



REPORT TO PLANNING COMMISSION City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

PUBLIC HEARING
September 9, 2010

To: Members of the Planning Commission:

Subject: Zoning Code Amendment Related to Medical Marijuana Dispensaries (M10-015)

Location: Citywide

Contact: Joy Patterson, Principal Planner, 916-808-5607

Recommendation: Staff recommends that the Planning Commission recommend approval of the proposed ordinance amending the Zoning Code to require special permits for medical marijuana dispensaries and forward its recommendation to the City Council.

Summary:

On July 27, 2010 the City Council approved a motion to direct staff to draft ordinances to regulate medical marijuana dispensing operations in the City of Sacramento. An amendment to Title 5 of the City Code is being prepared to address business operations associated with the dispensaries. The Council directed Planning staff to prepare an ordinance amending the Zoning Code that would require the dispensaries to obtain a special permit at either the Zoning Administrator or Planning Commission level, depending on adherence to development criteria.

Background Information:

In June 2009, the City Council directed staff to develop an ordinance to regulate medical marijuana operations. Proliferation of medical marijuana operations is an issue of statewide concern, and there has not been a consistent response by other cities in California. Currently the city has a moratorium prohibiting new medical marijuana dispensing operations from opening and prohibiting the existing 39 dispensing operations from modifying or expanding their current operations. The moratorium will expire on July 13, 2011.

An interdepartmental committee composed of staff from the City Manager's Office, Police, Neighborhood Services, Code Enforcement, Revenue and Planning has been meeting on the development of amendments to the Sacramento City Code. Staff has researched ordinances of other cities regulating medical marijuana including visiting medical marijuana dispensing operations in Oakland, Sebastopol and Sacramento and

has conducted several outreach meetings with local medical marijuana dispensing operators/stakeholders. Policy discussions have been held at the Law and Legislation Committee on December 1, 2009 and April 6, 2010.

On July 27, 2010 a policy discussion on medical marijuana dispensaries was held before the City Council. The council considered three options:

- Option 1 permitted the use by right in commercial and industrial zones subject to compliance with business and development standards, but limited the number of dispensaries citywide to 12. A proposed dispensary that could not meet the development standards would not be permitted to operate in the city.
- Option 2 limited the number outside of the Central City to 9 subject to the rules stated above. Within the Central City there would be no cap on the number of facilities but a Planning Commission special permit would be required.
- Option 3 permitted the use in commercial and industrial zones subject to compliance with business and development standards. If a facility could not meet the development/location standards a Planning Commission special permit would be required.

After listening to public testimony the City Council directed staff to return with an ordinance amendment to Title 5 of the City Code which would set up a business permit procedure for medical marijuana dispensaries. The Council also directed staff to prepare an amendment to the Zoning Code to require a Planning Commission special permit for all medical marijuana dispensaries with a provision indicating that dispensaries that met the development/location criteria could apply for a special permit at the Zoning Administrator level.

Proposed Zoning Code Amendment:

The proposed amendment to the Zoning Code will permit medical marijuana facilities in the commercial and industrial zones (C-2, C-3, C-4, M-1, M-1S, M-2, M-2S zones) subject to special permit review and approval. If a facility proposes to locate in the heavy commercial or industrial zones (C-4, M-1, M-1S, M-2, M-2S) and can meet all development standards, a Zoning Administrator's special permit is required. If a facility proposes to locate a heavy commercial or industrial zone but cannot meet the development standards, a Planning Commission special permit is required. If a facility proposes to locate in the General Commercial (C-2) zone or the Central Business District (C-3) zone a Planning Commission Special Permit is also required whether or not the operator chooses to waive or modify the development standards. The development standards are:

- A medical marijuana dispensary must be located more than 1,000 feet from any other medical marijuana dispensary, measured from property line to property line.
- A dispensary must be located 300 feet from a residential zone, measured from property line to property line.

- A dispensary must be located 500 feet from public parks, public or private K-12 schools, public or private day care centers, church/faith congregations, substance abuse centers, theaters, and tobacco retailers measured property line to property line.
- A dispensary shall provide off-street parking as required for retail stores under section 17.64.020 of the Zoning Code. All required parking shall be off-street and on-site.
- The dispensary size shall not exceed 8,000 square feet.
- One attached sign not to exceed six square feet in area or 10 percent of the window area of the dispensary, whichever is less, is permitted. A detached sign is not permitted.

Wherever a dispensary proposes to operate they will be required to obtain and maintain a valid medical marijuana dispensary permit as required by Title 5 of the City Code. This standard, and the requirements found in Title 5 for the dispensary permit, cannot be waived by the Planning Commission.

The proposed ordinance is included in this report as Attachment 2. The ordinance is a draft document and has not yet been reviewed by the City Attorney's Document and Ordinance Review Committee for final format.

Public/Neighborhood Outreach and Comments: Staff held meetings with medical marijuana dispensary owners in September 2009 and March and July of 2010. Staff also made presentations to all four Area Community Partnership meetings and the Midtown Business Association in the Spring of 2010.

Environmental Considerations: The adoption of the ordinance would establish a new process for a development entitlement application and would not result in a direct or reasonably foreseeable indirect physical effect on the environment. Therefore, the adoption of the ordinance is not a "project" covered by the California Environmental Quality Act (CEQA) under CEQA Sections 15378, 21065 and CEQA Guidelines Section 15060 (c) (2). Individual projects that may apply for entitlements under the ordinance would undergo separate environmental review.

Policy Considerations: The City Council Law and Legislation Committee considered regulations for medical marijuana facilities at their December 1, 2009 and April 6, 2010 meetings and the City Council considered the item at their July 27, 2010 meeting. The proposed ordinance is consistent with the policy direction given by the City Council at their July 27th meeting.

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Respectfully submitted by:


JOY PATTERSON
PRINCIPAL PLANNER

Recommendation Approved:


DAVID KWONG
PLANNING DIRECTOR

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Subject: Zoning Code Amendment Related to Medical
Marijuana Dispensaries (M10-015)

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**City Planning Commission Record of Decision/Recommendation:
Medical Marijuana Dispensaries (M10-015)**

- A. The Planning Commission recommends approval and forwards to the City Council the **Ordinance Amending Sections 17.16.010, 17.24.030 and 17.24.050 of the Sacramento City Code Relating To Medical Marijuana Dispensaries** as set forth in Attachment 2.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 17.16.010, 17.24.030, AND 17.24.050 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 definition of “medical marijuana dispensary” is added to Section 17.16.010 to read as follows:

“Medical marijuana dispensary” means a facility as defined in Title 5.150 of this code.

B. Words and phrases not defined here shall be construed as defined in Title 5.150 of this code.

C. Except as amended in subsections A and B 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	85	85/20	85	85/20									

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. Special Permit Required.

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

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

b. Location Requirements and Development Standards.

i. The following development standards apply to all medical marijuana dispensaries and may not be waived or modified by special permit:

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(A) A medical marijuana dispensary must obtain and maintain at all times that it is in operation a valid medical marijuana dispensary permit as required by Chapter 5.150 of this code.

ii. The following location requirements and development standards apply to all medical marijuana dispensaries, but may be waived or modified by special permit:

(A) Location Requirements. A medical marijuana dispensary shall meet the following location requirements:

- (1) More than one thousand (1,000 feet) from any other medical marijuana dispensary, measured from property line to property line.
- (2) Three hundred (300) feet from a residential zone, measured from property line to property line.
- (3) Five hundred (500) feet from public parks, public or private K-12 schools, public or private day care centers, church/faith congregations, substance abuse centers, theaters, and tobacco retailers measured property line to property line.

(B) Development Standards. In addition to the development standards required as part of the medical marijuana dispensary permit, a medical marijuana dispensary shall meet the following development standards:

- (1) Parking. Off-street parking shall be provided as required for retail stores under section 17.64.020. All required parking shall be off-street and on-site.
- (2) Dispensary size. Dispensary size shall not exceed 8,000 square feet.
- (3) Signage. One attached sign not to exceed six square feet in area or 10 percent of the window area of the dispensary, whichever is less, is permitted. A detached sign is not permitted.

c. Existing Medical Marijuana Dispensaries. Existing medical marijuana dispensaries, whether registered or not registered with the City, in operation at the time of adoption of this ordinance shall not be deemed to be a legally established use; shall not be entitled to claim legal non-conforming status; and are not considered to possess special permit status as provided in Title 17.88 of this code.

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

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