



THE CITY OF SAN DIEGO  
**REPORT TO THE CITY COUNCIL**

DATE ISSUED: April 21, 2010

REPORT NO: 10-060

ATTENTION: City Council

SUBJECT: Recommendations from the Medical Marijuana Task Force

REQUESTED ACTION: Approve the recommendations

BACKGROUND:

On October 6, 2009, the San Diego City Council voted to establish a Medical Marijuana Task Force [hereinafter "Task Force"] to advise the City Council on: (1) guidelines for medical marijuana patients and primary caregivers; (2) guidelines for the structure and operation of medical marijuana cooperatives and/or collectives; and (3) guidelines for police department enforcement regarding medical marijuana. The Council appointed eleven members, with a broad range of perspectives and backgrounds, to serve on the Task Force.

In October and November of 2009, the Task Force formed its recommendations regarding land use and zoning regulations for collectives and cooperatives that dispense medical marijuana to qualified patients. The Task Force presented its land use and zoning recommendations to City Council in December of 2009.

This report provides a summary of the Task Force's recommendations regarding regulations that fall outside of land use and zoning.

OVERVIEW:

The Task Force met seven times over the course of January, February and March 2010 to discuss the recommendations summarized in this report. The meetings were conducted pursuant to the Brown Act and open to the public. The Task Force was fortunate to receive helpful input from the public at these meetings and relied on a wide range of documents and reports to inform our work, including ordinances from over three dozen other cities and counties in California regulating medical marijuana collectives and cooperatives. Representatives from the City Attorney and the Independent Budget Analyst offices attended each meeting to advise the Task Force on pertinent issues.

The Task Force's recommendations appear in full below. In general, however, the recommendations reflect a shared belief by the Task Force that the best way for the City Council to address the issue of medical marijuana collectives and cooperatives is to adopt an ordinance that closely regulates such entities. We believe that by closely regulating collectives and

cooperatives, the City of San Diego can ensure that qualified patients have safe access to their lawfully recommended medicine and prevent against the dangers attendant to unregulated or otherwise illegitimate operators. Though some members of the Task Force differed on specific recommendations, we all were in agreement on this central principle.

## RECOMMENDATIONS:

The Task Force voted on recommendations for a number of specific issues. We considered and voted on each issue one at a time. By the nature of the project, the Task Force could not consider and vote on every possible consideration. Accordingly, these recommendations are meant to provide general advice to the City Council about the items that we believe would be especially important to include in any ordinance that regulates medical marijuana patients and primary caregivers; the structure and operation of medical marijuana cooperatives and/or collectives; and police department enforcement regarding medical marijuana. The following is a list of each recommendation of the Task Force, along with a voting breakdown and, where helpful, brief explanatory text.

- **Establishment of a Fee:** The Task Force recommends that the City adopt cost-recovery fees for medical marijuana cooperatives and collectives pursuant to the City of San Diego's process for determining and establishing cost-recovery fees.

- Vote: This recommendation was adopted by a vote of 7-1

- **Definition of Non-Profit Operation:** The Task Force recommends that the City adopt the following standard to determine whether medical marijuana cooperatives and collectives are operating in a non-profit manner in compliance with State law:

No collective shall operate for profit. Cash and in-kind contributions, reimbursements and reasonable compensation provided by members towards the collective's actual expenses for the growth, cultivation and provision of medical marijuana shall be allowed in accordance with State Law. All such cash and in-kind amounts and items shall be fully documented. "Reasonable compensation" shall mean compensation for directors, managers and/or other employees commensurate with reasonable wages and benefits paid to employees of IRS-qualified non-profit organizations who have similar descriptions and duties. The payment of a bonus shall not be considered "reasonable compensation."

- Vote: This recommendation was adopted by a vote of 8-0

- **Verification of Non-Profit Operation:** The Task Force recommends that on an annual basis each collective be given the opportunity to provide evidence of its operation in a non-profit manner to the City during the previous year. Upon request by the City, 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.

- Vote: This recommendation was adopted by a vote of 6-2

• **Documentation and Definition of Closed-System Operation:** The Task Force recommends that medical marijuana cooperative and collective applicants shall document closed system operations pursuant to the Attorney General's guidelines. As such, it is expected that all collective members are potentially growers and can grow for themselves as they are able or as they choose. Collective members are expected to bring the excess medical marijuana from their own personal grows to the collective where they may be compensated by cash or trade in-kind. Certain collective members choose that their sole support to the cooperative effort will be to contribute their time and expertise in growing medical marijuana for the collective. Growers are compensated for their time and expenses in growing for the collective when the harvest is brought to the dispensary. Other members may participate in the cooperative cultivation of the medical marijuana, however the growers are responsible and compensated by the transaction amount to be paid by other members of the collective as their contribution to the cultivation of the medicine. Members may offer labor at any point in the cultivation cycle as their skills and choices allow and as opportunity permits.

• Vote: 7-0-1

• **Background Checks For Dispensary Directors, Managers, and Other Employees:** The Task Force recommends that LiveScan fingerprinting be required of all potential directors/managers/staff of dispensaries. Those who have been convicted of violent felonies or convicted of crimes of moral turpitude within the past seven (7) years shall be excluded from being directors, managers or staff of dispensaries.

• Vote: 7-0

• **Prohibition of Employing Minors:** The Task Force recommends that dispensing collectives and cooperatives be prohibited from employing individuals under 18 years of age.

• Vote: 6-0

• **Restrictions on Dispensing Medical Marijuana to Qualified Patients Under 18 Years of Age:** The Task Force recommends that qualified patients 18 or older or parents/legal guardians of a minor who is a qualified patient may obtain medical cannabis for the patient. It is acknowledged that medical marijuana may be dangerous in the hands of juveniles and the use must be appropriately supervised by a parent or legal guardian.

• Vote and background: 5-0

• **Prohibition Against Physicians' Consultations at Dispensaries:** The Task Force recommends that dispensing medical marijuana collectives and cooperatives be prohibited from offering physician's consultations and recommendations on dispensary premises.

• Vote: 7-0

- **Restrictions on Medical Marijuana Transportation:** The Task Force recommends that medical marijuana may be transported only by patients, caregivers or a member of a collective.

- Vote: 5-0

- **Packaging and Labeling:** The Task Force recommends that (a) all packaging of medical marijuana be sealed in an airtight manner and (b) a label be affixed to the package containing the following information: Patient's name; Dispensing date; Name of product; Product ingredients; It must be used as recommended; It must be kept out of reach of children; Patients must not operate heavy machinery while under the influence of medical marijuana; It is prohibited to sell or transfer medical marijuana to non-patients; The product is intended for medical use only as stated under the California Health and Safety Code Section 11362.5; Any use instructions and warning.

- Vote: Recommendation (a) was approved by a vote of 5 – 0; Recommendation (b) was approved by a vote of 9 – 0

- **Patient Advisory for Edible Products and Concentrates:** The Task Force recommends that the warning on the use of edible products and concentrates contained in Attachment A be posted on a wall in the dispensary and that edible products and concentrates must be labeled with an appropriate warning label.

- Vote: 9 – 0

- **Applicability of Patients' Bill of Rights to Medical Marijuana Patients:** The Task Force recommends that the City acknowledge that the Patients' Bill of Rights applies to medical marijuana patients.

- Vote: 9 – 1

- **Revisions to Existing San Diego Municipal Code Provisions Relating to Medical Marijuana:** The Task Force recommends that the City of San Diego revise existing municipal code provisions relating to medical marijuana in accordance with Attachment B.

- Vote: 5 – 2

## CONCLUSION:

The Task Force recommends that the City of San Diego closely regulate medical marijuana collectives and cooperatives in order to ensure that qualified patients have safe access to their lawfully recommended medicine and to prevent against the dangers attendant to unregulated or otherwise illegitimate operators.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: NONE

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: NONE

KEY STAKEHOLDERS AND PROJECTED IMPACTS: NONE



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Task Force Chair



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City Council Staff to the Task Force



# CANNABIS PATIENT ADVISORY

## *THIS IS A WARNING REGARDING EDIBLE CANNABIS/MARIJUANA PRODUCTS*

**CAUTION** – Edible products containing cannabis extracts (THC – Tetra Hydro Cannabinol) have serious risks associated with the consumption. **KEEP OUT OF THE REACH OF CHILDREN**

**Common Names:** Cannabis Sativa, Cannabis Indica

**Uses:** Edible cannabis products must always be consumed with caution! The fact that most edible are produced in kitchens which have not been certified by the health Department creates a risk of serious illness and/or an agonizing painful death. THE CITY OF SAN DIEGO CANNOT REGULATE THIS POTENTIALLY DANGEROUS PRODUCT! Edible cannabis products provide thirty seven additional variations of the THC – (Tetra Hydro Cannabinol) molecule over the benefits received from the inhalation of medical cannabis. Patients with terminal cancer, and those suffering from respiratory problems will benefit from orally consuming cannabis since inhalation is impossible for them; however, there are associated risks. **DO NOT OPERATE A MOTOR VEHICLE OR MACHINERY WITHIN EIGHT HOURS OF CONSUMING EDIBLE CANNABIS PRODUCTS.**

**Side Effects:** Severe Extreme Anxiety attacks lasting for up to four (4) hours may occur without proper use of this product. Unless you have experience with this substance, do not drive within seven (7) hours of consumption.

**Non Health Department Certified Kitchens:** Food products and other ingestible items containing cannabis are usually not produced in Health Department Certified Kitchens. Consuming these products is a risk.

**Dosages:** It is difficult to regulate the doses of THC in edible products. It is advised that each new lot be tested by consuming only small portions over a period of several hours.

**Anxiety Sufferers:** Patients suffering from anxiety should consult a physician before considering the use of edible products containing THC. The increased risk of anxiety attacks may be associated with their consumption.

*\*Suggested amendments in bold*

#### §42.1308 Permissible Amounts of Marijuana

A person in possession of a current and valid State **Medical Marijuana Identification Card and/or a valid physician's recommendation**, who is within the jurisdictional limits of the City, is not subject to arrest by the SDPD for possession of marijuana, or detention by the SDPD longer than necessary to verify his or her status, or seizure by the SDPD of marijuana in his or her possession, if the amount of medicinal cannabis possessed is within the following limits:

- a) *Processed Marijuana - Medical Cannabis Patients.* An individual who is a *medical cannabis patient* may possess the total amount of *processed marijuana*, regardless of growing method, recommended by his or her physician for the length of time recommended by the physician, not to exceed one pound, or an amount consistent with the physician's recommendation.
- b) *Processed Marijuana - Primary Caregivers.* An individual who is a *primary caregiver* may possess no more than the amount specified above for each *medical cannabis patient* for whom the individual serves as a verified *primary caregiver* as defined in section 42.1302(a) not to exceed two pounds, or an amount consistent with the physician's recommendation.
- c) *Indoor Plants - Medical Cannabis Patients.* A *medical cannabis patient* may possess a maximum of twenty-four unharvested plants or an amount consistent with the physician's recommendation.
- d) *Indoor Plants - Primary Caregivers.* A *primary caregiver* may possess no more than the amount of medical cannabis specified above and growing in the space specified above in subsection c, for each *medical cannabis patient* for whom the individual serves as a verified *primary caregiver* as defined above in section 42.1302(a), not to exceed a total of **ninety-nine** plants or an amount consistent with the recommendation of the physician or physicians.
- e) *Outdoor/Greenhouse Plants* No **unsupervised** outdoor marijuana cultivation shall be permitted. Growing marijuana shall only be permitted in a fully enclosed **yard with a six foot fence perimeter or a greenhouse or structure that must be locked and contained.** The amount of marijuana grown in the enclosed **yard with a six foot fence perimeter or a greenhouses or structures that are locked and contained** shall not exceed the permissible amounts for indoor plants according to sections 42.1311(c) and 42.1311(d) above.
- f) Possession of cannabis in amounts which exceed those set forth in this section by individuals asserting medical necessity or *primary caregiver* status will be evaluated by SDPD on a case by case basis according to the totality of the circumstances, taking into account facts such as whether the person is in possession of a current valid verification card, and whether the amount possessed is consistent with a physician's recommendation.

*("Permissible Amounts of Marijuana" added; "Expiration" renumbered to Sec. 42.1310 and amended 9-29-2003 by O-19218 N.S.)*