Meeting Date: **9/17/2013**

Report Type: Consent

Report ID: 2013-00624

City of SACRAMENTO

City Council Report
915 I Street, 1st Floor
www.CityofSacramento.org

Title: (Pass for Publication) Ordinance Amending Title 5 and Title 17 of the Sacramento City Code Related to Medical Marijuana Dispensaries (M13-009)

Location: Citywide

Issue: Existing medical marijuana dispensaries established prior to October 26, 2010, which have filed a phase one application with the City Revenue Division are unable to complete the dispensary permit process as they cannot meet all of the sensitive use distance requirements found in the Planning and Development Code. The Law and Legislation Committee of the Sacramento City Council looked at various alternatives to allow dispensaries to apply for a waiver to the distance requirements as part of a conditional use permit request. The committee directed the City Manager to have his staff prepare an ordinance amending various sections of the Sacramento City Code relating to the location of dispensaries and deadlines for processing applications and refer the ordinance to the City Council for consideration.

Recommendation: 1) Review an Ordinance amending Chapter 5.150 and Chapter 17.228, Article VII of the Sacramento City Code relating to medical marijuana dispensaries; and 2) pass for publication the Ordinance title as required by Sacramento City Charter Section 32(c) to be adopted on September 24, 2013.

Contact: Joy Patterson, Principal Planner, (916) 808-5607, Community Development Department; Brad Wasson, Revenue Manager, (916) 808-5844, Department of Finance

Presenter: None

Department: Community Development Dept / Finance - Revenue

Division: Zoning

Dept ID: 21001224

Attachments:

1-Description/Analysis

2-Background

3-Ordinance Redlined

4-Ordinance Clean

5-Map of Operating Registered Medical Marijuana Dispensaries - May 2013

City Attorney Review

Approved as to Form
Paul Gale
9/11/2013 12:56:36 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
John Colville
9/5/2013 6:49:34 AM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 9/10/2013 9:08:04 AM

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Description/Analysis

Issue Detail: Two Phase One medical marijuana dispensaries have obtained a conditional use permit from the Planning and Design Commission and are now open. Nine Phase One dispensaries that have operated continuously in the same location since October 26, 2010, do not meet the distance requirements in the code. These dispensaries fall within the Title 17 definition of "registered medical marijuana dispensary." They have applied for a Planning and Design Commission special permit/conditional use permit as a Title 17 registered medical marijuana dispensary and are exempt from the distance requirements. In addition, seven Phase One dispensaries are open in industrial zones and meet the location requirements of the code. The planning applications for these dispensaries can be processed at the Zoning Administrator level under the current Title 17 regulations.

Amendments to the code are required in order for the remaining 16 Phase One dispensaries to continue with the conditional use permit process. The attached ordinance would:

- Strike the continuous operation requirement as part of the definition of a Title 17 registered medical marijuana dispensary if the Phase One dispensary is applying for a conditional use permit at its original October 26, 2010 location;
- Allow dispensaries that do not meet the location requirements to apply for a modification to the distance requirements as part of their conditional use permit request to the Planning and Design Commission (except for the requirement to be located a minimum of 600 feet from a school);
- Strike out language in Title 17 that had been eliminated in the interim ordinance requiring that the dispensary permit be obtained within 90 days of the date of approval of the conditional use permit; and
- Extend the deadlines for Phase Two dispensary applications in Title 5 of the Sacramento City Code. The new deadline proposed for filing a Phase Two application is March 31, 2014, and the deadline for obtaining all necessary dispensary permits is December 31, 2014.

Policy Considerations: The City Council has determined that it supports the location of medical marijuana dispensaries in the City with the proper regulatory permits. Modifications to current regulations are necessary in order to allow dispensaries to comply with new application deadlines and continue to legally operate.

Economic Impacts: None

Environmental Considerations: The adoption of the ordinance would have no significant effect on the environment and is exempt pursuant to CEQA Guidelines section 15061(b)(3).

Sustainability: There are no sustainability considerations with this report.

Commission/Committee Action: On June 4, 2013, the Law and Legislation Committee of the Sacramento City Council, by a vote of 3 ayes and 1 no, directed the City Manager to prepare an ordinance amending various sections of the Sacramento City Code relating to waiving the distance requirements from sensitive uses in certain circumstances for the original Phase One dispensaries. The committee, by a unanimous vote, also directed the City Manager to have his staff prepare the necessary amendments to the Sacramento City Code to change the deadlines for processing Phase Two medical marijuana dispensary permits.

On August 29, 2013, a public hearing was held before the Planning and Design Commission to review the proposed ordinance. The commission, by a vote of 12 ayes, 0 noes, and 1 absent, recommended that the City Council adopt the attached ordinance, which included provisions for waiving the distance requirements and modifying the deadlines and forward the recommendation of approval of the ordinance to City Council.

Rationale for Recommendation: The administrative pause on processing dispensary permits enacted by the City and uncertainties in state law resulted in the original 34 dispensaries not being able to obtain their medical marijuana dispensary permits within the time frames originally set by the City and several of the dispensaries having to move from their original locations. The proposed ordinance will allow both the 34 Phase One dispensaries and city staff the ability to complete the process within appropriate time frames.

Financial Considerations: If the City Council does not approve the proposed amendments many of the dispensaries will need to withdraw their conditional use permit applications. The Community Development Department will refund any unused permit funds from the revenue in year it is refunded.

Emerging Small Business Development (ESBD): There are no ESBD considerations with this report.

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Background

On July 14, 2009, the Sacramento City Council adopted Ordinance 2009-033 allowing existing medical marijuana dispensaries to register with the City and prohibited new dispensaries from opening while the City developed regulations (the moratorium under this ordinance was extended by Ordinance 2009-041 and Ordinance 2010-016). Forty-one dispensaries registered with the City under Ordinance 2009-033. On November 9, 2010, the Sacramento City Council adopted two ordinances placing regulations on medical marijuana dispensaries in the City. Ordinance 2010-037 added Chapter 5.150 to Title 5 (Revenue Code) of the Sacramento City Code and established operating regulations for the dispensaries. Ordinance 2010-038 added a conditional use permit requirement for dispensaries to the Title 17 (Zoning Code), indicated the zones in which dispensaries are permitted, and established locational criteria (Note: On September 30, 2013 Title 17, the Zoning Code, will be known as the Planning and Development Code and special permits will be known as conditional use permits). The permitted zones are General Commercial, Heavy Commercial, Light Industrial, and Heavy Industrial (C-2, C-4, M-1, M-1S, M-2, and M-2S). Planning and Development Code regulations require that medical marijuana dispensaries meet the following distance requirements:

- 300 feet from residential zoned property
- 600 feet from a child care center, child care-family day care home, youth-oriented facility, church/faith congregation, substance abuse center, movie theater/cinema, tobacco store
- 1,000 feet from another medical marijuana dispensary
- 1,000 feet from a park or a school*

  *As part of the conditional use permit approval process for the dispensary, the applicant can request that this distance requirement be reduced by the Planning and Design Commission. The commission, however, cannot reduce the distance below 600 feet (Ordinance 2013-0004, adopted by City Council on February 26, 2013).

The distance requirements do not apply if a medical marijuana dispensary qualifies as a registered medical marijuana dispensary under Planning and Development Code Section 17.228.755.

The Title 5 regulations required that dispensaries desiring to operate in the City file a Phase One application for a medical marijuana dispensary permit with the Revenue Division no later than February 7, 2011. Only dispensaries that registered under Ordinance 2009-033 were permitted to file a Phase One application. Thirty-four dispensaries filed Phase One applications.

The regulations adopted in November 2010 required the 34 Phase One dispensaries to file a Phase Two application with the City's Revenue Division by October 11, 2011. The last day that a dispensary permit could be obtained under those regulations was January 9, 2012. After that date a dispensary needed to be either permitted by Revenue or cease operations. The dates in Title 5 have since been modified to November 12, 2013, as the last day to file a Phase Two application and February 11, 2014, as the last day to operate a medical marijuana dispensary while the permit application is pending.

Another stipulation of the Phase Two application was that a conditional use permit was required. In the spring and summer of 2011, 31 of the 34 dispensaries applied for a conditional use permit. Title 17 provisions indicated that a dispensary meeting the location criteria found in the code, and located in a C-4 or industrial zone, could apply for a Zoning Administrator's conditional use permit If the dispensary met the criteria and was in a C-2 zone, a Planning and Design Commission conditional use permit was required. The Zoning Code also made provisions for a Planning and Design Commission conditional use permit for dispensaries registered under Ordinance 2009-033 to be exempt from the location criteria if they qualified as registered medical marijuana dispensaries as defined in Title 17 (including continuously operating in an established location on October 26, 2010). Three of the dispensaries applied for Zoning Administrator conditional use permits and the remainder applied for Planning and Design Commission conditional use permits.

By October 2011, three of the 34 had obtained a conditional use permit from the Planning and Design Commission. However, due to the uncertainty of state law on marijuana dispensaries and actions of the United States Attorney, the City of Sacramento enacted an administrative pause on processing dispensary permits and extended the deadline for obtaining a

dispensary permit (including the required conditional use permit) to February 11, 2014 (Ordinances 2011-048,2011-049, 2012-013, 2012-041). Many of the dispensary landlords discontinued their leases with the dispensaries due to federal enforcement activity and uncertainties in state law. Several dispensaries closed as a result of the uncertainty, as well as for other business reasons. A registered medical marijuana dispensary that closes and moves from its October 26, 2010, location is no longer considered a registered medical marijuana dispensary under Title 17 and is no longer exempt from the location criteria. Four of the dispensaries were able to find new locations that meet the location criteria. However, many of the Phase One dispensaries remain closed because they cannot find a location that meets all of the location criteria.

On February 26, 2013, as part of the motion to adopt Ordinance 2013-0004 modifying the distance requirements related to parks and schools, the City Council directed the City Manager to work with the Law and Legislation Committee to bring forward additional changes to address other issues related to the processing of medical marijuana dispensary permits. Councilmember Cohn held a meeting with stakeholders and City staff on March 28, 2013, to discuss issues related to processing the dispensary permits. At their meeting on June 4, 2013, the Law and Legislation Committee expressed concern that, due to the administrative pause, Phase One dispensaries were not able to complete the conditional use permit process. The Committee recommended that an ordinance be prepared that would provide all Phase One dispensaries the opportunity to go through the conditional use permit process and extend the deadlines for obtaining the dispensary permit. They also asked if the administrative pause could be lifted and processing of Phase Two permits could resume.

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ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 5.150 OF THE SACRAMENTO CITY CODE; AMENDING SECTIONS 17.228.700 AND 17.228.755 OF, AND ADDING SECTION 17.228.760 TO, TITLE 17 OF THE SACRAMENTO CITY CODE (THE PLANNING AND DEVELOPMENT CODE); AND REPEALING ORDINANCE 2012-041, RELATING TO MEDICAL MARIJUANA DISPENSARIES

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

SECTION 1.

A. Section 5.150.020 of the Sacramento City Code is amended as follows:

1. The definition of special permit is repealed.

~~"Special permit" means any special permit issued by the city pursuant to Title 17 of this code related to the operation of a medical marijuana dispensary.~~

2. A new definition for conditional use permit is added to read as follows:

"Conditional use permit" means any conditional use permit issued by the city pursuant to the Planning and Development Code related to the operation of a medical marijuana dispensary.

B. Except as amended in Section A, section 5.150.020 remains unchanged and in full force and effect.

SECTION 2.

Subsection D of section 5.150.040 of the Sacramento City Code is amended to read as follows:

D. Notwithstanding the provisions of ~~S~~section 5.150.030, a person may continue to operate a registered medical marijuana dispensary without a dispensary permit until February 7, 2011. If a phase one ~~and/~~or phase two application for a dispensary permit is or has been properly filed and has not been denied, a person may continue to operate that dispensary without a dispensary permit until December ~~February~~ 31~~11~~, 2014, and while the application approval or denial is pending.

SECTION 3.

Subsection B.10 of section 5.150.050 of the Sacramento City Code is amended to read as follows:

10. Response to ~~Title 17~~the Planning and Development Code. An explanation of how the dispensary complies or expects to comply with the Planning and Development ~~Title 17 of this c~~Code, including but not limited to, the location requirements.

SECTION 4.

Section 5.150.070 of the Sacramento City Code is amended to read as follows:

5.150.070 Review of phase two application.

A. If the city manager notifies the applicant that it may continue to phase two in the application process the applicant shall, no later than March 31, ~~November 12,~~ 2014~~3~~, file a phase two application with the city manager's office, that includes the following:

1. A nonrefundable dispensary permit program fee in the amount established by resolution of the city council. The dispensary permit program fee shall be in addition to any other fee imposed by this code.

2. Security Plan. A detailed security plan, prepared by a qualified professional, outlining the measures that will be taken to ensure the safety of persons and to protect the dispensary property from theft.

3. Floor Plan. A scaled floor plan for each level of the entire building showing the interior configuration of the dispensary building, including a statement of the total floor area occupied by the dispensary. The floor plan must include entrances, exits, restrooms, waiting area, office space, storage, and area for distributing marijuana to members. The floor plan must be professionally prepared by a licensed civil engineer or architect.

4. Site Plan. A scaled site plan of the parcel of real property on which the dispensary building is located, including the outline of all structures, driveways, parking and landscape areas, and boundaries of the parcel. The site plan must be professionally prepared by a licensed civil engineer or architect.

5. Accessibility Evaluation. A written evaluation of accessibility by the physically disabled to and within the building and identification of any planned accessibility improvements to comply with all state and federal disability access laws, including, but not limited to, Title 24 of the California Code of Regulations and the Americans with Disabilities Act. The evaluation must be professionally prepared by a licensed civil engineer or architect.

6. Neighborhood Context Map. An accurate straight-line drawing depicting the boundaries of the dispensary property, the boundaries of all other properties within ~~one thousand (~~1,000~~)~~ feet of the dispensary property, and the uses of those properties, specifically including, but not limited to, any use identified in the location requirements of

~~Title 17 of this~~ the Planning and Development ~~c~~Code. The map must be professionally prepared by a licensed civil engineer or architect.

7. Lighting Plan. A lighting plan showing existing and proposed exterior and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use.

8. ~~Zoning~~ Planning and Development Code Compliance. A copy of a valid conditional use~~special~~ permit approved by the city's zoning administrator or planning and design commission for the proposed dispensary location.

9. A copy of the dispensary's commercial general liability insurance policy and all other insurance policies related to the operation of the dispensary.

10. A copy of the dispensary's annual budget for operations.

11. A copy of the dispensary's most recent year's financial statement and tax return.

12. A list of the most recent prices for all products and services provided by the dispensary.

13. Applicant's Certification. A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the phase one and phase two applications, that the information contained therein is true and correct, and that the applications have been completed under their supervision.

14. Other Information. Such other information as deemed necessary by the city manager to demonstrate compliance with this code.

B. Complete Application.

1. Upon receiving a phase two application, the city manager shall determine whether the application is complete. If the city manager determines that the application is incomplete or has been completed improperly, the city manager shall notify the applicant. The city manager may grant the applicant an extension up to ten ~~(10)~~ days to complete the phase two application.

2. An application is not to be considered incomplete for purposes of this subsection B if the sole document remaining to be filed is a copy of the conditional use ~~special~~ permit referenced in subsection ~~(~~A.~~)(~~8~~)~~ of this section.

3. If the phase two application is incomplete, or remains incomplete upon the expiration of any extension, the city manager may deny the application. If the city manager denies the phase two application for being incomplete, pursuant to the provisions of this section, written notice of denial shall be served on the applicant. Notwithstanding

any provisions of this code to the contrary, the decision of the city manager shall be final and not subject to administrative appeal.

4. In the event of denial, for any reason, the applicant shall cease operating the dispensary within ~~fifteen (~~15~~)~~ days from the date notice of denial is served on the applicant. Continued operations shall be unlawful and subject to the penalties in s~~S~~ection 5.150.220.

5. If the city manager determines that the application is complete, the completion date of a phase two application shall be the date when the city manager notifies the applicant that it has received all of the information or materials required, including compliance with subsection ~~(~~A.~~)(~~8~~)~~ of this section; has determined that the content in the submitted documents is responsive to the requirements; and has deemed the application complete.

SECTION 5.

Section 5.150.110 of the Sacramento City Code is amended to read as follows:

5.150.110 Issuance of dispensary permit.

A. After the phase two application is complete, as specified in s~~S~~ection 5.150.070.~~(~~B.~~)(~~5~~)~~, the city manager shall either grant or deny a dispensary permit on or before ~~February 11~~ December 31, 2014.

B. In granting a permit, the city manager may impose conditions on the permit.

C. Conditions placed on the medical marijuana dispensary ~~special~~ conditional use permit issued under ~~Title 17~~ the Planning and Development Code shall be conditions of the dispensary permit. Violations of the ~~special~~conditional use permit's conditions are grounds for suspending or revoking the dispensary permit. Nothing in this section shall be construed to limit the authority of the city manager to place additional conditions upon the dispensary permit.

SECTION 6.

Subsection N of section 5.150.130 of Title 5 of the Sacramento City Code is amended to read as follows:

N. Indemnification. Every application filed or permit issued under this chapter shall contain a term or condition requiring the dispensary, through its management members, to execute an agreement in a form approved by the city attorney whereby the dispensary: (1) releases the city, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from: (a) any repeal or amendment of this chapter and/or ~~Title 17 (the zoning code)~~ the Planning and Development Code relating to medical marijuana dispensaries, or (b) any arrest or

prosecution of the dispensary or its management members, employees, or members for violation of state or federal laws; and (2) defends, indemnifies and holds harmless the city and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution of medical marijuana provided at the dispensary.

SECTION 7.

A. Section 17.228.700 of the Sacramento City Code is amended as follows:

1. The definition of "registered medical marijuana dispensary" is amended to read as follows:

"Registered medical marijuana dispensary" means a medical marijuana dispensary:

(i) That was properly registered with the city manager pursuant to Ordinance No. 2009-033; and

(ii) That was ~~is~~ operating ~~and has operated continuously~~ at the location for which a conditional use permit is requested ~~-~~under this article on ~~since at least~~ October 26, 2010 and that has not subsequently operated at any other location; and

(iii) That is organized and operates as a cooperative or a collective within the meaning of Chapter 5.150; and

(iv) The location of which does not meet the location requirements stated in section 17.228.7~~0~~15; and

(v) 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.

2. A new definition of "title 5 registered medical marijuana dispensary" is added to read as follows:

"Title 5 registered medical marijuana dispensary" shall have the same meaning as "registered medical marijuana dispensary" in subdivision A of section 5.150.040.

B. Except as amended in Section A, above, section 17.228.700 remains unchanged and in full force and effect.

SECTION 8.

Section 17.228.755 of Title 17 of the Sacramento City Code is amended to read as follows:

17.228.755 Registered medical marijuana dispensaries.

~~If a conditional use permit is requested and approved for a registered medical marijuana dispensary under this section, t~~The following limitations and requirements shall apply to registered medical marijuana dispensaries applying for ~~the~~ conditional use permits, and these limitations and requirements shall control over any other provisions of this title that may conflict:

A. A planning and design commission conditional use permit shall be required for a registered medical marijuana dispensary ~~under this section~~.

B. The applicant for the conditional use permit must be the same owner or principal 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 section 17.228.715 shall not apply.

D. The conditional use permit shall expire for discontinuance of use and shall thereafter be void if the medical marijuana dispensary ceases operation at any time, voluntarily or involuntarily, for 30 consecutive days.

~~E. The conditional use permit shall expire and thereafter shall be void 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 conditional use permit.~~
E~~F~~. The conditional use permit shall become void upon transfer of ownership or management control of the dispensary to another person.

F~~G~~. The conditional use permit shall be deemed automatically revoked upon revocation of the medical marijuana dispensary permit issued under ~~C~~chapter 5.150.

G~~H~~. A conditional use permit modification may not be approved to allow an expansion of the registered medical marijuana dispensary.

SECTION 9.

Section 17.228.760 is added to the Sacramento City Code to read as follows:

17.228.760 Title 5 registered medical marijuana dispensary.

The location requirements stated in subsection A.1, A.2 and A.3 of section 17.228.715 may be modified by a conditional use permit for a title 5 registered medical marijuana dispensary.

SECTION 10.

Ordinance 2012-041, entitled "An Interim Ordinance Relating to Special Permits for Medical Marijuana Dispensaries," is repealed.

SECTION 11.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or ineffective by any court of competent jurisdiction, or by reason of any preemptive legislation, that invalidity shall not affect the validity of the remaining provisions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, subdivision, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or words be declared invalid.

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ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 5.150 OF THE SACRAMENTO CITY CODE; AMENDING SECTIONS 17.228.700 AND 17.228.755 OF, AND ADDING SECTION 17.228.760 TO, TITLE 17 OF THE SACRAMENTO CITY CODE (THE PLANNING AND DEVELOPMENT CODE); AND REPEALING ORDINANCE 2012-041, RELATING TO MEDICAL MARIJUANA DISPENSARIES

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

SECTION 1.

A. Section 5.150.020 of the Sacramento City Code is amended as follows:

1. The definition of special permit is repealed.

2. A new definition for conditional use permit is added to read as follows:

"Conditional use permit" means any conditional use permit issued by the city pursuant to the Planning and Development Code related to the operation of a medical marijuana dispensary.

B. Except as amended in Section A, section 5.150.020 remains unchanged and in full force and effect.

SECTION 2.

Subsection D of section 5.150.040 of the Sacramento City Code is amended to read as follows:

D. Notwithstanding the provisions of section 5.150.030, a person may continue to operate a registered medical marijuana dispensary without a dispensary permit until February 7, 2011. If a phase one or phase two application for a dispensary permit is or has been properly filed and has not been denied, a person may continue to operate that dispensary without a dispensary permit until December 31, 2014, and while the application approval or denial is pending.

SECTION 3.

Subsection B.10 of section 5.150.050 of the Sacramento City Code is amended to read as follows:

10. Response to the Planning and Development Code. An explanation of how the dispensary complies or expects to comply with the Planning and Development Code, including but not limited to, the location requirements.

SECTION 4.

Section 5.150.070 of the Sacramento City Code is amended to read as follows:

5.150.070 Review of phase two application.

A. If the city manager notifies the applicant that it may continue to phase two in the application process the applicant shall, no later than March 31, 2014, file a phase two application with the city manager's office, that includes the following:

1. A nonrefundable dispensary permit program fee in the amount established by resolution of the city council. The dispensary permit program fee shall be in addition to any other fee imposed by this code.

2. Security Plan. A detailed security plan, prepared by a qualified professional, outlining the measures that will be taken to ensure the safety of persons and to protect the dispensary property from theft.

3. Floor Plan. A scaled floor plan for each level of the entire building showing the interior configuration of the dispensary building, including a statement of the total floor area occupied by the dispensary. The floor plan must include entrances, exits, restrooms, waiting area, office space, storage, and area for distributing marijuana to members. The floor plan must be professionally prepared by a licensed civil engineer or architect.

4. Site Plan. A scaled site plan of the parcel of real property on which the dispensary building is located, including the outline of all structures, driveways, parking and landscape areas, and boundaries of the parcel. The site plan must be professionally prepared by a licensed civil engineer or architect.

5. Accessibility Evaluation. A written evaluation of accessibility by the physically disabled to and within the building and identification of any planned accessibility improvements to comply with all state and federal disability access laws, including, but not limited to, Title 24 of the California Code of Regulations and the Americans with Disabilities Act. The evaluation must be professionally prepared by a licensed civil engineer or architect.

6. Neighborhood Context Map. An accurate straight-line drawing depicting the boundaries of the dispensary property, the boundaries of all other properties within 1,000 feet of the dispensary property, and the uses of those properties, specifically including, but not limited to, any use identified in the location requirements of the Planning and Development Code. The map must be professionally prepared by a licensed civil engineer or architect.

7. Lighting Plan. A lighting plan showing existing and proposed exterior and interior lighting levels that would be the minimum necessary to provide adequate security lighting for the use.

8. Planning and Development Code Compliance. A copy of a valid conditional use permit approved by the city's zoning administrator or planning and design commission for the proposed dispensary location.

9. A copy of the dispensary's commercial general liability insurance policy and all other insurance policies related to the operation of the dispensary.

10. A copy of the dispensary's annual budget for operations.

11. A copy of the dispensary's most recent year's financial statement and tax return.

12. A list of the most recent prices for all products and services provided by the dispensary.

13. Applicant's Certification. A statement dated and signed by each management member, under penalty of perjury, that the management member has personal knowledge of the information contained in the phase one and phase two applications, that the information contained therein is true and correct, and that the applications have been completed under their supervision.

14. Other Information. Such other information as deemed necessary by the city manager to demonstrate compliance with this code.

B. Complete Application.

1. Upon receiving a phase two application, the city manager shall determine whether the application is complete. If the city manager determines that the application is incomplete or has been completed improperly, the city manager shall notify the applicant. The city manager may grant the applicant an extension up to ten days to complete the phase two application.

2. An application is not to be considered incomplete for purposes of this subsection B if the sole document remaining to be filed is a copy of the conditional use permit referenced in subsection A.8 of this section.

3. If the phase two application is incomplete, or remains incomplete upon the expiration of any extension, the city manager may deny the application. If the city manager denies the phase two application for being incomplete, pursuant to the provisions of this section, written notice of denial shall be served on the applicant. Notwithstanding any provisions of this code to the contrary, the decision of the city manager shall be final and not subject to administrative appeal.

4. In the event of denial, for any reason, the applicant shall cease operating the dispensary within 15 days from the date notice of denial is served on the applicant. Continued operations shall be unlawful and subject to the penalties in section 5.150.220.

5. If the city manager determines that the application is complete, the completion date of a phase two application shall be the date when the city manager notifies the applicant that it has received all of the information or materials required, including compliance with subsection A.8 of this section; has determined that the content in the submitted documents is responsive to the requirements; and has deemed the application complete.

SECTION 5.

Section 5.150.110 of the Sacramento City Code is amended to read as follows:

5.150.110 Issuance of dispensary permit.

A. After the phase two application is complete, as specified in section 5.150.070.B.5, the city manager shall either grant or deny a dispensary permit on or before December 31, 2014.

B. In granting a permit, the city manager may impose conditions on the permit.

C. Conditions placed on the medical marijuana dispensary conditional use permit issued under the Planning and Development Code shall be conditions of the dispensary permit. Violations of the conditional use permit's conditions are grounds for suspending or revoking the dispensary permit. Nothing in this section shall be construed to limit the authority of the city manager to place additional conditions upon the dispensary permit.

SECTION 6.

Subsection N of section 5.150.130 of Title 5 of the Sacramento City Code is amended to read as follows:

N. Indemnification. Every application filed or permit issued under this chapter shall contain a term or condition requiring the dispensary, through its management members, to execute an agreement in a form approved by the city attorney whereby the dispensary: (1) releases the city, and its agents, officers, elected officials, and employees from any injuries, damages, or liabilities of any kind that result from: (a) any repeal or amendment of this chapter and/or the Planning and Development Code relating to medical marijuana dispensaries, or (b) any arrest or prosecution of the dispensary or its management members, employees, or members for violation of state or federal laws; and (2) defends, indemnifies and holds harmless the city and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by adjacent or nearby property owners or other third parties due to the operations at the dispensary, and for any claims brought by any of their clients for problems, injuries, damages, or liabilities of any kind that may arise out of the distribution of medical marijuana provided at the dispensary.

SECTION 7.

A. Section 17.228.700 of the Sacramento City Code is amended as follows:

1. The definition of "registered medical marijuana dispensary" is amended to read as follows:

"Registered medical marijuana dispensary" means a medical marijuana dispensary:

(i) That was properly registered with the city manager pursuant to Ordinance No. 2009-033; and

(ii) That was operating at the location for which a conditional use permit is requested under this article on October 26, 2010 and that has not subsequently operated at any other location; and

(iii) That is organized and operates as a cooperative or a collective within the meaning of Chapter 5.150; and

(iv) The location of which does not meet the location requirements stated in section 17.228.715; and

(v) 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.

2. A new definition of "title 5 registered medical marijuana dispensary" is added to read as follows:

"Title 5 registered medical marijuana dispensary" shall have the same meaning as "registered medical marijuana dispensary" in subdivision A of section 5.150.040.

B. Except as amended in Section A, above, section 17.228.700 remains unchanged and in full force and effect.

SECTION 8.

Section 17.228.755 of Title 17 of the Sacramento City Code is amended to read as follows:

17.228.755 Registered medical marijuana dispensaries.

The following limitations and requirements shall apply to registered medical marijuana dispensaries applying for conditional use permits, and these limitations and requirements shall control over any other provisions of this title that may conflict:

A. A planning and design commission conditional use permit shall be required for a registered medical marijuana dispensary.

B. The applicant for the conditional use permit must be the same owner or principal 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 section 17.228.715 shall not apply.

D. The conditional use permit shall expire for discontinuance of use and shall thereafter be void if the medical marijuana dispensary ceases operation at any time, voluntarily or involuntarily, for 30 consecutive days.

E. The conditional use permit shall become void upon transfer of ownership or management control of the dispensary to another person.

F. The conditional use permit shall be deemed automatically revoked upon revocation of the medical marijuana dispensary permit issued under chapter 5.150.

G. A conditional use permit modification may not be approved to allow an expansion of the registered medical marijuana dispensary.

SECTION 9.

Section 17.228.760 is added to the Sacramento City Code to read as follows:

17.228.760 Title 5 registered medical marijuana dispensary.

The location requirements stated in subsection A.1, A.2 and A.3 of section 17.228.715 may be modified by a conditional use permit for a title 5 registered medical marijuana dispensary.

SECTION 10.

Ordinance 2012-041, entitled "An Interim Ordinance Relating to Special Permits for Medical Marijuana Dispensaries," is repealed.

SECTION 11.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or ineffective by any court of competent jurisdiction, or by reason of any preemptive legislation, that invalidity shall not affect the validity of the remaining provisions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, subdivision, sentence, clause and phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or words be declared invalid.

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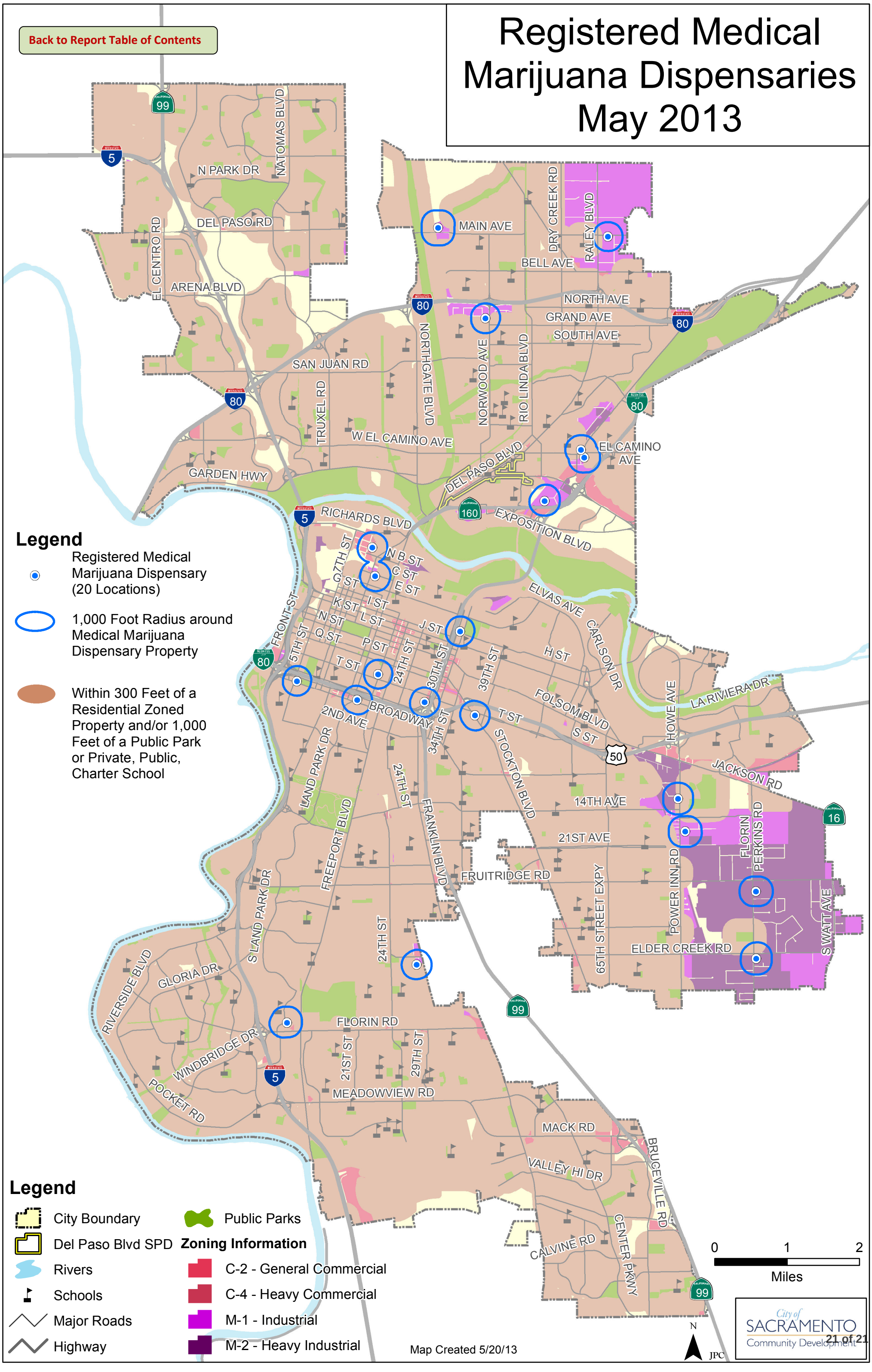
Registered Medical Marijuana Dispensaries May 2013