

COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: 7/9/14

ORIGINATING DEPARTMENT: City Council District 9

SUBJECT: AMENDMENTS TO SAN DIEGO MUNICIPAL CODE PERTAINING TO THE POSSESSION OF MARIJUANA FOR MEDICAL PURPOSES AND THE OPERATIONS OF MEDICAL MARIJUANA CONSUMER COOPERATIVES

COUNCIL DISTRICT(S): Citywide

CONTACT/PHONE NUMBER: Tim Taylor, Chief Policy Advisor, (619) 533-4774

DESCRIPTIVE SUMMARY OF ITEM:

This action amends the City of San Diego Municipal Code regarding medical marijuana. The City regulations under consideration at this Public Safety and Livable Neighborhoods (PS&LN) Committee hearing are contained within the Health and Sanitation Chapter of the San Diego Municipal Code (SDMC), specifically Chapter 4, Article 2, Divisions 13 and 15. These code sections were adopted by the San Diego City Council on 2-25-2002 (O-19036), 9-29-2003 (O-19218), and 4-27-2011 (O-20043).

COUNCILMEMBER EMERALD'S RECOMMENDATION: Forward the draft ordinance to the full City Council with a recommendation of conditional approval. Because there is no qualified inspection authority to address consumer safety, recommend that City Council amend the draft ordinance to: 1.) eliminate the transfer/sale of edibles; 2.) eliminate the transfer/sale of concentrates, except those not in violation of federal law. Also, consider amending the draft ordinance to include additional specifics on the auditing of medical marijuana consumer cooperatives.

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

On February 25, 2014, the City Council approved an ordinance regulating the land use aspects of medical marijuana consumer cooperatives. As part of the motion that approved said ordinance, the Council recommended that the PS&LN Committee review the existing Municipal Code regulation on medical marijuana with regard to the operational characteristics of Medical Marijuana Consumer Cooperatives. The specific areas cited by the Council included the food safety of edibles, the origin of the product, the processing of concentrates (like hash oil) and deliveries. There was also concern expressed regarding making sure that the fees charged for issuing the permit under the Health and Sanitation Chapter and the enforcement of the regulations are fully cost recoverable (see attached minutes).

PS&LN, on April 16, 2014, heard the matter and recommended that the Municipal Code be amended, and that DSD report back on the fee study (see below and attached).

During Committee discussion, Chair Emerald discussed her concerns with the safety of marijuana edibles and concentrates (i.e. hash oil). She noted that the Federal, State and County government entities that deal with product safety (U.S. Food and Drug Administration, California Department of Public Health, San Diego County Environmental Health Department) are not prepared to take this matter on. However, the majority of the Committee believed that additional research was needed to determine the options open to the Council to address consumer safety issues.

FISCAL CONSIDERATIONS:

None.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The municipal code sections that are the subject of this action, were created by the following ordinances: O-19036, adopted February 25, 2002, O-19218, (September 29, 2003), and O-20043, adopted April 27, 2011

PS&LN, on April 16, 2014, heard the matter and recommended that the Municipal Code be amended, as follows;

- 1.) Insert code language that allows the city to revoke the “public safety” permit for noncompliance, including an appeal process.
- 2.) Require that drivers making deliveries to patient’s homes must possess a County issued medical marijuana ID card, and documentation that they are making a delivery from a permitted cooperative storefront. In addition, such deliveries must originate from the storefront, and any marijuana they are delivering must be labeled for the specific patient(s) it is being delivered to.
- 3.) Revise §42.1513 to eliminate the language that the City is not responsible for the accuracy of the statements contained in required interior signs, and to eliminate any statements that the City cannot determine to be accurate. Also, revise §42.1512 to have specific language regarding the warning label on the products, as on the interior signage.
- 4.) Revise §42.1507(b) to read “the city shall conduct a background check...” vs. “may conduct.”
- 5.) Add that the City may, at any time, have medical marijuana tested for pesticides, mold, mildew, and/or bacteria; and make such testing available to consumers. (Intent: to create an incentive for cooperative to limit such contaminants and allow consumers to make informed decisions).
- 6.) Insert language encouraging, but not requiring, cooperatives to label products for potency.
- 7.) Direct staff to do additional research and make policy recommendations on the use of marijuana concentrates and edibles by storefront cooperatives. Also, direct DSD to report back to this Committee on July 16, 2014 on the fee study that is being prepared, to make sure that the fees are adequate to achieve full cost recovery.

Motion by Councilmember Cole, second by Councilmember Harris. VOTE: 3-0-1, Cole-yea, Emerald-yea, Harris-yea, Kersey-absent.



**THE COMMITTEE ON PUBLIC SAFETY AND LIVABLE NEIGHBORHOODS
OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO**

Councilmember Marti Emerald, Chair
Councilmember Myrtle Cole, Vice Chair
Councilmember Ed Harris
Councilmember Mark Kersey

**ACTIONS FOR THE
COMMITTEE MEETING OF
WEDNESDAY, APRIL 16, 2014 AT 2:00 P.M.
CITY ADMINISTRATION BUILDING
COMMITTEE ROOM – 12TH FLOOR
202 “C” STREET, SAN DIEGO, CA 92101**

For Information, contact Marisa Berumen, Council Committee Consultant
Email: MBerumen@sandiego.gov or 619-236-7754

ROLL CALL

Committee members present: Emerald, Cole and Harris

Committee members absent: Kersey

APPROVAL OF COMMITTEE ACTIONS

The Committee Record of Actions of the following meetings were approved by Unanimous Consent:

March 19, 2014

NON-AGENDA PUBLIC COMMENT:

Evie Kosowex made comments regarding the Senior Centers and Council District contacts.

Bill Kelly made comments regarding the Senior Centers and Council District contacts.
John Carson made comments regarding City median island pedestrian safety.

COMMITTEE MEMBERS, MAYOR, INDEPENDENT BUDGET ANALYST, CITY ATTORNEY, CITY CLERK COMMENT: None.

REQUESTS FOR CONTINUANCE: None

CONSENT AGENDA:

ITEM-1: Report from the Parks and Recreation Department regarding FORMATION OF FIVE KENSINGTON/TALMADGE MAINTENANCE ASSESSMENT DISTRICTS

Motion by Councilmember Cole to accept the report and approve staff's recommendation.
Second by Councilmember Emerald.

Passed by the following vote:

Yea: Emerald, Cole, Harris.

Nay: None.

Recused: None.

Not Present: Kersey.

INFORMATION AGENDA:

ITEM-2: Report from the San Diego Police Department regarding HOMELESS OUTREACH TEAM (H.O.T.)

This is an informational item only, no action required by the Committee.

ITEM-3: Report from the San Diego Police Department regarding TOBACCO RETAILERS ORDINANCE UPDATE

This is an informational item only, no action required by the Committee.

DISCUSSION AGENDA :

ITEM-4: Report from Council District Nine regarding DISCUSSION RELATED TO AMENDING SAN DIEGO MUNICIPAL CODE, CHAPTER 4 - HEALTH AND SANITATION, RELATED TO THE POSSESSION OF MARIJUANA FOR MEDICAL PURPOSES AND THE OPERATIONS OF MEDICAL MARIJUANA COOPERATIVES

Motion by Councilmember Cole to Direct the City Attorney to draft changes to Chapter 4, Article 2, Divisions 13, and 15 of the Municipal Code, as follows, and return on July 16, 2014:

1. Insert code language that allows the city to revoke the "public safety" permit for noncompliance, including an appeal process.

2. Require that drivers making deliveries to patient's homes must possess a County issued medical marijuana ID card, and documentation that they are making a delivery from a permitted cooperative storefront. In addition, such deliveries must originate from the storefront, and any marijuana they are delivering must be labeled for the specific patients it is being delivered to.
3. Revise §42.1513 to eliminate the language that the City is not responsible for the accuracy of the statements contained in required interior signs, and to eliminate any statements that the City cannot determine to be accurate. Also, revising §42.1512 to have specific language regarding the warning label on the products, as on the interior signage.
4. Revise §42.1507(b) to "the City shall conduct a background check..." vs. "may conduct."
5. Add that the City may, at any time, have medical marijuana tested for pesticides, mold, mildew, and/or bacteria; and make such testing available to consumers. This would create an incentive for cooperative to limit such contaminants and allow consumers to make informed decisions.
6. Insert language encouraging, but not requiring, cooperatives to label products for potency.
7. Direct staff to do additional research and make policy recommendations on the use of marijuana concentrates and edibles by storefront cooperatives.

Also, direct DSD to report back to this Committee on July 16, 2014 on the fee study that is being preparing to ensure that the fees are adequate to achieve full cost recovery. Second by Councilmember Harris.

Passed by the following vote:

Yea: Emerald, Cole, Harris.

Nay: None.

Recused: None.

Not Present: Kersey.



Marti Emerald

Chair

Article 2: Health Regulated Businesses and Activities

Division 13: Medical Marijuana Regulations: Patients and Caregivers

(“San Diego Medical Cannabis Voluntary Verification Card Program” added 2-25-2002 by O-19036 N.S.

(Retitled to “Medical Marijuana Regulations: Patients and Caregivers” and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1301 Purpose and Intent

- (a) It is the intent of the Council to adopt regulations consistent with California Health and Safety Code section 11362.5 (Compassionate Use Act) and California Health and Safety Code sections 11362.7-11362.83 (Medical Marijuana Program), to protect the public health, safety, and welfare.
- (b) Nothing in this Division is intended to override a peace officer’s judgment and discretion based on a case-by-case evaluation of the totality of the circumstances, or to interfere with a peace officer’s sworn duty to enforce applicable law.
- (c) Nothing in this Division is intended to reduce the rights of a *qualified patient* or *primary caregiver* otherwise authorized by California Health and Safety Code section 11362.5(d).
- (d) This Division shall be interpreted in a manner consistent with state law. Nothing in this Division is intended to authorize the sale, distribution, possession of *marijuana*, or any other transaction, in violation of state law.

(Amended 9-29-2003 by O-19218 N.S.)

(Amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1302 Definitions

For the purpose of this Division the following definitions shall apply and appear in italicized letters:

Marijuana has the same meaning as in California Health and Safety Code section 11018.

Primary caregiver means the individual designated by the *qualified patient* who has consistently assumed responsibility for the housing, health, or safety of the *qualified patient*, in accordance with state law, including California Health and Safety Code section 11362.5. As explained in *People v. Mentch*, 45 Cal. 4th 274 (2008), a *primary caregiver* is a person who consistently provides caregiving to a *qualified patient*, independent of any assistance in taking medical *marijuana*, at or before the time he or she assumed responsibility for assisting with medical *marijuana*.

Processed marijuana means harvested *marijuana* that is in a form other than a live plant.

Qualified patient means a California resident having 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 in accordance with state law, including California Health and Safety Code section 11362.5.

SDPD means the City of San Diego Police Department.

State identification card means the card issued to a patient or caregiver in accordance with California Health and Safety Code sections 11362.71-11362.76.

(Amended 9-29-2003 by O-19218 N.S.)

(Amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1303 State Identification Card Holders: Permissible Amounts of Marijuana

A person in possession of a current and valid *state identification card* and 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 *marijuana* possessed is within the following limits:

(a) *Processed Marijuana - Qualified Patients.*

An individual who is a *qualified 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, whichever is less.

(b) *Processed Marijuana - Primary Caregivers.*

An individual who is a *primary caregiver* may possess no more than the amount specified in section 42.1303(a) for each *qualified patient* for whom the individual serves as a verified *primary caregiver*, except that such amount shall not exceed two pounds, or an amount consistent with the physician's recommendation, whichever is less.

(c) *Indoor Plants - Qualified Patients.*

A *qualified patient* may possess a maximum of twenty-four unharvested *marijuana* plants growing in an area of no more than 64 square feet, or an amount consistent with the physician's recommendation, whichever is less.

(d) *Indoor Plants - Primary Caregivers.*

A *primary caregiver* may possess no more than the amount of *marijuana* specified in section 42.1303(c) and growing in the space specified in 42.1303(c), for each *qualified patient* for whom the individual serves as a *primary caregiver*, not to exceed a total of ninety-nine plants, or an amount consistent with the recommendation of the physician or physicians, whichever is less.

(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 minimum 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 minimum six-foot fence perimeter or greenhouses or structures that are locked and contained shall not exceed the permissible amounts for indoor plants according to sections 42.1303(c) and 42.1303(d).

(f) *Possession of marijuana in amounts which exceed those set forth in section 42.1303(a)-(d) by persons with state identification cards 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 amount possessed is consistent with a physician's recommendation.*

(Renumbered from former Section 42.1308, retitled to "State Identification Card Holders: Permissible Amounts of Marijuana" and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011. Former Section 42.1303 repealed.)

§42.1304 Smoking

Qualified patients, including those with *state identification cards*, are prohibited from smoking *marijuana* in any public place or in any place open to the public. Any person who violates this section is guilty of an infraction.

(Renumbered from former Section 42.1313, and amended 4-27-2011 by O-20043 N.S.; effective 5-27-2011. Former Section 42.1304 repealed.)

Article 2: Health Regulated Businesses and Activities

Division 15: Medical Marijuana Consumer Cooperatives (“Medical Marijuana Consumer Cooperatives” added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1501 Purpose and Intent

It is the intent of this Division to promote and protect the public health, safety, and welfare of the citizens of San Diego by allowing and strictly regulating the cooperative cultivation and exchange of medical *marijuana* among *qualified patients*, *primary caregivers*, and *state identification card* holders consistent with state law. It is further the intent of this Division to ensure that *marijuana* is not diverted for illegal purposes, and to limit its use to those persons authorized under state law. Nothing in this Division is intended to authorize the sale, distribution, possession of *marijuana*, or other transaction, in violation of state law.

It is not the intent of this Division to supersede or conflict with state law, but to implement the Compassionate Use Act (California Health and Safety Code section 11362.5) and the Medical Marijuana Program (California Health and Safety Code sections 11362.7-11362.83). Further, the California Corporations Code may allow some conduct for consumer cooperatives that is not otherwise permissible under the California Health and Safety Code and this Division, such as the distribution of profits to members; in those circumstances, it is the intent of the City that the state and municipal laws governing medical *marijuana* control.
(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1502 Definitions

For the purpose of this Division, the following definitions shall apply and appear in italicized letters:

Marijuana has the same meaning as in California Health and Safety Code section 11018.

Medical marijuana consumer cooperative means a cooperative organized as a consumer cooperative under state law for the purpose of collectively or cooperatively cultivating *marijuana* for medical purposes in accordance with state law.

Primary caregiver means the individual designated by the *qualified patient* who has consistently assumed responsibility for the housing, health, or safety of the *qualified patient*, in accordance with state law, including California Health and Safety Code section 11362.5. As explained in *People v. Mentch*, 45 Cal. 4th 274 (2008), a *primary caregiver* is a person who consistently provides caregiving to a *qualified patient*, independent of any assistance in taking medical *marijuana*, at or before the time he or she assumed responsibility for assisting with medical *marijuana*.

Qualified patient means a California resident having 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, in accordance with state law, including California Health and Safety Code section 11362.5.

Reasonable compensation means compensation for directors, managers, and *responsible persons* of the *medical marijuana consumer cooperative* commensurate with reasonable wages and benefits paid to employees of IRS qualified non-profit organizations who have similar descriptions and duties.

Responsible person has the same meaning as in San Diego Municipal Code section 11.0210, and includes an employee and each person upon whom a duty, requirement or obligation is imposed by this Division, or who is otherwise responsible for the operation, management, direction, or policy of a *medical marijuana consumer cooperative*. It also includes an employee who is in apparent charge of the *medical marijuana consumer cooperative*.

State identification card means the card issued to a *qualified patient* or *primary caregiver* in accordance with California Health and Safety Code sections 11362.71-11362.76.

Violent felony means the same as it does in California Penal Code section 667.5(c) as may be amended from time to time.
(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1503 Cooperatives—Organization

All persons who organize to collectively and cooperatively cultivate medical *marijuana* pursuant to state law shall organize as a “Consumer Cooperative Corporation” pursuant to California Corporations Code Title 1, Division 3, Part 2.
(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1504 Cooperatives—Permit Required

- (a) It is unlawful for any person to operate any cooperative, collective, dispensary, or establishment which collectively or cooperatively cultivates medical *marijuana* without a permit issued pursuant to this Division.
- (b) In addition to any other information requested by the City, a permit applicant must provide evidence that the applicant is in compliance with section 42.1503.
- (c) The *medical marijuana consumer cooperative* shall designate one of its officers or managers to act as its responsible managing officer. The responsible managing officer may complete and sign the permit application on behalf of the *medical marijuana consumer cooperative*.
- (d) The issuance of a permit pursuant to this Division does not relieve any person from obtaining any other permit, license, certificate, or other similar approval that may be required by the City, the County of San Diego, or state or federal law.
- (e) A permit applicant must obtain a conditional use permit as required by Chapter 12, Article 6, Division 3, prior to obtaining a permit under this Division.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1505 Exemptions

- (a) This Division does not apply to persons collectively or cooperatively cultivating medical *marijuana* in the following facilities licensed by the State of California pursuant to California Health and Safety Code Division 2:
 - (1) A clinic licensed pursuant to Chapter 1;
 - (2) A health facility licensed pursuant to Chapter 2;
 - (3) A residential care facility for persons with chronic, life-threatening illnesses licensed pursuant to Chapter 3.01;
 - (4) A residential care facility for the elderly licensed pursuant to Chapter 3.2; or
 - (5) A hospice or a home health agency licensed pursuant to Chapter 8.

- (b) This Division does not apply to the cultivation of *marijuana* by a *qualified patient* at that patient's home, so long as the patient is only growing for his or her own personal medical needs in a manner consistent with state law.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1506 Cooperatives–Cost Recovery Fees

Notwithstanding any other provision of this Code, the City may recover its costs in the form of a permit fee for the costs of permitting and regulating *medical marijuana consumer cooperatives*.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1507 Cooperatives–Background Checks

- (a) All *responsible persons* in the *medical marijuana consumer cooperative* shall undergo fingerprinting prior to acting as a *responsible person*. The fingerprints shall be provided to and kept on file with the City.
- (b) The City may conduct a background check of all *responsible persons*. Any person who has been convicted of a *violent felony* or a crime of moral turpitude within the past seven years, cannot act as a *responsible person* in the *medical marijuana consumer cooperative*.
- (c) It is unlawful for any *responsible person* in a *medical marijuana consumer cooperative* to act as a *responsible person* for the *medical marijuana consumer cooperative* if he or she:
 - (1) fails to provide their fingerprints to the City; or
 - (2) has been convicted of a *violent felony* or crime of moral turpitude within the past seven years.
- (d) The cost of the fingerprinting and attendant background check shall be borne by the *responsible person*.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1508 Cooperatives–Verification and Documentation

- (a) *Responsible persons* shall ensure that all transactions involving money, in-kind contributions, reimbursements, *reasonable compensation*, and *marijuana* are fully documented, including documenting each member’s contribution of labor, resources, or money to the *medical marijuana consumer cooperative*, and the source of their *marijuana*.
- (b) Upon the City’s request, *responsible persons* for the *medical marijuana consumer cooperative* shall provide to the City an audit of its operations for the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1509 Cooperatives–Not-for-Profit

Responsible persons shall ensure that:

- (a) No *medical marijuana consumer cooperative* operates for profit for itself or its members. Cash and in-kind contributions, reimbursements, and *reasonable compensation* provided by members towards the *medical marijuana consumer cooperative’s* actual expenses for the growth, cultivation, and provision of *medical marijuana* shall be allowed in accordance with state law.
- (b) *Medical marijuana consumer cooperative responsible persons*, including directors, managers, and employees, are limited to receiving *reasonable compensation* and shall not receive a bonus.
- (c) Members who bring *medical marijuana* from their own personal grows to the *medical marijuana consumer cooperative*, may be compensated by cash or trade in-kind. Members may be compensated for their expenses as provided by state law at the time the harvest is brought to the *medical marijuana consumer cooperative*.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1510 Cooperatives–Age Limitations

- (a) No person under the age of eighteen is allowed at or in any *medical marijuana consumer cooperative* unless the person is a *qualified patient* or *state identification card* holder and accompanied by their parent, legal guardian, or a *primary caregiver* who is over the age of eighteen.
- (b) No person under the age of eighteen may be employed by or act as a *responsible person* on behalf of the *medical marijuana consumer cooperative*.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1511 Marijuana–Transportation

All persons transporting *medical marijuana* in connection with a *medical marijuana consumer cooperative* shall do so in accordance with state law.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1512 Marijuana–Packaging and Labeling

Responsible persons for the *medical marijuana consumer cooperative* shall ensure that *medical marijuana*, *edible products containing medical marijuana*, and *concentrates* comply with the following packaging and labeling requirements:

- (a) *Marijuana*
 - (1) Must be sealed in an airtight manner; and
 - (2) must have a label affixed to the package containing the following information:
 - a. Patient’s name;
 - b. Dispensing date;
 - c. Name and address of dispensing cooperative;
 - d. Name of product;
 - e. Product ingredients;
 - f. Product must be used as recommended;
 - g. Product must be kept out of the reach of children;
 - h. Product users must not operate heavy machinery while under the influence of *marijuana*;
 - i. Sale or transfer of product to non-patients is prohibited;

- j. Product is intended for medical use only. Cal. Health & Safety Code § 11362.5; and
- k. Any additional use instructions and warnings that may be applicable.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

(b) Edible Products and Concentrates

(1) Must be labeled with the following:

- a. Patient's name;
- b. Dispensing date;
- c. Name and address of dispensing cooperative;
- d. A warning label; and
- e. The source of the food production.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

§42.1513 Interior Signage

A sign shall be posted on a wall in the *medical marijuana consumer cooperative* which states the following:

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 edibles 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 side 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 hours may occur without proper use of this product. Unless you have experience with this substance, do not drive within seven 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.

This warning sign was drafted by the Medical Marijuana Task Force (San Diego Resolution R-305305, Medical Marijuana Task Force Report to Council No. 10-060 (Apr 21, 2010)). The City of San Diego is not responsible for the accuracy of the statements contained in this sign and cannot verify its contents.

(Added 4-27-2011 by O-20043 N.S.; effective 5-27-2011.)

Minutes of City Council Meeting – February 25, 2014, Item 335

ITEM-335: Amendment to the Land Development Code and Local Coastal Program for Medical Marijuana Consumer Cooperatives. (Citywide.)

ITEM DESCRIPTION:

This item is an Amendment to the Land Development Code and the Local Coastal Program to add Medical Marijuana Consumer Cooperatives as a new separately regulated land use. The City Council on April 24, 2013, directed the City Attorney and the Mayor's Office to return to the City Council with specific revisions to the 2011 Medical Marijuana Consumer Cooperative ordinance, information related to the "Public Safety" ordinance in Chapter 4 of the Municipal Code, and information related to fees, taxation and other items identified in City Council Resolution R-308124.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2014-90) INTRODUCED WITH INTERLINEATION TO BE ADOPTED TUESDAY, MARCH 11, 2014

Introduction of an Ordinance amending Chapter 11, Article 3, Division 1 of the San Diego Municipal Code by amending Section 113.0103; amending Chapter 12, Article 6, Division 3 by amending Section 126.0303; amending Chapter 13, Article 1, Division 2 by amending Section 131.0222, Table 131-02B; amending Chapter 13, Article 1, Division 3 by amending Section 131.0322, Table 131-03B; amending Chapter 13, Article 1, Division 4 by amending Section 131.0422, Table 131-04B; amending Chapter 13, Article 1, Division 5 by amending Section 131.0522, Table 131-05B; amending Chapter 13, Article 1, Division 6 by amending Section 131.0622, Table 131-06B; amending Chapter 14, Article 1, Division 6 by adding a new Section 141.0614 and renumbering the current Section 141.0614 to 141.0615; amending Chapter 15, Article 1, Division 1 by amending Section 151.0103; amending Chapter 15, Article 2, Division 3 by amending Section 152.0312; amending Chapter 15, Article 3, Division 3 by amending Sections 153.0309 and 153.0310; amending Chapter 15, Article 6, Division 3 by amending Section 156.0308, Table 156-0308-A; amending Chapter 15, Article 14, Division 3 by amending Section 1514.0305, Table 1514-03J; amending Chapter 15, Article 17, Division 3 by amending Sections 1517.0301 and 1517.0302; and amending Chapter 15, Article 19, Appendix A, all related to Medical Marijuana Consumer Cooperatives.

STAFF SUPPORTING INFORMATION:

FISCAL CONSIDERATIONS:

Costs associated with implementation of the medical marijuana consumer cooperatives regulations in the future will be borne by project applicants.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

- October 6, 2009, the City Council voted to establish the Medical Marijuana Task Force

(MMTF).

- January 5, 2010, the City Council voted to refer the recommendations of the MMTF to the Land Use & Housing Committee.
- March 24, 2010, the Land Use & Housing Committee directed the City Attorney to prepare an ordinance based on the recommendations of the MMTF as modified by the Committee.
- April 28, 2010, the Public Safety and Neighborhood Services Committee directed the City Attorney to review the MMTF Report and return to the Committee with legal recommendations.
- May 26, 2010, the Public Safety and Neighborhood Services Committee directed the City Attorney to prepare an ordinance based on the recommendations of the MMTF as modified by the Committee.
- 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 consumer cooperatives.
- March 28, 2011, the City Council voted 5-2-1 to amend the Land Development Code to and the City's Local Coastal Program to include regulations for medical marijuana consumer cooperatives.
- September 27, 2011, the City Council voted 7-1 to repeal the Medical Marijuana Consumer Ordinance rather than calling a special election to place the matter on the ballot.
- April 22, 2013, the City Council held an informational hearing to discuss a new Medical Marijuana Consumer Cooperative Ordinance and voted 8-0 to direct the City Attorney to develop a revised 2011 Medical Marijuana Consumer Cooperative Ordinance that includes City Council directed revisions.

Tomlinson\Chadwick\dn

Primary Contact\Phone: Dan Normandin\619-446-5388, MS 501

Secondary Contact\Phone: Bob Vacchi\619-446-5423, MS 501

City Attorney Contact: Shannon Thomas

COUNCIL ACTION: Start Time: 2:46 PM

Testimony in favor by Kenneth Stance, Tony C., Daniel E. Brooker, Joy Greenfield, Lynn Redeman, Izean Rim, Heal Plastik, James Schmachtenberger, Ken Cole, Robert Riedel, Cynara Velaquez, Jessica C. McElfresh, James Slatic, Nicole Coffman, Rey Vinole, Gregory J. Anthony, John Caparell.

Testimony in opposition by John Swain, Phil Hart, Dennis Boisvert, Adele Falk, Connie Zuniga, Marcie Beckett, Rich Thesing, Scott Chipman, Maria Alicia Hungate, Bruc Musgrave, Ivy Williams, Cara Schajoske, Timothy Tower, Kathleen Mackay, Trina Free, Christine Griffiths, Dean Scott, Judi Strang, Emily Griffiths, Robert Hall, James Robert, Arlana Holland, Karen Lenyoun, Linda Pennington, Linh Luong, Liz Uriostegui, Elizabeth Flores, Matt Carroll, Mara Felsen, Damla Sahicli, Glyn Franks, Evelyn Hogan, Jennifer Tandy, Sam Humeid, Janet Asaro, Nancy Faulstick.

MOTION BY MARTI EMERALD TO ADOPT STAFF'S RECOMMENDATION TO INTRODUCE THE ORDINANCE WITH THE FOLLOWING PROPOSED CHANGES THROUGH INTERLINEATION: 1) ON PAGE 9 OF 19, IN SECTION 141.0614, ADD THE WORDS, "PROVIDED THAT NO MORE THAN FOUR MEDICAL MARIJUANA

CONSUMER COOPERATIVES SHALL BE PERMITTED IN EACH CITY COUNCIL DISTRICT. MEDICAL MARIJUANA CONSUMER COOPERATIVES ARE” BETWEEN THE WORDS, “BASE ZONES” AND “ SUBJECT TO”; 2) ON PAGE 10 OF 19, IN SECTION D, ADD THE WORDS, “THE SECURITY GUARD SHOULD ONLY BE ENGAGED IN ACTIVITIES RELATED TO PROVIDING SECURITY FOR THE FACILITY, EXCEPT ON AN INCIDENTAL BASIS” AFTER THE WORDS “BUSINESS HOURS”; AND 3) ADD AN ADDITIONAL RECITAL STATING “THESE REGULATIONS ARE INTENDED TO APPLY TO COMMERCIAL RETAIL FACILITIES.”

INTRODUCE THE ORDINANCE WITH THE FOLLOWING INSTRUCTIONS TO: 1) DIRECT STAFF TO RETURN TO THE APPROPRIATE COMMITTEE, ONE YEAR FROM ADOPTION, TO DISCUSS HOW EFFECTIVE THE ORDINANCE IS IN PROVIDING SAFE ACCESS WHILE NEGATING AVOIDABLE NEGATIVE IMPACTS; 2) HAVE THE POLICE DEPARTMENT AND OTHER CITY DEPARTMENTS TASKED WITH ENFORCEMENT PROVIDE REGULAR UPDATES AT PUBLIC SAFETY AND LIVABLE NEIGHBORHOODS COMMITTEE ON HOW THE ORDINANCE IS WORKING; 3) AFTER TWO YEARS IN PLACE, OR AT THE DISCRETION OF THE COMMITTEE CHAIR, HAVE COUNCIL REVIEW THE ORDINANCE’S EFFECTIVENESS TO ENSURE IT IS MEETING THE NEEDS OF THE NEIGHBORHOODS WHILE PROVIDING SAFE COMPASSIONATE ACCESS, 4) IF THE ORDINANCE IS TOO LAX OR TOO STRICT OR THE FEES TOO LOW OR TOO HIGH, COUNCIL SHOULD MAKE THE NECESSARY ADJUSTMENTS; 5) REQUEST THAT THE PUBLIC SAFETY AND LIVABLE NEIGHBORHOODS COMMITTEE EXAMINE THE “PUBLIC SAFETY” ORDINANCE THAT WE HAVE IN PLACE (I.E. SAN DIEGO MUNICIPAL CODE, CHAPTER 4, ARTICLE 2, DIVISION 13 AND 15) AND MAKE THE NECESSARY AMENDMENTS TO THE MUNICIPAL CODE RELATED TO SAFETY ISSUES LIKE DELIVERY, FOOD SAFETY OF EDIBLES, ORIGIN OF PRODUCT, AND PROCESSING OF HASH OILS; AND 6) DIRECT DEVELOPMENT SERVICES TO COME UP WITH HOW TO PUT THE FOUR MEDICAL MARIJUANA CONSUMER COOPERATIVES PER DISTRICT CAP IN PLACE. Second by Sherri Lightner.

Passed by the following vote:

Yea: Sherri Lightner, Kevin Faulconer, Todd Gloria, Myrtle Cole, Lorie Zapf, Scott Sherman, David Alvarez, Marti Emerald;

Nay: Mark Kersey;

Recused: (None);

Not Present: (None).

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 2, DIVISION 15 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 42.1502, 42.1504, 42.1505, 42.1507, AND BY AMENDING AND RENUMBERING SECTIONS 42.1508, 42.1509, 42.1510, 42.1511, 42.1512, AND 42.1513, RELATING TO MEDICAL MARIJUANA CONSUMER COOPERATIVES.

WHEREAS, in 2011 the City of San Diego adopted public safety based permit requirements and operating regulations for Medical Marijuana Consumer Cooperatives, such as prohibitions against any individual from operating or being employed at a Medical Marijuana Consumer Cooperative who has been convicted of certain types of crimes and imposing labeling requirements on products; and

WHEREAS, the City of San Diego desires to clarify and reorganize these regulations, and to add a process for permit revocations; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 4, Article 2, Division 15 of the San Diego Municipal Code is amended by amending sections 42.1502, 42.1504, 42.1505, 42.1507, and by amending and renumbering sections 42.1508, 42.1509, 42.1510, 42.1511, 42.1512, and 42.1513, to read as follows:

§42.1502 Definitions

For the purpose of this Division, the following definitions shall apply and appear in italicized letters:

Marijuana [No change in text.]

Medical marijuana consumer cooperative means a facility where marijuana is transferred to qualified patients or primary caregivers in accordance with the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, set forth in California Health and Safety Code sections 11362.5 through 11362.83. A *medical marijuana consumer cooperative* shall not include clinics licensed by the State of California pursuant to Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code.

Primary caregiver through *Violent felony* [No change in text.]

§42.1504 Cooperatives-Permit Required

- (a) It is unlawful for any person to operate any *Medical marijuana consumer cooperative* without a *Medical Marijuana Consumer Cooperative Permit* issued pursuant to this Division.
- (b) through (c) [No change in text.]
- (d) The issuance of a *Medical Marijuana Consumer Cooperative Permit* pursuant to this Division does not relieve any person from obtaining any other permit, license, certificate, or other similar approval that may be required by the City, the County of San Diego, or state or federal law.
- (e) A permit applicant must obtain a Conditional Use Permit as required by Chapter 12, Article 6, Division 3, prior to obtaining a permit under this Division.
- (f) Applications for *Medical Marijuana Consumer Cooperative Permits* shall be filed with the City Manager.

- (g) The City Manager shall act upon the application within thirty calendar days, except that notice of an incomplete application shall be given within five business days.
- (h) *Medical Marijuana Consumer Cooperative* Permits issued pursuant to this Division shall be valid for one year.
- (i) An application for a *Medical Marijuana Consumer Cooperative* Permit shall be denied if the permit was revoked by the City Manager within the past twelve months.

§42.1505 Exemption

This Division does not apply to the cultivation of *marijuana* by a *qualified patient* at that patient's home, so long as the patient is only growing for his or her own personal medical needs in a manner consistent with state law.

§42.1507 Cooperatives—Background Checks

- (a) [No change in text.]
- (b) The City shall conduct a background check of all *responsible persons*.
Any person who has been convicted of a *violent felony* or a crime of moral turpitude within the past seven years, cannot act as a *responsible person* in the *medical marijuana consumer cooperative*.
- (c) It is unlawful for any *responsible person* in a *medical marijuana consumer cooperative* to act as a *responsible person* for the *medical marijuana consumer cooperative* if he or she:
(1) through (2) [No change in text.]
- (d) [No change in text.]

§42.1508 **Cooperatives—Operational Requirements**

(a) Verification and Documentation

(1) *Responsible persons* shall ensure that all transactions involving money, in-kind contributions, reimbursements, *reasonable compensation*, and *marijuana* are fully documented, including documenting each member's contribution of labor, resources, or money to the *medical marijuana consumer cooperative*, and the source of their *marijuana*.

(2) Upon the City's request, *responsible persons* for the *medical marijuana consumer cooperative* shall provide to the City an audit of its operations for the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles.

(3) *A medical marijuana consumer cooperative* shall maintain and provide upon request by the City a current list of all *responsible persons*.

(b) Not-for-Profit

Responsible persons shall ensure that:

(1) No *medical marijuana consumer cooperative* operates for profit for itself or its members. Cash and in-kind contributions, reimbursements, and *reasonable compensation* provided by members towards the *medical marijuana consumer cooperative's*

actual expenses for the growth, cultivation, and provision of medical *marijuana* shall be allowed in accordance with state law.

- (2) *Medical marijuana consumer cooperative responsible persons*, including directors, managers, and employees, are limited to receiving *reasonable compensation* and shall not receive a bonus.
- (3) Members who bring medical *marijuana* from their own personal grows to the *medical marijuana consumer cooperative*, may be compensated by cash or trade in-kind. Members may be compensated for their expenses as provided by state law at the time the harvest is brought to the *medical marijuana consumer cooperative*.

(c) Age Limitations

- (1) No person under the age of eighteen is allowed at or in any *medical marijuana consumer cooperative* unless the person is a *qualified patient* or *state identification card* holder and accompanied by their parent, legal guardian, or a *primary caregiver* who is over the age of eighteen.
- (2) No person under the age of eighteen may be employed by or act as a *responsible person* on behalf of the *medical marijuana consumer cooperative*.

(d) Transportation

All persons transporting medical *marijuana* in connection with a *medical marijuana consumer cooperative* shall do so in accordance with state law.

(e) Packaging and Labeling

Responsible persons for the *medical marijuana consumer cooperative* shall ensure that medical *marijuana*, edible products containing medical *marijuana*, and concentrates comply with the following packaging and labeling requirements:

(1) *Marijuana* must be sealed in an airtight manner, and must have a label affixed to the package containing the following information:

- (A) Patient's name;
- (B) Dispensing date;
- (C) Name and address of dispensing cooperative;
- (D) Name of product;
- (E) Product ingredients;
- (F) Product must be used as recommended;
- (G) Product must be kept out of the reach of children;
- (H) Product users must not operate heavy machinery while under the influence of *marijuana*;
- (I) Sale or transfer of product to non-patients is prohibited;
- (J) Product is intended for medical use only. Cal. Health & Safety Code § 11362.5; and
- (K) Any additional use instructions and warnings that may be applicable.

(2) Edible Products and Concentrates must be labeled with the following:

- (A) Patient's name;

- (B) Dispensing date;
 - (C) Name and address of dispensing cooperative;
 - (D) A warning label that contains the cannabis patient advisory information required in section 42.1508(f); and
 - (E) The source of the food production.
- (3) *Medical Marijuana Consumer Cooperatives* are encouraged to label products for potency.
- (4) The City of San Diego may at any time have medical *marijuana* tested for pesticides, mold, mildew, and/or bacteria, and make such testing results available to consumers.

(f) Interior Signage

A sign shall be posted on a wall in the *medical marijuana consumer cooperative* which states the following:

CANNABIS PATIENT ADVISORY

THIS IS A WARNING REGARDING EDIBLE CANNABIS/
MARIJUANA PRODUCTS

CAUTION – Edible *marijuana* products contain cannabis extracts (THC – Tetra Hydro Cannabinol).

Marijuana is not regulated as a food ingredient and therefore the County Department of Environmental Health does not have any regulatory authority over this ingredient in edibles.

§42.1509 Cooperatives-Regulatory Actions on Permit

- (a) In addition to any penalties and remedies provided by law, a *Medical Marijuana Consumer Cooperative* Permit is subject to any of the following regulatory actions:
- (1) non-compliance with this Division or any condition of this permit;
 - (2) conviction of any crime which would have been grounds for denial of the permit;
 - (3) failure to take corrective action after timely written notice of a violation; or
 - (4) failure to supervise the business, resulting in a pattern of violations of the San Diego Municipal Code or other provisions of law by the *responsible persons* or patrons, or both. A revocation based on the act or omission of a patron may be based on a determination that a *responsible person* caused or condoned the act or omission, or failed to take reasonable corrective action after a timely written notice of violation.
- (b) Regulatory action includes the following:
- (1) Issuance of a verbal warning;
 - (2) Issuance of a written warning;
 - (3) Issuance of a notice of violation;
 - (4) Placing conditions upon the permit which are reasonably related to any violation. Unless otherwise stated as part of the condition, all such conditions expire when the permit expires, excluding any time stayed during an appeal;

- (5) Suspension of the *Medical Marijuana Consumer Cooperative* Permit; or
 - (6) Revocation of the *Medical Marijuana Consumer Cooperative* Permit.
- (c) Written notice of the regulatory actions taken pursuant to section 142.1509(b)(2) through (b)(6) shall be provided to the individual identified as the responsible managing officer pursuant to section 42.1504(c).
- (d) A request for an appeal hearing of the regulatory actions taken pursuant to section 142.1509(b)(2) through (b)(6) may be made by the responsible managing officer.
- (e) The request for an appeal hearing must be made in writing to the City Manager within ten calendar days of the receipt of the notice of revocation.
- (f) Upon receiving the request for a hearing, the City Manager shall set hearing not more than thirty calendar days from the date of the receipt of the request, unless a later date is agreed to by the City and the responsible managing officer in writing.
- (g) The City Manager shall notify the responsible managing officer of the date, time, and place of the hearing by means of registered or certified mail, or hand delivery.
- (h) The hearing shall be conducted by a hearing officer provided by the City Manager.

- (i) The hearing officer may affirm, deny, or modify the regulatory action, and shall furnish the reason for the decision to the responsible managing officer in writing within thirty calendar days of the conclusion of the hearing.
- (j) The regulatory action shall be suspended while an appeal is pending, or until the time for filing such an appeal has expired, except for regulatory action taken when the City Manager determines there is a need to take immediate action to protect the public from injury or harm or when the *Medical Marijuana Consumer Cooperative* Permit was based on material misrepresentations in the application and the permit would not have been issued but for the material misrepresentations.

Section 2. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
Shannon M. Thomas
Deputy City Attorney

SMT:als
06/30/14
Or.Dept: Council–District 9
Doc. No. 802648_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 4, ARTICLE 2, DIVISION 15 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 42.1502, 42.1504, 42.1505, 42.1507, AND BY AMENDING AND RENUMBERING SECTIONS 42.1508, 42.1509, 42.1510, 42.1511, 42.1512, AND 42.1513, RELATING TO MEDICAL MARIJUANA CONSUMER COOPERATIVES.

§42.1502 Definitions

For the purpose of this Division, the following definitions shall apply and appear in italicized letters:

Marijuana [No change in text.]

~~*Medical marijuana consumer cooperative* means a cooperative organized as a consumer cooperative under state law for the purpose of collectively or cooperatively cultivating *marijuana* for medical purposes in accordance with state law.~~

Medical marijuana consumer cooperative means a facility where marijuana is transferred to qualified patients or primary caregivers in accordance with the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, set forth in California Health and Safety Code sections 11362.5 through 11362.83. A *medical marijuana consumer cooperative* shall not include clinics licensed by the

State of California pursuant to Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code.

Primary caregiver through Violent felony [No change in text.]

§42.1504 Cooperatives—Permit Required

(a) It is unlawful for any person to operate any ~~cooperative, collective, dispensary, or establishment which collectively or cooperatively cultivates medical marijuana~~ Medical marijuana consumer cooperative without a Medical Marijuana Consumer Cooperative ~~p~~Permit issued pursuant to this Division.

(b) through (c) [No change in text.]

(d) The issuance of a Medical Marijuana Consumer Cooperative ~~p~~Permit pursuant to this Division does not relieve any person from obtaining any other permit, license, certificate, or other similar approval that may be required by the City, the County of San Diego, or state or federal law.

(e) A permit applicant must obtain a ~~e~~Conditional u~~Use~~ ~~p~~Permit as required by Chapter 12, Article 6, Division 3, prior to obtaining a permit under this Division.

(f) Applications for Medical Marijuana Consumer Cooperative Permits shall be filed with the City Manager.

(g) The City Manager shall act upon the application within thirty calendar days, except that notice of an incomplete application shall be given within five business days.

(h) Medical Marijuana Consumer Cooperative Permits issued pursuant to this Division shall be valid for one year.

- (i) An application for a *Medical Marijuana Consumer Cooperative Permit* shall be denied if the permit was revoked by the City Manager within the past twelve months.

§42.1505 Exemptions

- (a) ~~This Division does not apply to persons collectively or cooperatively cultivating medical *marijuana* in the following facilities licensed by the State of California pursuant to California Health and Safety Code Division 2:~~
- (1) ~~A clinic licensed pursuant to Chapter 1;~~
 - (2) ~~A health facility licensed pursuant to Chapter 2;~~
 - (3) ~~A residential care facility for persons with chronic, life-threatening illnesses licensed pursuant to Chapter 3.01;~~
 - (4) ~~A residential care facility for the elderly licensed pursuant to Chapter 3.2; or~~
 - (5) ~~A hospice or a home health agency licensed pursuant to Chapter 8.~~
- (b) This Division does not apply to the cultivation of *marijuana* by a *qualified patient* at that patient's home, so long as the patient is only growing for his or her own personal medical needs in a manner consistent with state law.

§42.1507 Cooperatives–Background Checks

- (a) [No change in text.]
- (b) The City ~~may~~ shall conduct a background check of all *responsible persons*. Any person who has been convicted of a *violent felony* or a crime of moral turpitude within the past seven years, cannot act as a *responsible person* in the *medical marijuana consumer cooperative*.

(c) It is unlawful for any *responsible person* in a *medical marijuana consumer cooperative* to act as a ~~responsible person~~ *responsible person* for the *medical marijuana consumer cooperative* if he or she:

(1) through (2) [No change in text.]

(d) [No change in text.]

§42.1508

~~Cooperatives–Verification and Documentation~~ Cooperatives–Operational Requirements

(a) Verification and Documentation

(1) *Responsible persons* shall ensure that all transactions involving money, in-kind contributions, reimbursements, *reasonable compensation*, and *marijuana* are fully documented, including documenting each member's contribution of labor, resources, or money to the *medical marijuana consumer cooperative*, and the source of their *marijuana*.

~~(b)~~(2) Upon the City's request, *responsible persons* for the *medical marijuana consumer cooperative* shall provide to the City an audit of its operations for the previous calendar year, completed and certified by an independent certified public accountant in accordance with generally accepted auditing and accounting principles.

(3) *A medical marijuana consumer cooperative shall maintain and provide upon request by the City a current list of all responsible persons.*

~~§42.1509~~ — ~~Cooperatives Not-for-Profit~~

(b) Not-for-Profit

Responsible persons shall ensure that:

- ~~(a)~~(1) No *medical marijuana consumer cooperative* operates for profit for itself or its members. Cash and in-kind contributions, reimbursements, and *reasonable compensation* provided by members towards the *medical marijuana consumer cooperative's* actual expenses for the growth, cultivation, and provision of *medical marijuana* shall be allowed in accordance with state law.
- ~~(b)~~(2) *Medical marijuana consumer cooperative responsible persons*, including directors, managers, and employees, are limited to receiving *reasonable compensation* and shall not receive a bonus.
- ~~(c)~~(3) Members who bring *medical marijuana* from their own personal grows to the *medical marijuana consumer cooperative*, may be compensated by cash or trade in-kind. Members may be compensated for their expenses as provided by state law at the time the harvest is brought to the *medical marijuana consumer cooperative*.

~~§42.1510~~ ~~Cooperatives Age Limitations~~

(c) Age Limitations

- ~~(a)~~(1) No person under the age of eighteen is allowed at or in any *medical marijuana consumer cooperative* unless the person is a *qualified patient* or *state identification card* holder and

accompanied by their parent, legal guardian, or a *primary caregiver* who is over the age of eighteen.

~~(b)~~(2) No person under the age of eighteen may be employed by or act as a *responsible person* on behalf of the *medical marijuana consumer cooperative*.

~~§42.1511~~ **~~Marijuana-Transportation~~**

(d) Transportation

All persons transporting medical *marijuana* in connection with a *medical marijuana consumer cooperative* shall do so in accordance with state law.

~~§42.1512~~ **~~Marijuana-Packaging and Labeling~~**

(e) Packaging and Labeling

Responsible persons for the *medical marijuana consumer cooperative* shall ensure that medical *marijuana*, edible products containing medical *marijuana*, and concentrates comply with the following packaging and labeling requirements:

~~(a)~~(1) *Marijuana must be sealed in an airtight manner, and must have a label affixed to the package containing the following information:*

(1) ~~Must be sealed in an airtight manner; and~~

(2) ~~must have a label affixed to the package containing the following information:~~

a. ~~(A)~~ Patient's name;

b. ~~(B)~~ Dispensing date;

e. ~~(C)~~ Name and address of dispensing cooperative;

d. ~~(D)~~ Name of product;

- e. (E) Product ingredients;
- f. (F) Product must be used as recommended;
- g. (G) Product must be kept out of the reach of children;
- h. (H) Product users must not operate heavy machinery while under the influence of *marijuana*;
- i. (I) Sale or transfer of product to non-patients is prohibited;
- j. (J) Product is intended for medical use only. Cal. Health & Safety Code § 11362.5; and
- k. (K) Any additional use instructions and warnings that may be applicable.

~~(b)~~(2) Edible Products and Concentrates must be labeled with the following:

(1) ~~Must be labeled with the following:~~

- a. (A) Patient's name;
- b. (B) Dispensing date;
- e. (C) Name and address of dispensing cooperative;
- d. (D) A warning label that contains the cannabis patient advisory information required in section 42.1508(f); and
- e. (E) The source of the food production.

(3) *Medical Marijuana Consumer Cooperatives* are encouraged to label products for potency.

(4) The City of San Diego may at any time have medical *marijuana* tested for pesticides, mold, mildew, and/or bacteria, and make such testing results available to consumers.

§42.1513 Interior Signage

(f) Interior Signage

A sign shall be posted on a wall in the *medical marijuana consumer cooperative* which states the following:

CANNABIS PATIENT ADVISORY

THIS IS A WARNING REGARDING EDIBLE CANNABIS/
MARIJUANA PRODUCTS

CAUTION – Edible marijuana 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~~

Marijuana is not regulated as a food ingredient and therefore the County Department of Environmental Health does not have any regulatory authority over this ingredient in edibles.

~~Uses: Edible cannabis products must always be consumed with caution!~~

~~The fact that most edibles 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 side 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 hours may occur without proper use of this product. Unless you have experience with this substance, do not drive within seven 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.~~

~~This warning sign was drafted by the Medical Marijuana Task Force (San Diego Resolution R-305305, Medical Marijuana Task Force Report to Council No. 10-060 (Apr 21, 2010)). The City of San Diego is not responsible for the accuracy of the statements contained in this sign and cannot verify its contents.~~

§42.1509 Cooperatives-Regulatory Actions on Permits

(a) In addition to any penalties and remedies provided by law, a *Medical Marijuana Consumer Cooperative* Permit is subject to any of the following regulatory actions:

- (1) non-compliance with this Division or any condition of this permit;
- (2) conviction of any crime which would have been grounds for denial of the permit;
- (3) failure to take corrective action after timely written notice of a violation; or
- (4) failure to supervise the business, resulting in a pattern of violations of the San Diego Municipal Code or other provisions of law by the *responsible persons* or patrons, or both. A revocation based on the act or omission of a patron may be based on a determination that a *responsible person* caused or condoned the act or omission, or failed to take reasonable corrective action after a timely written notice of violation.

(b) Regulatory action includes the following:

- (1) Issuance of a verbal warning;
- (2) Issuance of a written warning;
- (3) Issuance of a notice of violation;
- (4) Placing conditions upon the permit which are reasonably related to any violation. Unless otherwise stated as part of the condition, all such conditions expire when the permit expires, excluding any time stayed during an appeal;

(5) Suspension of the *Medical Marijuana Consumer Cooperative* Permit; or

(6) Revocation of the *Medical Marijuana Consumer Cooperative* Permit.

(c) Written notice of the regulatory actions taken pursuant to section 142.1509(b)(2) through (b)(6) shall be provided to the individual identified as the responsible managing officer pursuant to section 42.1504(c).

(d) A request for an appeal hearing of the regulatory actions taken pursuant to section 142.1509(b)(2) through (b)(6) may be made by the responsible managing officer.

(e) The request for an appeal hearing must be made in writing to the City Manager within ten calendar days of the receipt of the notice of revocation.

(f) Upon receiving the request for a hearing, the City Manager shall set hearing not more than thirty calendar days from the date of the receipt of the request, unless a later date is agreed to by the City and the responsible managing officer in writing.

(g) The City Manager shall notify the responsible managing officer of the date, time, and place of the hearing by means of registered or certified mail, or hand delivery.

(h) The hearing shall be conducted by a hearing officer provided by the City Manager.

- (i) The hearing officer may affirm, deny, or modify the regulatory action, and shall furnish the reason for the decision to the responsible managing officer in writing within thirty calendar days of the conclusion of the hearing.
- (i) The regulatory action shall be suspended while an appeal is pending, or until the time for filing such an appeal has expired, except for regulatory action taken when the City Manager determines there is a need to take immediate action to protect the public from injury or harm or when the *Medical Marijuana Consumer Cooperative Permit* was based on material misrepresentations in the application and the permit would not have been issued but for the material misrepresentations.

SMT:als
06/30/14
Or.Dept: Council–District 9
Doc. No. 808509_2