

4/22/2013

(R-2013-614) #200

RESOLUTION NUMBER R- 308124

DATE OF FINAL PASSAGE MAY 10 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO REGARDING MEDICAL MARIJUANA
REGULATION AND ENFORCEMENT.

WHEREAS, Council met on April 22, 2013, in open session regarding "Discussion of a Draft Medical Marijuana Ordinance and enforcement issues regarding medical marijuana"; and

WHEREAS, Council provided direction and made requests to the Mayor and City Attorney with respect to medical marijuana regulation and enforcement, as more specifically described in Attachment A, pages 3-4 (City of San Diego Memorandum, Subject: Item 200 of April 22, 2013 City Council Meeting) attached hereto; NOW, THEREFORE,

BE IT RESOLVED, Attachment A is incorporated into this resolution, and adopted by the Council.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Mary T. Ntesca
Mary T. Ntesca
Deputy City Attorney

MTN:jdf:cm
4/24/2013
Or.Dept:CITY ATTORNEY
Doc. No.: 552185

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 22 2013

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: _____
(date)

BOB FILNER, Mayor

Vetoed: _____
(date)

BOB FILNER, Mayor

Note: This Resolution was returned unsigned by the Mayor's Office to the Office of the City Clerk on May 10, 2013, at 3:37 p.m. Pursuant to San Diego Charter Section 295 (a) (2), this Resolution is deemed approved on May 10, 2013.

City of San Diego
MEMORANDUM

DATE: April 24, 2013
TO: CITY ATTORNEY – Shannon Thomas/Mary Nuesca
FROM: Office of the City Clerk - Debbie Levenson-Cruz
SUBJECT: Item 200 of the April 22, 2013 City Council Meeting

ITEM-200: Discussion of a Draft Medical Marijuana Ordinance and enforcement issues regarding medical marijuana. (Citywide.) (Rev. 4/19/13)

ITEM DESCRIPTION:

A City Council hearing to discuss a draft medical marijuana ordinance based on the Medical Marijuana Ordinance adopted by the City Council on March 28, 2011 (O-20042) and subsequently repealed. Generally, the draft prepared for discussion increases the number of zones in which a medical marijuana dispensary (dispensary) may be located, modifies the separation distance between dispensaries and sensitive uses, modifies the separation distance between dispensaries, changes the permit process, and prohibits the permitting and siting of medical marijuana vending machines.

STAFF'S RECOMMENDATION:

Take the following action:

HEARING HELD/DIRECTION GIVEN

Provide staff with direction on how to proceed with drafting the ordinance.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Any costs associated with implementation of the regulations in the future will be borne by project applicants.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- On October 6, 2009, the San Diego City Council voted to establish a Medical Marijuana Task Force (MMTF).
- On January 5, 2010, the City Council voted to refer the recommendations of the MMTF to the Land Use and Housing Committee.
- On March 24, 2010, the Land Use and Housing Committee directed the City Attorney to prepare an ordinance based on the recommendations of the MMTF with changes.
- On April 28, 2010, the Public Safety and Neighborhood Services Committee directed the City Attorney to review the MMTF Report and bring back legal recommendations.
- On May 26, 2010, the Public Safety and Neighborhood Services Committee directed the City Attorney to develop an ordinance using the recommendations of the MMTF with changes.
- On September 13, 2010, the City Council voted 6-1 to initiate amendments to the Land Development Code and the City's Local Coastal Program pertaining to medical marijuana cooperatives consistent with the recommendations from the Land Use and Housing Committee.
- On March 28, 2011 the City Council voted 5-1 to approve an Ordinance allowing medical marijuana dispensaries in the IL-3-1 and IS-1-1 zones subject to restrictions.
- On September 27, 2011 the City Council voted 7-1 to repeal the Medical Marijuana Ordinance.

Westlake/Goldstone

Primary Contact\Phone: Dan Normandin\619-446-5388

Secondary Contact\Phone: Kelly Broughton\619-321-3233

COUNCIL ACTION WAS: Motion by Councilmember Emerald to provide direction on how to proceed with drafting the ordinance.

Direct the City Attorney to draft a “land use” ordinance on medical marijuana nearly identical to O-20042 (Passed on April 27, 2011), except as revised below. Request that the revised ordinance be docketed as soon as it has been crafted with the direction below, and providing time for vetting by Community Planning Groups, CPC, Technical Advisory Committee and Planning Commission. Have the backup material include a study by a disinterested third party (i.e. University, private sector land use firm, etc) showing all prospective cooperative sites. The Mayor and Council President will work together regarding how a disinterested third party is selected and contracted. This study would be for the purpose of determining if the ordinance O-20042, as revised, would, in fact, be a “de facto ban”.

The revised ordinance would differ from O-20042 as follows:

- Revise Section 151.0103 (b)(4), to apply the intent of that section regarding which Planned District Zones cooperatives may be located in, specifically to each Planned District;
- Revise the definition of “youth serving facilities” to be more specific;
- Revise the definition of “schools” per the currently proposed draft;
- Revise the sensitive use now listed as “child care facilities” to “child care centers”;
- Add a 100-foot buffer from residential zones;
- Add drug/alcohol rehabilitation centers as a sensitive use;
- Extend buffer from sensitive uses and other cooperatives to 1000 feet;
- Prohibit placement and permitting of medical marijuana vending machines with the City Attorney issuing a legal opinion.

Request that the Mayor:

- Identify those City department(s) that will be responsible for issuing a permit to medical marijuana cooperatives under the “public safety” ordinance and enforcing its provisions;
- Develop a fee structure for full cost recovery of the issuance and enforcement of the “public safety” permit, for approval by Council;
- Provide a list of all the community groups that will be contacted for Planning Group consideration;
- Provide an analysis of the potential zoning impacts, in square footage, within each Council District.

Direct the Mayor to have Neighborhood Code Compliance Department investigate illegal dispensaries and take action to enforce the law.

Direct the City Attorney to:

- Provide the Council with its legal options regarding fees and/or taxes on Medical Marijuana above and beyond cost recovery.
- Examine the ability of the City to monitor doctors who recommend medical marijuana to patients.
- Bring back options for changes to the public safety ordinance regarding the system for medical card issuing.
- Look at various combinations of eligible areas in each council district, and issue a legal opinion as to whether the council can legally limit the number of dispensaries by council district. Second by Council President Pro Tem Lightner.

COUNCIL VOTE WAS: Unanimous; 4-vacant.

Please prepare the Ordinance to reflect Council's action using the appropriate language, and return to the City Clerk's Office for further processing.

ELIZABETH S. MALAND
City Clerk

By: Debbie Levenson-Cruz, Deputy

APR 22 2013

Passed by the Council of The City of San Diego on _____, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 4 (Vacant)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

MAY 10 2013

Date of final passage _____

AUTHENTICATED BY:

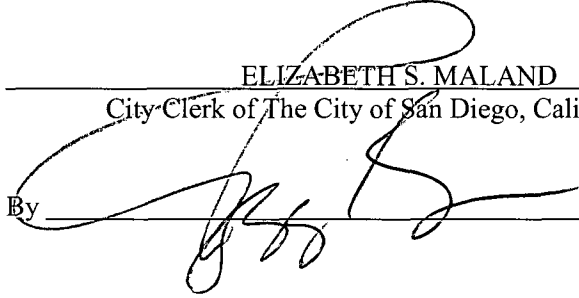
BOB FILNER

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

(Seal)

By  _____, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- **308124**