COUNTY OF LOS ANGELES
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ANDREA SHERIDAN ORDIN
County Counsel

December 1, 2010

Agenda No. 12
11/23/10

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: Medical Marijuana Dispensaries Ordinance

Dear Supervisors:

Following your hearing on November 23, 2010, your Board instructed our office to prepare an ordinance banning medical marijuana dispensaries in all zones in the County unless and until such a ban is held to be unlawful. As instructed, enclosed are the analysis and ordinance for your consideration and adoption.

Very truly yours,

ANDREA SHERIDAN ORDIN
County Counsel

By
ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:

LEELA A. KAPUR
Chief Deputy

EML:gl
Enclosure

c: Richard J. Bruckner, Director
Department of Regional Planning

HOA.749755.1

ANALYSIS

This ordinance amends Title 22 – Planning and Zoning of the Los Angeles County Code, banning medical marijuana dispensaries in all zones in the County until such time that such a ban is held to be unlawful by a final decision of a California Court of Appeal or the California Supreme Court, in which case the pre-existing requirements for a conditional use permit, as set forth in Section 22.56.196.D, et seq., of the County Code, related to the location and standards for such dispensaries shall be effective.

ANDREA SHERIDAN ORDIN
County Counsel

By

ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

EML:gl

11/23/10 (requested)

11/30/10 (revised)

ORDINANCE NO. _____

An ordinance amending Title 22 – Planning and Zoning of the Los Angeles County Code to ban medical marijuana dispensaries in all zones in the County until such time that such a ban is held to be unlawful by a final decision of a California Court of Appeal or the California Supreme Court, in which case the pre-existing requirements for a conditional use permit, as set forth in Section 22.56.196.D, et seq., of the County Code, related to the location and standards for such dispensaries shall be effective.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 22.28.110 is hereby amended to read as follows:

22.28.110 Uses subject to permits.

Premises in Zone C-1 may be used for:

. . .

— Medical marijuana dispensaries, subject to the requirements of Section 22.56.196.D through H, unless a ban is in effect for such dispensaries pursuant to Section 22.56.196.B.

. . .

SECTION 2. Section 22.28.160 is hereby amended to read as follows:

22.28.160 Uses subject to permits.

Premises in Zone C-2 may be used for:

. . .

— Medical marijuana dispensaries, subject to the requirements of Section 22.56.196.D through H, unless a ban is in effect for such dispensaries pursuant to Section 22.56.196.B.

. . .

SECTION 3. Section 22.28.210 is hereby amended to read as follows:

22.28.210 Uses subject to permits.

Premises in Zone C-3 may be used for:

. . .

— Medical marijuana dispensaries, subject to the requirements of Section 22.56.196.D through H, unless a ban is in effect for such dispensaries pursuant to Section 22.56.196.B.

. . .

SECTION 4. Section 22.28.260 is hereby amended to read as follows:

22.28.260 Uses subject to permits.

Premises in Zone C-M may be used for:

. . .

— Medical marijuana dispensaries, subject to the requirements of Section 22.56.196.D through H, unless a ban is in effect for such dispensaries pursuant to Section 22.56.196.B.

. . .

SECTION 5. Section 22.32.130 is hereby amended to read as follows:

22.32.130 Uses subject to permits.

Premises in Zone M-1½ may be used for:

. . .

— Medical marijuana dispensaries, subject to the requirements of Section 22.56.196.D through H, unless a ban is in effect for such dispensaries pursuant to Section 22.56.196.B.

. . .

SECTION 6. Section 22.32.190 is hereby amended to read as follows:

22.32.190 Uses subject to permits.

Premises in Zone M-2 or Zone M-4 may be used for:

— Medical marijuana dispensaries, subject to the requirements of Section 22.56.196.D through H, unless a ban is in effect for such dispensaries pursuant to Section 22.56.196.B.

. . .

SECTION 7. Section 22.56.196 is hereby amended to read as follows:

22.56.196 Medical marijuana dispensaries.

A. Purpose. This ~~s~~Section is established:

1. To ban medical marijuana dispensaries in all zones in the County; or

2. In the event that such a ban is held to be unlawful by a final decision of a California Court of Appeal or the California Supreme Court, to regulate medical marijuana dispensaries in a manner ~~that is safe,~~ that mitigates potential health, safety,

and welfare impacts such dispensaries may have on surrounding properties and persons, ~~and that is in~~consistent and in conformance with ~~the provisions of~~ California Health and Safety Code section 11362.5 through section 11362.83, inclusive, commonly referred to as the Compassionate Use Act of 1996 and the Medical Marijuana Program.

B. ~~Conditional use permit required. The establishment and operation of any medical marijuana dispensary requires a conditional use permit in compliance with the requirements of this section~~Prohibition. Subject to subsection (C) below, medical marijuana dispensaries which distribute, transmit, give, or otherwise provide marijuana to any person, are prohibited in all zones in the County.

C. Court decision. If a California Court of Appeal or the California Supreme Court makes a final determination that a ban of medical marijuana dispensaries within an entire local jurisdiction is illegal, such as the ban set forth in subsection B, then the requirements for a conditional use permit as set forth in subsections D through H of this Section 22.56.196 shall be in effect and shall serve to regulate medical marijuana dispensaries in the County consistent and in conformance with the Compassionate Use Act of 1996 and the Medical Marijuana Program.

~~C~~D. Application procedure.

1. County department review. In addition to ensuring compliance with the application procedures specified in Sections 22.56.020, 22.56.030, 22.56.040, 22.56.050, and 22.56.085, the ~~d~~Director shall send a copy of the application and related materials to the ~~d~~Department of Public ~~h~~Health ~~services~~, ~~s~~Sheriff's ~~d~~Department,

~~b~~Business ~~l~~License ~~c~~Commission, and all other relevant ~~c~~County departments for their review and comment.

. . .

~~D~~E. Findings. In addition to the findings required in Section 22.56.090, approval of a conditional use permit for a medical marijuana dispensary shall require the following findings:

. . .

~~E~~F. Conditions of Use. The following standards and requirements shall apply to all medical marijuana dispensaries unless a variance is granted pursuant to Part 2 of Chapter 22.56:

. . .

~~F~~G. Previously existing dispensaries. Notwithstanding the provisions of Part 10 (Nonconforming Uses, Buildings and Structures) of Chapter 22.56, dispensaries determined not to be operating illegally which were established prior to the effective date of this ordinance~~,~~ shall be brought into full compliance with the provisions of this ~~s~~Section within one year of the effective date of the ordinance establishing this ~~s~~Section.

~~G~~H. Liability. The provisions of this Section shall not be construed to protect dispensary owners, permittees, operators, and employees, or their clients from prosecution pursuant to any laws that may prohibit the cultivation, sale, use, or possession of controlled substances. Moreover, cultivation, sale, possession, distribution, and use of marijuana remain violations of federal law as of the date of

adoption of the ordinance creating this ~~s~~Section and this ~~s~~Section is not intended to, nor does it, protect any of the above described persons from arrest or prosecution under those federal laws. Owners and permittees must assume any and all risk and any and all liability that may arise or result under state and federal criminal laws from operation of a medical marijuana dispensary. Further, to the fullest extent permitted by law, any actions taken under the provisions of this section by any public officer or employee of the County of Los Angeles or the County of Los Angeles itself, shall not become a personal liability of such person or the liability of the ~~c~~County.

[2228110ELCC]

EXECUTIVE OFFICE – BOARD OF SUPERVISORS

AGENDA ENTRY

DATE OF MEETING	DECEMBER 7, 2010
DEPARTMENT NAME:	COUNTY COUNSEL
BOARD LETTERHEAD:	COUNTY COUNSEL
SUPERVISORIAL DISTRICT AFFECTED:	ALL
VOTES REQUIRED:	3
CHIEF INFORMATION OFFICER'S RECOMMENDATION:	☐ APPROVE ☐ APPROVE WITH MODIFICATION ☐ DISAPPROVE

****** *ENTRY MUST BE IN MICROSOFT WORD* ******

Instructions: To comply with the Brown Act requirement, the reader should fully understand what the department is asking the Board to approve. The recommendation must describe what the action is for, with whom the action is being taken, fiscal impact, including money amounts, funding sources and effective dates. Also, include an instruction for the Chair(man) or Director to sign when such signature is required on a document.

Recommendation: Ordinance for adoption amending the County Code, Title 22 – Planning and Zoning, relating to the banning of medical marijuana dispensaries in all zones in the County unless and until such a ban is held to be unlawful by a final decision of a California Court of Appeal or Supreme Court.