

ORDINANCE NO. 2010-038

Adopted by the Sacramento City Council

November 9, 2010

AN ORDINANCE AMENDING SECTIONS 17.16.010, 17.24.030, 17.24.050, 17.108.020, AND 17.108.030 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO MEDICAL MARIJUANA DISPENSARIES (M10- 015)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

Section 1. Section 17.16.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The following definitions are added to Section 17.16.010 to read as follows:

“Medical marijuana dispensary” means a facility as defined in Chapter 5.150.

B. Except as amended in subsection A, above, Section 17.16.010 remains unchanged and in full force and effect.

Section 2. Section 17.24.030 Commercial Land Use Chart of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. A matrix for “medical marijuana dispensary” is added to Table 17.24.030 A to read as follows:

Uses Allowed	RE	R-1	R-1A	R-1B	R-2	R-2A	R-2B	R-3	R-3A	R-4	R-4A	R-5	RMX	RO	OB
Medical marijuana dispensary*															

B. A matrix for “medical marijuana dispensary” is added to Table 17.24.030 B to read as follows:

Uses Allowed	EC	HC	SC	C-1	C-2	C-3	C-4	M-1	M-1(S)	M-2	M-2(S)	MIP	MRD	H	SPX	TC	A	AOS	F	AR P-F
Medical marijuana dispensary*					85		85	85	20/85	85	20/85									

C. Except as specifically amended to add a matrix for “medical marijuana dispensary,” Section 17.24.030 and Tables 17.24.030 A and 17.24.030 B remain unchanged and in full force and effect.

Section 3. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote 85 is added to Section 17.24.050 to read as follows:

85. Medical Marijuana Dispensary.

a. Definitions.

As used in this Footnote 85:

“Church/faith congregation” means a structure or place that is used primarily for religious worship and related religious activities.

“Park” means all publicly owned and operated parks that are used, operated or maintained for recreational purposes.

“Substance abuse rehabilitation center” means any facility that provides care for persons who have a dependency on alcohol or controlled substances, or both alcohol and controlled substances. This care shall include, but not be limited to, the following basic services: medication, patient counseling, group therapy, physical conditioning, family therapy, and dietetic services. This definition does not include any hospital, city or county jail, or state prison.

“Youth-oriented facility” means any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

b. Medical Marijuana Dispensary Permit Required. A medical marijuana dispensary must obtain and maintain at all times a valid medical marijuana dispensary permit as required by Chapter 5.150.

c. Special Permit Required.

i. Except as provided in subsection (c)(ii), below, a planning commission special permit is required to establish or operate a medical marijuana dispensary in this zone.

ii. A zoning administrator’s special permit is required to establish or operate a medical marijuana dispensary located in the C-4, M-1, M-1(S), M-2, and M-2(S) zones if all of the location requirements set forth below are satisfied.

d. Location and Permit Requirements. Except as provided in subsection (m), below, the following location requirements apply to all medical marijuana dispensaries and may not be waived or modified by special permit or variance:

i. No medical marijuana dispensary shall be established or located within

1,000 feet, measured from the nearest property lines of each of the affected parcels, of any other medical marijuana dispensary.

- ii. No medical marijuana dispensary shall be established or located within 300 feet, measured from the nearest property lines of each of the affected parcels, of any existing residential zone or residential use.
 - iii. No medical marijuana dispensary shall be established or located within 600 feet, measured from the nearest property lines of each of the affected parcels, of any park, school (public or private K-12), child care center, child care-family day care home (large or small), youth-oriented facility, church/faith congregation, substance abuse center, movie theater/cinema, or tobacco store.
- e. Relevant Date for Determining Compliance with Location Requirements. Only those uses established and in operation as of the date that the application for a medical marijuana dispensary special permit is determined or deemed to be complete shall be considered for purposes of determining whether the location requirements are met.
- f. The zoning administrator or planning commission may address development and operational standards through conditions on the special permit as it determines to be necessary or appropriate for the medical marijuana dispensary special permit under consideration; provided, that conditions shall not conflict with the provisions of Chapter 5.150 relating to operating requirements of medical marijuana dispensaries and shall be subordinate to conditions placed on the medical marijuana program permit issued under Chapter 5.150.
- g. Parking. Off-street parking shall be provided as required for retail stores under Section 17.64.020.
- h. The application for a special permit for a medical marijuana dispensary shall include a floor plan, site plan, neighborhood context map, and a security and lighting plan.
- i. Findings. In granting a special permit for a medical marijuana dispensary, and in addition to the findings required by Chapter 17.212, the planning commission or zoning administrator shall find the following:
- i. The medical marijuana dispensary has not generated an excessive number of calls for police service compared to similarly situated businesses of the same size as the dispensary.
 - ii. The medical marijuana dispensary has not caused secondary criminal or public nuisance impacts in the surrounding area or neighborhood, including, but not limited to, disturbances of the peace, illegal drug activity, marijuana use in public, harassment of passersby, littering, loitering, illegal parking, loud noises, or lewd conduct.

- iii. The proposed location, size, and other development standards of the medical marijuana dispensary are consistent with state law and this code.

- j. Discontinuance. Notwithstanding the provisions of Section 17.212.100(G), a special permit for a medical marijuana dispensary, the exercise of which is voluntarily or involuntarily interrupted for a period in excess of one year, shall be deemed automatically revoked.

- k. Pre-Existing Medical Marijuana Dispensaries Not Non-Conforming. No medical marijuana dispensary operating or purporting to operate prior to the effective date of the ordinance that added this Footnote 85 to Section 17.24.050 shall be deemed to have been a legally established use under the provisions of this code, nor shall the operation of such dispensary be deemed a legal nonconforming use under this Title 17.

- l. Additional Grounds for Revocation of Medical Marijuana Dispensary Special Permit. In addition to the circumstances stated in Section 17.212.080 for revocation of a special permit, a special permit for a medical marijuana dispensary may be revoked on the following grounds:
 - i. The medical marijuana dispensary is operated in a manner that violates any of the provisions of state law or this code; or
 - ii. The medical marijuana dispensary does not have a valid medical marijuana dispensary permit as required by Chapter 5.150.

- m. Registered Medical Marijuana Dispensaries.
 - i. Definitions. For purposes of this subsection (m),
 - (A) "Registered medical marijuana dispensary" means a medical marijuana dispensary:
 - (1) that was properly registered with the city manager pursuant to Ordinance No. 2009-033; and
 - (2) that is operating and has operated continuously at the location for which a special permit is requested since at least October 26, 2010; and
 - (3) that is organized and operates as a cooperative or a collective within the meaning of Chapter 5.150; and
 - (4) the location of which does not meet the location requirements stated in subsection (d), above; and
 - (5) the owner and operator of which has not been cited or convicted of

maintaining a public nuisance or of a public safety violation of state or local law relating to the operation of a medical marijuana dispensary by the city or other governmental law enforcement agency.

(B) "Medical marijuana dispensary registration" or "registration" means a medical marijuana dispensary's registration with the city manager pursuant to Ordinance No. 2009-033.

ii. Limitations and Requirements for Registered Medical Marijuana Dispensary Special Permits. If a special permit is requested and approved for a registered medical marijuana dispensary under this subsection (m), the following limitations and requirements shall apply to the special permit, and these limitations and requirements shall control over any other provisions of this title that may conflict:

- (A) A planning commission special permit shall be required for a registered medical marijuana dispensary under this subsection (m).
- (B) The applicant for the special permit must be the same owner(s) or principal(s) named on the medical marijuana dispensary's registration as of July 27, 2010, and must be a managing member of the registered medical marijuana dispensary. The application must be for the registered dispensary's location established as of October 26, 2010.
- (C) The location requirements stated in subsection (d), above, shall not apply.
- (D) The special permit shall be deemed automatically revoked if the medical marijuana dispensary ceases operation at any time, voluntarily or involuntarily, for 30 consecutive days.
- (E) The special permit shall be deemed automatically revoked if the medical marijuana dispensary fails to obtain a medical marijuana dispensary permit under Chapter 5.150 and commence operation within 90 days of the date of approval of the special permit.
- (F) The special permit shall be deemed automatically revoked upon transfer of ownership or management control of the dispensary to another person.
- (G) The special permit shall be deemed automatically revoked upon revocation of the medical marijuana dispensary permit issued under Chapter 5.150.
- (H) A special permit modification may not be approved to allow an expansion of the registered medical marijuana dispensary.

B. Except as specifically amended to add Footnote 85, Section 17.24.050 remains unchanged and in full force and effect.

Section 4. Section 17.108.020 of Title 17 of the Sacramento City Code (the Zoning Code) is

amended as follows:

A. Subsection A of Section 17.108.020 is amended to read as follows:

A. Prohibited Uses. In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with C-2 zoning in the Del Paso Boulevard SPD:

1. Adult entertainment business;
2. Adult related establishment;
3. Astrology and related practices;
4. Tattoo and/or body piercing parlors;
5. Used appliance sales;
6. Auto sales (new and used), storage;
7. RV/mobilehome sales yard;
8. RV storage;
9. RV repair;
10. Mini-storage/surface storage;
11. Used tire storage and sales;
12. Check cashing center;
13. Money lender;
14. Mortuary;
15. Card room;
16. Bingo activities licensed under Chapter 5.24 of this code;
17. Retail tobacco store;
18. Laundromat;
19. Medical marijuana dispensary.

B. Except as specifically amended by the amendment to subsection A, Section 17.108.020 remains unchanged and in full force and effect.

Section 5. Section 17.108.030 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection A of Section 17.108.030 is amended to read as follows:

A. Prohibited Uses. In addition to other uses prohibited in the underlying zone, the following additional uses are prohibited for properties with M-1 zoning in the Del Paso Boulevard SPD:

1. Adult entertainment business;
2. Adult related establishment;
3. Astrology and related practices;
4. Tattoo and/or body piercing parlors;
5. Used appliance sales;
6. Auto sales (new and used), storage;
7. RV/mobilehome sales yard;
8. RV storage;
9. RV repair;
10. Recycling facilities;
11. Auto dismantler;

12. Used tire storage and sales;
13. Check cashing center;
14. Money lender;
15. Pawn shop;
16. Mortuary;
17. Card room;
18. Bingo activities licensed under Chapter 5.24 of this code;
19. Retail tobacco stores;
20. Laundromat;
21. Medical marijuana dispensary.

B. Except as specifically amended by the amendment to subsection A, Section 17.108.030 remains unchanged and in full force and effect.

Section 6. Effective Date.

This Ordinance shall take effect 60 days after adoption.

Section 7. Severability.

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

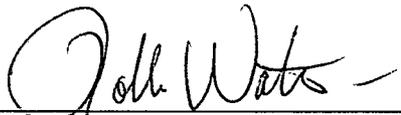
Adopted by the City of Sacramento City Council on November 9, 2010 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Sheedy, Waters.

Noes: None.

Abstain: None.

Absent: Councilmembers Pannell, Tretheway and Mayor Johnson.



Robbie Waters, Vice-Mayor

Attest:



Shirley Concolino, City Clerk

Passed for Publication: October 26, 2010

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