, or collective of persons who are qualified patients or primary caregivers, the main purpose of which are to provide education, referral, or network services, and to facilitate or assist in the lawful production, acquisition, and distribution of medical cannabis. An entity may function as a medical cannabis provider association only if designated as such by the city of Oakland pursuant to Section 8.46.030 of this chapter.

"Officer" means designee and shall not have the meaning of that term used in Section 400 of the Oakland City Charter.

"Primary caregiver" means the person or persons designated by a qualified patient who have consistently assumed responsibility for the housing, health, or safety of that qualified patient.

"Qualified patient" means a person who obtains a written or oral recommendation or approval from a physician to use cannabis for personal medical purposes.

(Ord. 12077 § 1 (2), 1998)

8.46.030 - Medical cannabis distribution program.

The city of Oakland establishes a Medical Cannabis Distribution Program. Such program shall be administered by medical cannabis provider associations. The City Manager shall designate not more than one entity as a medical cannabis provider association. Any designated medical cannabis provider association shall enforce the provisions of this chapter, including enforcing its purpose of insuring that seriously ill Californians have the right to obtain and use marijuana for medical purposes. For the purposes of this chapter only, a medical cannabis provider association, and its agents, employees and directors while acting within the scope of their duties on behalf of the association, shall be deemed officers of the city of Oakland.

(Ord. 12584, 2004; Ord. 12077 § 1 (3), 1998)

8.46.040 - No liability.

To the fullest extent permitted by law, the city of Oakland shall assume no liability whatsoever, and expressly does not waive sovereign immunity, with respect to the Medical Cannabis Distribution Program established herein, or for the activities of any medical cannabis provider association. Each medical cannabis provider association designated by the city shall (a) indemnify the city of Oakland; (b) carry insurance in the amounts and of the types that are acceptable to the city's Risk Manager; and (c) name the city as an additional insured.

(Ord. 12077 § 1 (4), 1998)

8.46.050 - Qualified patients, primary caregivers, and medical cannabis provider associations.

In order to ensure that qualified patients and primary caregivers are not subject to criminal prosecution or sanction, and to ensure that only qualified patients and primary caregivers have access to medical cannabis, the city of Oakland, or medical cannabis provider associations on behalf of the city of Oakland, may issue valid identification cards to qualified patients and primary caregivers upon receipt of a physician's recommendation or approval for medical cannabis.

(Ord. 12077 § 1 (5), 1998)

8.46.060 - Physician-patient confidentiality.

Certification processes conducted pursuant to this chapter shall preserve to the maximum extent possible all legal protections and privileges, consistent with reasonably verifying the qualifications and status of qualified

patients and primary caregivers. Disclosure of any patient information to assert facts in support of a qualified status shall not be deemed a waiver of confidentiality of that information under any provision of law.

(Ord. 12077 § 1 (6), 1998)

| 8.46.070 - Transportation of medical cannabis.

All activities entailing the transportation of medical cannabis, in accordance with this chapter, shall be lawful when conducted by qualified patients, primary caregivers, or medical cannabis provider associations where the quantity transported and the method, timing, and distance of the transportation are reasonably related to the medical needs of qualified patients.

(Ord. 12077 § 1 (7), 1998)

| 8.46.080 - Miscellaneous applications.

Possession and use of the following items shall be lawful when used in accordance with the Compassionate Use Act of 1996 or this chapter:

- A. Pipes, papers, water pipes, vaporizers, and other related paraphernalia;
- B. Cannabis products, such as baked goods, tinctures, concentrated cannabis, infusions, oils, salves, and any other cannabis derivatives.

(Ord. 12077 § 1 (8), 1998)

| 8.46.090 - Violations and penalties.

A violation of any provision of this chapter shall be a misdemeanor.

(Ord. 12077 § 1 (9), 1998)

Oakland, California, Code of Ordinances >> Title 5 - BUSINESS TAXES, PERMITS AND REGULATIONS >> Chapter 5.80 - MEDICAL CANNABIS DISPENSARY PERMITS >>

Chapter 5.80 - MEDICAL CANNABIS DISPENSARY PERMITS

Sections:

- [5.80.010 - Definitions.](#)
- [5.80.020 - Permit required.](#)
- [5.80.030 - Regulations.](#)
- [5.80.040 - Performance standards.](#)
- [5.80.050 - Regulatory fees.](#)
- [5.80.060 - Compensation.](#)
- [5.80.070 - Appeals.](#)
- [5.80.080 - Prohibited operations.](#)
- [5.80.090 - Liability.](#)

5.80.010 - Definitions.

The following words or phrases, whenever used in this chapter, shall be given the following definitions:

"Cannabis" or "Marijuana" shall be the same, and as may be amended, as is defined in OMC 8.46.020.

"Cannabis dispensary", hereinafter dispensary, shall be construed to include any association, Medical Cannabis Association, cooperative, affiliation, or collective of persons where four or more "qualified patients" and/or "primary care givers", in possession of an identification card, or written recommendation, issued by the county of Alameda, or the state of California, or another agency recognized by the city of Oakland pursuant to California Health and Safety Code Section 11362.7 et seq, to provide education, referral, or network services, and facilitation or assistance in the lawful production, acquisition, and distribution of medical cannabis.

"Excessive profits" means the receipt of consideration of a value substantially higher than the reasonable costs of operating the facility.

"Medical cannabis collective" means a cooperative affiliation, association or collective of persons comprised of no more than three "qualified patients" and/or their "primary caregivers" with valid identification cards or written recommendation, to provide education, referral, or network services and to facilitate/assist in the lawful production, acquisition, and provision of medical marijuana to their qualified patients.

"Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, and which defines "Primary Caregiver" as a individual, or "medical cannabis collective" designated by a qualified patient or by a person with an identification card, or a written recommendation, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

1. In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the California Health and Safety Code, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the California Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01) of Division 2 of the California Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569) of Division 2 of the California Health and Safety Code, a hospice, or a home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2 of the California Health and Safety Code, the owner or operator, or no more than three employees who are designated by the owner or operator, of the clinic, facility, hospice, or home health agency, if designated as a primary caregiver by that qualified patient or person with an identification card.
2. An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.

3. An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.

"Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, and which states a person suffering from a serious medical condition who obtains a written recommendation from a physician licensed to practice medicine in the state of California to use marijuana for personal medical purposes.

"Serious medical condition" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, and which states all of the following medical conditions:

1. Acquired immune deficiency syndrome (AIDS);
2. Anorexia;
3. Arthritis;
4. Cachexia;
5. Cancer;
6. Chronic pain;
7. Glaucoma;
8. Migraine;
9. Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis;
10. Seizures, including, but not limited to, seizures associated with epilepsy;
11. Severe nausea;
12. Any other chronic or persistent medical symptom that either:
 - a. Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336).
 - b. If not alleviated, may cause serious harm to the patient's safety or physical or mental health.

"Written recommendation" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, and which states a "written recommendation" is an accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of California Health and Safety Code Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card.

(Ord. 12585 § 1 (part), 2004)

5.80.020 - Permit required.

Except for hospitals, research facilities, or an entity authorized pursuant to OMC Section 8.46.030 and primary caregivers, as defined in Section 5.80.010 B (1), it is unlawful for any owner, operator, or association to own, conduct, operate or maintain, or to participate therein, or to cause or to permit to be conducted, operated, or maintained, any dispensary with four or more "qualified patients" and caregivers with valid ID pursuant to California Health and Safety Code Section 11362.7 et seq., in the city of Oakland unless there exists a valid permit therefore, granted and existing in compliance with the provisions of Chapter 5.02. The City Manager and/or his/her designee shall issue no more than four valid permits for the operation of dispensaries in the city of Oakland. The application for such permit shall set forth, in addition to the requirements specified in Section 5.02.020, the fact that the proposed location of such dispensary is not within one thousand (1,000) feet, unless the City Manager or his/her designee in their discretion determines that the location will not impact the peace and order and welfare of the public, of a public or private school or a public library or youth center (serving youth eighteen (18) and under), or parks and recreation facilities or residential zone or another dispensary. The proposed location must be located in a commercial or industrial zone, or their equivalent as may be amended, of the city. Public notice shall be given as provided in Section 5.02.050, and the investigating official referred to in Section 5.02.030 to whom the application shall be referred, shall be the City Manager. In recommending the

granting or denying of such permit and in granting or denying the same, the City Manager, shall give particular consideration to the capacity, capitalization, complaint history of the applicant and any other factors that in their discretion she/he deems necessary to the peace and order and welfare of the public. All Applicants shall pay an application fee and all inspections fees that may be required therewith.

(Ord. 12585 § 1 (part), 2004)

5.80.030 - Regulations.

The dispensary shall meet all the operating criteria for the dispensing of medical marijuana as is required pursuant to California Health and Safety Code Section 11362.7 et seq. and by the Oakland City Manager or his/her designee's administrative regulations for the permitting and operation of medical marijuana dispensaries including security concerns. It is unlawful for any person or association operating a dispensary under the provisions of this chapter or any dispensary whatsoever, in the city, or any agent, employee or representative of such person to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous or disorderly conduct, or otherwise, or to permit such dispensary to remain open, or patrons to remain upon the premises, between the hours of eight p.m. and seven a.m. the next ensuing day.

(Ord. 12585 § 1 (part), 2004)

5.80.040 - Performance standards.

Dispensaries, once permitted, shall meet the following operating standards for the duration of the use:

- A. Dispensaries may possess no more than eight ounces of dried marijuana per qualified patient or caregiver, and maintain no more than six mature and twelve (12) immature marijuana plants per qualified patient.
 1. If a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the qualified patient or primary caregiver may possess an amount of marijuana consistent with the patient's needs.
 2. Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of marijuana under this section.
- B. The City Manager shall set forth in her/his administrative regulations the method and manner in which background checks of employees for dispensaries will be conducted, and which shall set forth standards for disqualification of an employee based on their criminal history.
- C. No cannabis shall be smoked, ingested or otherwise consumed on the premises.
- D. Dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
- E. Dispensary shall maintain records of all patients and or patient caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.7 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation.
- F. Dispensary shall allow the City Manager or his/her designee to have access to the entities' books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data will be produced no later than twenty-four (24) hours after City Manager or his/her designees request.
- G. The dispensary shall provide litter removal services twice each day of operation on and in front of the premises and, if necessary, on public sidewalks within hundred (100) feet of the premises.
- H. The dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.
- I. Signage for the establishment shall be limited to one wall sign not to exceed ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated.
- J.

The dispensary shall provide City Manager or his/her designee, the chief of police and all neighbors located within fifty (50) feet of the establishment with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment. The dispensary shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police department or other city officials.

- K. The dispensary shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the City Manager or his/her designee in order to insure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients and caregivers, and will not adversely affect surrounding uses.

(Ord. 12585 § 1 (part), 2004)

5.80.050 - Regulatory fees.

Every person conducting, managing or maintaining the business of a dispensary in the city shall, in addition to the application fees, pay a regulatory fee annually in advance, and shall keep a copy of the business tax certificate issued by the Business Tax Office, together with a copy of the dispensary permit issued pursuant to the provisions of Section 5.12.020, together with a copy of this chapter, including the regulations set forth in Section 5.80.030, posted in a conspicuous place in the premises maintained as such dispensary at all times during which such dispensary is being operated.

(Ord. 12585 § 1 (part), 2004)

5.80.060 - Compensation.

Dispensary shall receive only compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card, or written recommendation, to enable that person to use marijuana pursuant to California Health and Safety Code Section 11362.7 et seq, or for payment for out-of-pocket expenses incurred in providing those services, or both.

Retail sales of medical cannabis for excessive profits are explicitly prohibited.

(Ord. 12585 § 1 (part), 2004)

5.80.070 - Appeals.

Notwithstanding Section 5.02.100, any decision, except for suspension and or revocation, pursuant to this chapter by the City Manager or his/her designee shall be final and conclusive, with no appeal to the City Council or any other appellate body. For suspensions and/or revocations an independent hearing officer shall make an initial determination with an appeal to the City Manager, in accordance with procedures in set forth in Section 5.02.100. The decision of the City Manager shall be final and conclusive.

(Ord. 12585 § 1 (part), 2004)

5.80.080 - Prohibited operations.

All owners, operators, collaborative, associations, and collectives operating in violation of California Health and Safety Code Section 11326.7 et seq and 11366.5, and this chapter are expressly prohibited. Except for uses established pursuant to OMC Chapter 8.46, no use which purports to have distributed marijuana prior to the enactment of this chapter shall be deemed to have been a legally established use under the provisions of the Oakland Planning Code, the Oakland Municipal Code, or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

(Ord. 12585 § 1 (part), 2004)

| 5.80.090 - Liability.

To the fullest extent permitted by law, any actions taken by a public officer or employee under the provisions of this chapter shall not become a personal liability of any public officer or employee of the city of Oakland.

(Ord. 12585 § 1 (part), 2004)

ATTACHMENT C

Palm Springs Municipal Code

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ZONING CODE

Chapter 93.00 GENERAL CONDITIONS

93.22.00 Medical Cannabis Cooperative or Collective Special Standards.

- A. No land use entitlement, permit (including building permit) approval, site plan, certificate of occupancy, zoning clearance, or other land use authorization for a Medical Cannabis Cooperative shall be granted or permitted except in conformance with this Section.
- B. Medical Cannabis Cooperatives or Collectives shall be permitted, upon application and approval of a regulatory permit in accordance with the criteria and process set forth in this Section.
- C. No Medical Cannabis Cooperative or Collective shall be established, developed, or operated within five hundred (500) feet of a school, public playground or park, or any residential zone property, child care or day care facility, youth center, or church, or within one thousand (1000) feet of any other Medical Cannabis Cooperative or Collective, and shall not be located on any property that is occupied with a commercial retail use where such use is the primary use on such property. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Medical Cannabis Cooperative or Collective is, or will be located, to the nearest property line of those uses describe in this Subsection.
- D. A Medical Cannabis Cooperative or Collective is not and shall not be approved as an accessory use to any other use permitted by this Zoning Code.
- E. A Medical Cannabis Cooperative or Collective shall be parked at a rate of 1 space for every 250 gross square feet of the entire business space.
- F. No more than two Medical Cannabis Cooperatives and/or Collectives shall be maintained or operated in the City at any time. In the event more than two cooperatives or collectives are eligible for regulatory permits under this Section, the City Council shall review and evaluate all qualified applications and will approve issuance of regulatory permits to the most qualified as determined through the Allotment Process described below.
- G. Prior to initiating operations and as a continuing requisite to conducting operations, the legal representative of the persons wishing to operate a Medical Cannabis Cooperative or Collective shall obtain a regulatory permit from the City Manager under the terms and conditions set forth in this Section. The legal representative shall file an application with the City Manager upon a form provided by the City and shall pay a filing fee as established by resolution adopted by the City Council as amended from time to time. An application for a regulatory permit for a Medical Cannabis Cooperative or Collective shall include, but shall not be limited to, the following information:
1. An estimate of the size of the group of primary caregivers and/or qualified patients who will be served by the non-profit cooperative; this description should include whether delivery service will be provide and the extent of such service.
 2. The address of the location from which the cooperative for which application is made will be operated;
 3. A site plan and floor plan of the premises denoting all the use of areas on the premises, including storage, cultivation areas, exterior lighting, restrooms, and signage.
 4. A security plan including the following measures:
 - a. Security cameras shall be installed and maintained in good condition, and used in an on-going

manner with at least 120 concurrent hours of digitally recorded documentation in a format approved by the City Manager. The cameras shall be in use 24 hours per day, 7 days per week. The areas to be covered by the security cameras include, but are not limited to, the storage areas, cultivation areas, all doors and windows, and any other areas as determined by the City Manager.

- b. The lease/business space shall be alarmed with an alarm system that isoperated and monitored by a recognized security company.
 - c. Entrance to the dispensing area and any storage areas shall be locked at all times, and under the control of cooperative staff.
 - d. The business entrance(s) and all window areas shall be illuminated during evening hours. The applicant shall comply with the City's lighting standards regarding fixture type, wattage, illumination levels, shielding, etc., and secure the necessary approvals and permits as needed.
 - e. All windows on the building that houses the cooperative or collective shall be appropriately secured and all marijuana securely stored, and a reliable, commercial alarm system shall be installed and maintained.
5. The name and address of any person who is managing or responsible for the Medical Cannabis Cooperative or Collective's activities, and the names and addresses of any employees, if any, and a statement as to whether such person or persons has or have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received for such conviction(s).
 6. The name and address of the owner and lessor of the real property upon which the business is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied with a notarized acknowledgement from the owner of the property that a Medical Cannabis Cooperative or Collective will be operated on his/her property.
 7. Authorization for the City Manager to seek verification of the information contained within the application.
 8. Evidence that the cooperative or collective is organized as a bona fide non-profit cooperative, affiliation, association, or collective of persons comprised exclusively and entirely of qualified patients and the primary caregivers of those patients in strict accordance with the Compassionate Use Act.
 9. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
 10. Any such additional and further information as is deemed necessary by the City Manager to administer this Section.

H. The City Manager shall conduct a background check of any applicant for a regulatory permit, including any person who is managing or is otherwise responsible for the activities of the cooperative or collective, and any employee, and shall prepare a report on the acceptability of the applicant's background and the suitability of the proposed location. Upon completing the review process, the regulatory permit shall be deemed a qualified application subject to the final certification and approval by the City Council pursuant to the allotment process, unless the City Manager finds that the applicant:

1. Has made one or more false or misleading statements, or omissions on the application or during the application process; or
2. The proposed cooperative or collective is not allowed by state or local law, statute, ordinance, or regulation, including this Code, at a particular location.
3. Is not a Primary Caregiver or Qualified Patient or the legal representative of the cooperative or collective; or

4. The applicant, or any person who is managing or is otherwise responsible for the activities of the cooperative or collective, or any employee, if any, has been convicted of a felony, or convicted of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution or similar activities related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Compassionate Use Act. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.
5. The applicant. Or any person who is managing or is otherwise responsible for the activities of the cooperative or collective has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.
6. Has not satisfied each and every requirement of this Section.

Based on the information set forth in the application and the City Manager's report, the City Manager, or the City Council pursuant to the allotment process, may impose reasonable terms and conditions on the proposed operations in addition to those specified in this Section. A regulatory permit issued pursuant to this Section is not transferable.

I. The City Manager will accept applications for Medical Cannabis Cooperatives or Collectives during a ninety (90) day period commencing on the effective date of this Section. Such 90 day time period plus an additional 30 days to complete the reviews and the preparation of the reports called for in this Section shall be considered the "Application Period." In the event there are no more than two qualified applications submitted during the Application Period and determined to be conditionally qualified by the City Manager, the City Manager shall refer the applications to the City Council with a recommendation that the City Council approve the issuance of a regulatory permit to the applicants, subject to full compliance with the provisions of this Section and any conditions of approval. In the event three or more applications have been determined to be qualified by the City Manager during the Application Period, the City Manager shall submit the qualified applications and the City Manager report on each application to the City Council for review and consideration. The qualified applications shall be considered concurrently by the City Council at a public hearing noticed and conducted pursuant to the provisions of Section 94.02.00 C of this Code. The City Council shall consider the qualified applications after evaluating the applications on their respective merits and the City Council may conditionally approve each qualified application or deny one or more of such applications if the Council makes one or more of the findings listed in Subsection H. The City Council shall rank all qualified applications in order of those that best satisfy the requirements of this Section and provide the highest level of service and opportunities for residents of Palm Springs. The two highest ranked qualified applications shall be granted regulatory permits pursuant to this Section.

J. The obligations of the Medical Cannabis Cooperative or Collective, including all on-going and continuing obligations required pursuant to any provision of this Section or as may be provided in any conditional approval of the City Manager or the City Council, shall be set forth in a covenant running with the land or the leasehold interest, approved as to form by the City Attorney, and enforceable by the City. Such covenant shall also provide that the cooperative or collective shall annually provide to the City Manager an updated application containing the information contained in Subsection G. To the fullest extent permitted by law, the City shall not assume any liability whatsoever, and expressly does not waive sovereign immunity, with respect to medical cannabis, or for the activities of any Medical Cannabis Cooperative or Collective. Upon receiving possession of a regulatory permit as provided in this Section, the collective or cooperative shall

1. Execute an agreement indemnifying the City;
2. Carry insurance in the amounts and of the types that are acceptable to the City Manager;
3. Name the City as an additionally insured.
4. Agree to defend at its sole expense, any action against the City, its agents, officers, and employees because of the issues of such approval.

5. Agree to reimburse the City for any court costs and attorney fees that the City may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the operator of its obligation hereunder.

K. No persons shall engage in, conduct, or be permitted to engage in or conduct a Medical Cannabis Cooperative or Collective (“cooperative”) unless each of the following requirements is continually met:

1. The cooperative or collective shall comply fully with all of the applicable restrictions and mandates set forth in state law, including without limitation the Attorney General Guidelines.
2. The cooperative shall only be open between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday.
3. Physician’s referrals shall be verified by the cooperative prior to inclusion into the cooperative and at least every six months thereafter.
4. Each member of the cooperative or collective shall be a patient or a qualified primary caregiver. The cooperative shall maintain patient records in a secure location within the City of Palm Springs, available to the City Manager to review upon demand. Such records shall include without limitation a copy of the physician’s referral and, if using a primary caregiver, a notarized written authorization from the patient to be represented by such primary caregiver.
5. Cannabis shall be kept in a secured manner during business and nonbusiness hours.
6. If consumable Medical Cannabis products (including, but not limited to, lollipops, brownies, cookies, ice cream, etc.) are present on site or offered for distribution, then the applicant shall secure a County of Riverside Department of Health Services approval for handling food products.
7. No cooperative or collective shall conduct or engage in the commercial sale of any product, good, or service. All transactions between the cooperative or collective and its members or the members’ primary caregivers shall be made by check or credit card; no cash transactions shall be allowed.
8. Any Medical Cannabis Cooperative or Collective must pay any applicable sales tax pursuant to federal, state, and local law.
9. On-site smoking, ingestion, or consumption of cannabis or alcohol shall be prohibited on the premises of the cooperative or collective. The term “premises” as used in this Subsection includes the actual building, as well as any accessory structures and parking areas. The building entrance to a cooperative or collective shall be clearly and legibly posted with a notice indicating that smoking, ingesting, or consuming marijuana on the premises or in the vicinity of the cooperative or collective is prohibited.
10. Signage for the cooperative shall be limited to name of business only, and no advertising of the goods and/or services shall be permitted.
11. Alcoholic beverages shall not be sold, stored, distributed, or consumed on the premises. A cooperative or collective shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the cooperative or collective.
12. Except as provided in Subsection G-4, windows and/or entrances shall not be obstructed and must maintain a clear view into the premises during business hours.
13. No one under 18 years of age shall be a member of a cooperative or a collective without written authorization of a parent or legal guardian.
14. Physician services shall not be provided on the premises. “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.

15. The building in which the cooperative or collective is located as well as the operations as conducted therein shall fully comply with all applicable rules, regulations, and laws including, but not limited to, zoning and building codes, the City's business license ordinances, the Revenue and Taxation Code, the Americans with Disabilities Act, and the Compassionate Use Act.

16. The cooperative or collective shall not distribute, sell, dispense, or administer cannabis to anyone other than qualified patient members of the cooperative or collective and their primary caregivers.

17. A Medical Marijuana Cooperative or Collective shall distribute only cannabis cultivated on the premises or by a member of the cooperative or collective or the member's primary caregiver. The cooperative or collective shall do an inventory on the first business day of each month and shall record the total quantity of each form of cannabis on the premises. These records shall be maintained for two (2) years from the date created.

18. Provide the City Manager with the name, phone number, facsimile number, and email address of an on-site community relations or staff person or other representative to whom one can provide notice if there are operating problems associated with the Cooperative. The Cooperative shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police or planning departments.

19. Fully comply with and meet all operating criteria required pursuant to the Compassionate Use Act, state law, the Attorney General Guidelines, the provisions of this Section, and any specific, additional operating procedures and measures as may be imposed as conditions of approval of the regulatory permit, and all requirements set forth in the covenant as described in Subsection J, in order to ensure that the operation of the cooperative or collective is consistent with the protection of the health, safety, and welfare of the community, qualified patients, and primary caregivers, and will not adversely affect surrounding uses.

L. Enforcement.

1. Recordings made by the security cameras shall be made available to the City Manager upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

2. The City Manager shall have the right to enter the Medical Cannabis Cooperative or Collective from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this Section and all laws of the City and State of California.

3. Operation of the cooperative or collective in non-compliance with any conditions of approval or standards of this Section shall constitute a violation of the Municipal Code and shall be enforced pursuant to the provisions of this Code.

4. The City Manager may revoke a medical marijuana regulatory permit if any of the following, singularly or in combination, occur:

- a. The City Manager determines that the cooperative or collective has failed to comply with this Section, any condition or approval, or any agreement or covenant as required pursuant to this Section; or
- b. Operations cease for more than 90 calendar days, including during change of ownership proceedings; or
- c. Ownership is changed without securing a regulatory permit; or
- d. The cooperative or collective fails to maintain 240 hours of security recordings; or
- e. The cooperative or collective fails to allow inspection of the security recordings, the activity logs, or of the premise by authorized City officials.

5. Any decision regarding the approval, conditional approval, denial, or revocation of a regulatory permit may be appealed to the City Council. Said appeal shall be made by a notice of appeal from the person appealing within thirty (30) days from the date of the decision. The appeal shall be accompanied by a fee, which shall be established by resolution of the City Council amended from time to time, and a written, verified declaration setting forth the basis for the claim that the permit was improperly approved, denied, conditioned or revoked. Filing of an appeal shall suspend the issuance of all regulatory permits until action is taken on the appeal.

M. In the event a qualified cooperative or collective that receives an allotment under Subsection I of this Section ceases to operate for any reason, the City Manager shall reopen the allotment process and provide an opportunity for new applications to be submitted. The time periods and process provided in Subsection I shall be applied to the review and consideration of applications and the allotment of a regulatory permit. (Ord. 1758 § 5, 2009)