

ORDINANCE NO. ORD-150-2011

**AN ORDINANCE ADDING SECTION 20 OF
CHAPTER 5, POLICE REGULATIONS,
RELATING TO MEDICAL MARIJUANA DISPENSARIES,
OF THE MUNICIPAL CODE OF THE CITY OF CLEARLAKE**

The City Council of the City of Clearlake, State of California does hereby ordain as follows:

SECTION 1. DECLARATION OF INTENT

The purpose of this Ordinance is to add Section 20, Chapter 5, to the Municipal Code relating to Medical Marijuana Dispensaries.

Voters of the State of California approved proposition 215 (codified as Health and Safety Code Section 11362.5 et seq.) entitled “The Compassionate Use Act of 1996.” The intent of Proposition 215 was to enable persons residing in the State of California who are in need of marijuana for medical purposes to be able to obtain and use it under limited, specified circumstances, without being subject to criminal prosecution under State of California penal statutes.

The State enacted SB 420 in 2004, being sections 11362.7 et seq., of the Health and Safety Code, identified as the Medical Marijuana Program (Program), to clarify the scope of the Compassionate Use Act of 1996. Except for the limited exemption from criminal prosecution under State criminal laws, the possession and sale of marijuana remains illegal under both state and federal law.

To protect the public health, safety, and welfare, it is the desire of the City Council to modify the City’s Municipal Code consistent with the Program, to regulate and restrict the location and operation of Medical Marijuana Dispensaries and promote and protect the health, safety, morals and general welfare of residents and businesses within the City.

SECTION 2. Chapter 5-20 of the Clearlake Municipal Code is hereby added as follows:

CHAPTER 5-20 MEDICAL MARIJUANA DISPENSARY REGULATIONS

Section 5-20.1 Definitions.

For the purpose of this Chapter, the following words and phrases shall mean:

“**Applicant**” means a person who is required to file an application for a license under this Chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a Medical Marijuana Dispensary, as defined herein.

“**City**” means the City of Clearlake.

“Compassionate Use Act” shall mean California Health and Safety Code Section 11362.5, as may be amended, also known as the Compassionate Use Act of 1996.

“Drug paraphernalia” shall have the same definition as found in the Health and Safety Code Section 11364.5, and as may be amended.

“Identification card” shall have the same definition as found in the Medical Marijuana Program (Health & Safety Code section 11362.7(g).) and as may be amended.

“Licensee” means the person to whom a Dispensary license is issued under this Chapter, and who is identified in California Health and Safety Code Section 11362.7, subdivision (c) or (d), (e), or (f).

“Medical marijuana dispensary” or **“dispensary”** means any storefront location that provides consumer related products and services primarily found within the City’s C-2 and C-3 zone districts which distributes, transmits, gives, or otherwise provides medical marijuana to qualified patients or primary caregivers in accordance with 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.

The following buildings, premises and uses are not “Dispensaries” pursuant to this Chapter, as long as the location of such uses are otherwise regulated by this Code or applicable law: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; (3) a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; (5) a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code. All of the foregoing buildings, premises and uses must strictly comply with applicable law including, but not limited to, Compassionate Use Act.

A **“medical marijuana collective”** or **“cooperative”** means an organization that facilitates the collaborative efforts of medical marijuana patients and caregiver members for use and cultivation of medical marijuana as authorized by law – including the allocation of costs and revenues. A medical marijuana patient growing “collective” or “cooperative” that does not operate as a storefront location or mobile retail outlet that provides consumer related products and services primarily found within the City’s C-2 and C-3 zone districts is exempt from the provisions of this ordinance.

“Medical Marijuana Program” shall mean Health and Safety Code Section 11362.7 et. seq.

“Person with an identification card” shall have the same definition as set forth in the Medical Marijuana Program (Health & Safety Code section 11362.7(c).) and as may be amended.

Primary caregiver” (caregiver) shall have the same definition as set forth in the Compassionate Use Act and Medical Marijuana Program.

“Qualified patient” (patient) shall have the same definition as set forth in the Compassionate Use Act and Medical Marijuana Program.

“Youth-Oriented Facility” shall mean a public or private school (K-12) , licensed daycare facilities, public parks, and any establishments that advertise in a manner that identifies the establishment as catering to or providing services primarily intended for minors.

Section 5-20.2 Dispensary License Required to Operate.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a dispensary unless the person first obtains and continues to maintain a valid dispensary license from the City as required by this Chapter.

Section 5-20.3 Limitations on Number and Size of Dispensaries.

- A. The City may not grant more than three (3) licenses for Medical Marijuana Dispensaries at any given time. When Clearlake’s population reaches 20,000, then the number of licenses granted at any given time shall be increased to four (4).
- B. The retail area of a Medical Marijuana Dispensary shall not exceed 1,200 square feet.

Section 5-20.4 Limitations on Location of Dispensary.

- A. The three dispensaries specifically mentioned in Section 2.J. of the Moratorium ordinance No. 2009-145 may be located within the Commercial C2 or C2DD zoning districts. Any other future dispensary may be located within the Commercial C4 zoning district by right or in the C-2 zoning district by use permit.
- B. A dispensary must be clearly visible from public rights of way and located on a premises that provides unobstructed views of the dispensary entrance.
- C. A dispensary shall not be located within 600 feet of a Youth-Oriented Facility. This setback shall be measured in a straight line from the boundary line of the property on which the dispensary is located nearest to the boundary of the property on which the building or structure, or portion of the building or structure, in which the above listed use occurs or is located. The City Council may waive all or part of this requirement if it determines that the proximity does not constitute a risk to public health or safety as it relates to anything other than a K-12 public or private school.

Section 5-20.5 Initial Filing Period.

In order to allow the consideration of competing applications for a dispensary, a ninety (90) day filing period shall commence following the adoption of this Ordinance for the three dispensaries existing as of November 5, 2009. Upon the close of this initial filing period, if multiple applications have been received and deemed complete, they shall be processed concurrently as set forth in this Chapter. If less than three applications are received during the initial filing

period, any applications that are subsequently submitted shall be processed and evaluated individually, in the order in which they are received and deemed complete. If the application of a dispensary existing as of November 5, 2009 cannot be approved under the terms of this Ordinance or if they have not submitted an application within ninety (90) days of the filing period noted above, then that business will have to cease operation within 30 days after so being notified by the City.

Section 5-20.6 Application Preparation and Filing.

- A. Any person wishing to operate a dispensary in the City shall complete and file an application. An application is complete if it includes all fees, information and materials required by this Chapter. All license applications shall be filed with the City Administrator, using forms provided by the City. It is the responsibility of the applicant to provide information required for approval of the application. The application shall be signed under penalty of perjury. Existing dispensaries wishing to remain in business under the terms of this Ordinance must file an application within ninety (90) days after the adoption of the Ordinance.
- B. An application may only be filed by the owner of the subject property, the lessee of the property where the lease authorizes the lessee to use the premises for a dispensary, or a person with the written authorization of the property owner.
- C. The application shall be deemed filed on the date when the City receives the last submission of information or materials required for it to be deemed complete in accordance with requirements specified herein.
- D. The City shall notify an applicant in writing, via Certified U.S. Mail, postage pre-paid, sent to the address provided by the applicant on the application, if an application is incomplete. The applicant shall be granted an extension of time to submit all materials required to complete the application within ten (10) days of the date of the notification. If the application remains incomplete in excess of said ten (10) day period, the application shall be deemed withdrawn and new application shall be required. The time period for granting or denying a license shall be stayed during the extension of time.
- E. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement to obtain a dispensary license pursuant to this Chapter.
- F. Any dispensary license application shall include the following information:
 - (1) The applicant's full name (including any current or prior aliases, or other legal names the applicant is or has been known by, including maiden names), current address, and telephone number.
 - (2) The address where notice of action on the application is to be mailed.

- (3) The applicant's previous addresses for the five years immediately prior to his or her present address.
- (4) Written proof that the applicant is over the age of eighteen (18) years of age.
- (5) The applicant's height, weight, color of eyes and hair.
- (6) Two (2) passport-quality photographs of the applicant.
- (7) The applicant's businesses, occupations, or employment for the ten years immediately preceding the date of the application.
- (8) The applicant's business license and permit history, including whether the applicant has had a permit, approval and/or business license revoked or suspended by the State, or any city or county, the reason therefor, and the business or activity or occupation engaged in by the applicant subsequent to such action of suspension or revocation, and a copy of the applicant's seller's permit (retail sales tax permit) issued by the State Board of Equalization.
- (9) All the name or names and addresses of the person or persons who will act as a manager or supervisor of the dispensary.
- (10) The printed results of a background investigation from the California Department of Justice resulting from a fingerprint card submission approved by the City of Clearlake, verifying whether the person or person having the management or supervision of the applicant's business has been convicted of a crime(s), or entered a plea of guilty or nolo contendere to a crime, the nature of such offense(s), and the sentence(s) imposed.
- (11) Names of all employees, volunteers, and other persons who will work at the dispensary. The applicant also agrees to submit any names for a fingerprint card of individuals who become new owners, managers, supervisors, employees, or volunteers during the year after a license is issued.
- (12) A written plan describing how the dispensary will operate consistent with State law and the provisions of this Chapter, including:
 - (a) Controls ensuring medical marijuana is not purchased or sold by the dispensary, its owners, managers, supervisors, employees or volunteers, in a manner that would generate a profit.
 - (b) Controls ensuring medical marijuana will be dispensed only to qualified patients or primary caregivers.
 - (c) Controls ensuring access to dispensary premises is regularly monitored and restricted to qualified patients and primary caregivers.

- (d) Independent verification methods for ensuring that a qualified patient's physician is recommending medical marijuana only for medical use.
- (13) A written statement listing the physical size of the dispensary, the number of managers, supervisors, employees and volunteers who will work there, and describing the nature of the proposed use of the dispensary.
- (14) A written statement indicating how each of the criteria for review has been satisfied, which shall include documented proof.
- (15) A security plan describing security arrangements that will ensure the safety of persons visiting and working at the dispensary, and protect the premises from theft. The plan shall provide for: installation of security cameras; installation of a burglar alarm system monitored by a state-licensed monitoring service; and a periodic (no less than yearly) written security assessment of the site conducted by a qualified professional.
- (16) A sketch or diagram depicting the interior configuration of the premises, including the total floor area occupied by the dispensary. The sketch or diagram must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (17) A sketch or diagram showing exterior configuration of the premises, including the outline of all structures, parking and landscape areas, and property boundaries. The sketch or diagram must be drawn to a designated scale or drawn with marked dimensions to an accuracy of plus or minus six (6) inches.
- (18) A straight-line drawing accurately depicting the building (or portion thereof) and premises to be occupied by the dispensary, and all properties within 600 feet of the boundaries of the property on which the dispensary license is requested. The drawing shall indicate the property lines of any Youth-Oriented Facility and all residential zones or uses within 100 feet of the primary entrance of the dispensary.
- (19) A lighting plan showing existing and proposed exterior and interior lighting placement and levels to provide adequate security lighting and which comply with all City standards regarding lighting design and installation.
- (20) Written authorization for the City, its agents and employees to seek verification of the information contained in the application and/or required pursuant to this Chapter.
- (21) A written statement by the applicant certifying under penalty of perjury that he or she has the consent of the property owner and landlord to operate a dispensary at the location, or providing proof that the applicant owns the property.
- (22) A written statement by the applicant certifying under penalty of perjury that all the information contained in the application is true and correct.

- G. In addition to providing all the materials required for new applications, applications for annual renewal shall also be accompanied by the following information:
- (1) The licensee shall provide a detailed description of any changes proposed or that have occurred in dispensary operations, the reasons for such changes, including compliance with applicable local and State law.
 - (2) The licensee shall identify any problems encountered during operations and how they have been addressed.
 - (3) The licensee shall describe how the dispensary operations have complied with the requirements of this Chapter and with applicable local and State law.

Section 5-20.7 Investigation and Action on Application.

- A. After an applicant files a complete dispensary license application and pays all required fees, the Police Chief shall conduct a background check of the applicant and all the dispensary's identified managers, supervisors, employees and volunteers, and take action as follows:
- (1) The Police Chief shall refer the application to any other City departments as necessary to complete his or her review of the application.
 - (2) The application, or competing applications, if applicable, shall also be subject to a preliminary review conducted by the Police Chief and the City Administrator. The Police Chief and City Administrator shall make such recommendations to the City Council as they deem appropriate based on their review.
- B. Within 60 days after completion of the Police Chief's investigation, the application shall be scheduled for a public hearing before the City Council where the Council may either grant or deny the application in accordance with the provisions of this Chapter.

Section 5-20.8 Public Hearing.

The City Council shall consider the application for the issuance or renewal of a dispensary license at a duly noticed public hearing, as set forth in the Municipal Code.

Section 5-20.9 Criteria for Review.

The City Council shall consider the following criteria in determining whether to grant or deny an application to issue or renew a dispensary license:

- A. The dispensary will operate or, if a renewal application, currently operates, in conformity with the Compassionate Use Act, the Medical Marijuana Program, and the provisions of this Chapter and the City Code.

- B. The dispensary location does not have significant crime issues (e.g., based upon crime reporting district/statistics as maintained by the police department).
- C. There have not been excessive numbers of calls for police service, crimes or arrests in the area or to an existing dispensary location (or to a dispensary located in another jurisdiction with which the applicant is affiliated in any way).
- D. The applicant, and all managers supervisors, employees and volunteers are at least eighteen (18) years of age.
- E. All required application materials have been provided and/or the dispensary has operated successfully in a manner that shows it will comply with the operating requirements and standards specified in this Chapter.
- F. That all required application or annual renewal fees have been paid and reporting requirements have been satisfied in a timely manner.
- G. The physical size of the dispensary conforms with the requirements of this Chapter; and, the dispensary will be, or if a renewal application, currently is, one of three or fewer total licensed dispensaries operating within the City.
- H. The location is not prohibited by the provisions of this Chapter or any applicable local or State law, statute, rule or regulation.
- I. The site plan, floor plan, and security plan have incorporated features necessary to assist in reducing potential crime-related problems and as specified in the operating requirements of this Chapter. These features may include, but are not limited to, security on-site; procedure for allowing entry; openness to surveillance and control of the premises, the perimeter, and surrounding properties; reduction of opportunities for congregating and obstructing public ways and neighboring property; illumination of exterior areas; and limiting furnishings and features that encourage loitering and nuisance behavior.
- J. No dispensary applicant, owner, licensee, agent, or manager, supervisors, employee or volunteer who will work, or, if renewal, currently works at the dispensary, has violated any provision of this Chapter such that grounds exist to suspend or revoke a dispensary license.
- K. The dispensary has incorporated all reasonable measures into the operating plan and consistently taken steps to successfully control the establishment's patrons' conduct resulting in disturbances, vandalism, uncontrolled crowds in or outside the dispensary, traffic control problems, or creation of a public or private nuisance, or interference of the operation of another business.
- L. That the dispensary has not caused or been the site of nuisance activities including disturbances of the peace, illegal drug activity, ingesting medical marijuana in public, harassment of passerby, excessive littering, excessive loitering, illegal parking, excessive

loud noises, especially late at night or early in the morning hours, lewd conduct, or police detentions or arrests.

- M. No provision of the Municipal Code or condition imposed by a City issued license, or any provision of any other applicable local or State, regulation, order, or any condition imposed by permit issues in compliance with those laws has been violated.
- N. The applicant has not violated any applicable local or State law, statute, rule or regulation respecting the distribution, possession, or consumption of medical marijuana.
- O. The applicant has neither knowingly made a false statement of material fact, nor knowingly omitted a material fact from the dispensary license application.
- P. No person who has been convicted of a felony within the past ten (10) years may be actively engaged in the operation or financing of any dispensary as an owner, licensee, agent, investor, manager, supervisor, employee or volunteer.
- Q. The applicant has not engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

Section 5-20.10 Findings; Decision.

Following a public hearing, the City Council may approve or disapprove an application to issue or renew a dispensary license. In issuing or renewing a dispensary license, the City Council may impose conditions, restrictions or require revisions on the applicant's operating plan to ensure compliance with the provisions, purpose and intent of this Chapter. The City Council shall record the decision and the findings upon which the decision is based. The City Council shall cause a written notice of its decision to issue or deny a license to be mailed to the applicant by certified U.S. mail.

Section 5-20.11 Effect of Denial.

If the City Council denies an application or revokes a dispensary license as provided in this Chapter, no new application for a license shall be accepted from the applicant whose license has been revoked or application denied and no such license shall be issued to such person or to any company, entity or corporation in which s/he shall have any interest for a period of five years after the action denying or revoking the license.

Section 5-20.12 Appeal.

The decision of the City Council to approve, deny, or revoke a license as provided for in this Chapter shall be final and conclusive and there shall be no right of appeal.

Section 5-20.13 Operating Requirements.

Dispensary operations shall be established and managed only in compliance with the following standards:

A. Criminal History.

No applicant, his or her agent or employees, nor any person exercising managerial authority over a dispensary on behalf of the applicant shall have been convicted of a felony within the past ten (10) years,

B. Minors.

- (1) It shall be unlawful for any licensee, supervisor, or manager of any dispensary, to employ any person who is not at least eighteen (18) years of age.
- (2) Persons under the age of eighteen (18) shall not be allowed on the premises of a dispensary unless they are a qualified patient or a primary caregiver, or if they are a minor child in the presence of their parent or guardian.

C. Operating Hours.

The maximum dispensary days and hours of operations shall be as follows:

Monday through Saturday: 9 am - 7 pm
Sunday: 12 pm – 5 pm

D. Dispensary Size and Access:

- (1) The retail sales area of a dispensary shall not exceed 1,200 square feet. Dispensary size shall be limited, as deemed appropriate and necessary, to best serve patient needs within the intent of this Chapter and reduce potential adverse impacts that might otherwise occur on surrounding neighborhoods, businesses and demands on City services.
- (2) The entrance into the dispensary building shall be locked at all times with entry strictly controlled; e.g., a “buzz-in” electronic/mechanical entry system. A viewer shall be installed in the door that allows a wide-angle of view of the exterior entrance.
- (3) Only dispensary staff, primary caregivers, qualified patients, persons with State issued identification cards, persons inspecting the facilities on behalf of the City, persons engaged in maintenance and repair activities in the building, and persons providing professional services such as accounting and legal services, shall be permitted at a dispensary.
- (4) Potential patients or caregivers shall not visit a dispensary without first obtaining a valid written recommendation from their physician recommending medical use of marijuana.

- (5) Only primary caregivers and qualified patients shall be permitted in the designated dispensing area; dispensary personnel must be present at such times. All other authorized visitors shall remain in the designated waiting area in the front entrance/lobby.

E. Dispensary Supply.

A dispensary may possess no more than (5) pounds of dried marijuana at any one time in addition to live plants for sale for medicinal purposes that are in a vegetative (not mature) state.

F. Dispensing Operations.

- (1) A dispensary shall only dispense to qualified patients or caregivers with a valid physician's recommendation in compliance with the Compassionate Use Act.
- (2) Prior to dispensing medical marijuana, the dispensary shall obtain verbal and signed, written verification from the recommending physician that the individual requesting medical marijuana is a qualified patient.
- (3) No dispensary may provide medical marijuana to any persons other than qualified patients or persons with identification cards and designated primary caregivers who are members of the marijuana collective or cooperative.
- (4) A dispensary shall only be for the dispensing of medical marijuana and not to evaluate patients and provide a recommendation for medical marijuana.
- (5) Medical marijuana collectives shall maintain records reflecting:
 - a. The full name, address, and telephone number(s) of the owner or lessee of the property.
 - b. The full name, address, and telephone number(s) of all qualified patients and persons with identification cards and/or primary caregivers who participate in cultivation of marijuana.
 - c. The full name, address, and telephone number(s) of all qualified patients and persons with identification cards to whom the dispensary provides medical marijuana.
 - d. The designation, by qualified patient(s) and person(s) with identification cards, of any and all primary caregivers who participate in the collective cultivation of marijuana.
- (6) Patient records shall be maintained on-site, either in paper or electronic form, and secured and verified by the City as needed (consistent with requirements pertaining to patient confidentiality pursuant to applicable State and Federal law)

and at least every 12 months by the qualifying patient's physician or Doctor of Osteopathy.

- (7) The licensee shall annually provide information on prior years' operations verifying compliance with this Chapter to the City Administrator. Licensee shall modify dispensary operations as required by the City Administrator to ensure compliance with all requirements of this Chapter.

G. Retail Sales and Cultivation

- (1) Subject to this Section, no medical marijuana shall be cultivated on the premises of the dispensary, except in compliance with the Compassionate Use Act and Medical Marijuana Program. No cultivation shall take place outdoors on the premises; all cultivation must occur indoors.
- (2) A dispensary shall meet all the operating criteria for the dispensing of medical marijuana as is required pursuant to the Compassionate Use Act and Medical Marijuana Program.
- (3) The sale of ancillary products, including books, herbal supplements, and devices facilitating the consumption of medical marijuana shall occur in a manner consistent with this Ordinance, and in compliance with all state requirements.

H. Operation Requirements.

- (1) Floor plan. The main entrance shall be located and maintained clear of barriers, landscaping and similar obstructions so that it is clearly visible from public streets, sidewalks and site driveways.
- (2) Storage. A dispensary shall have a locked safe on the premises, identified as a part of the security plan, for after-hours storage of medical marijuana. A dispensary shall also have a secure area for the storage of immature plants and any other products specifically allowed under the license, which contain medical marijuana.
- (3) Minimum Staffing. The dispensary shall be staffed during hours of operation by at least two persons, one of whom must be a manager.
- (4) Odors. A dispensary shall have an air treatment system that ensures off-site odors shall not result from its operations.

- (5) Security Plan. A dispensary shall provide adequate security on the premises, as approved by the Police Chief and pursuant to this Chapter, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
- (6) Security cameras. Security cameras required by this Chapter shall be installed to monitor, at the minimum, the main entrance and exterior of the premises to discourage loitering, crime, and illegal or nuisance activities.
- (7) Security video retention. Security video shall be retained for 30 days. Images shall be made available to the Police Chief upon a reasonable written request for the specific time period.
- (8) Alarm system. A State-licensed professionally monitored robbery and burglary alarm system shall be installed and maintained in good working condition.
- (9) Emergency contact. A dispensary shall provide the Police Chief with the name, phone number and facsimile number or email address of an individual working on the dispensary premises, to whom notice of problems associated with the operation of the dispensary can be provided. The dispensary shall keep this information current at all times. The dispensary shall make every good faith effort to encourage neighborhood residents to call this designated person to resolve operating problems, if any, before any calls or complaints are made to the City.

I. Signage and Notices.

- (1) Signs on the premises shall not obstruct the entrance or the video surveillance system. The size, location, and design of any signage must conform to the sign provisions in the Clearlake Zoning Ordinance.
- (2) Business identification signage shall be limited to that needed for identification only, consisting of a single window sign or wall sign that shall comply with the appropriate sign requirements with the applicable zoning district.

J. Employee Records.

Each owner or operator of a dispensary shall maintain a current register of the names of all employees currently employed by the dispensary, and shall disclose such registration for inspection by any City officer or official for purposes of determining compliance with the requirements of this Chapter.

K. Financial Review.

Each dispensary shall allow the City to have access to the dispensary's state income tax returns previously filed with the state for the purpose of verifying that the dispensary is

operating on a not-for-profit basis in accordance with the Attorney General's Guidelines. Tax returns shall be produced within 14 days after receipt of the City's written request.

L. Staff Training.

- (1) Dispensary staff shall receive appropriate training for their intended duties to ensure understanding of rules and procedures regarding dispensing in compliance with State and local law.
- (2) The dispensary shall take those steps necessary to assure that the persons assigned to provide security are properly trained or employed by a private security service in good standing with all supervisory or regulatory bodies exercising jurisdiction over such services.

M. Site Management.

- (1) The operator of the establishment shall take all reasonable steps to discourage and correct conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if related to the patrons of the subject dispensary.
 - a. "Reasonable steps" shall include calling the police within 30 minutes of observation of the activity, requesting those engaging in activities that constitute a nuisance or are otherwise illegal to cease those activities, unless personal safety would be threatened in making the request.
 - b. "Nuisance" includes but is not limited to disturbances of peace, open public consumption of medical marijuana or alcohol, excessive pedestrian or vehicular traffic, including the formation of any pedestrian lines outside the building, illegal drug activity, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.
- (2) The operator shall provide patients with a list of the rules and regulations governing medical marijuana use and consumption within the city and recommendations on sensible medical marijuana etiquette.

N. Compliance with Other Requirements.

The operator shall comply with all provisions of all applicable local or State laws, regulations or orders, as well as any condition imposed on any permits issued pursuant to applicable laws, regulations or orders.

O. Confidentiality.

To the extent protected by law, the information provided for purposes of this section shall remain confidential. It shall be maintained by the City Administrator or Police Chief, as appropriate, and not disclosed as public records unless pursuant to subpoena issued by a court of competent jurisdiction.

P. Display of License.

Every dispensary shall display at all times during business hours the license issued pursuant to the provisions of this Chapter for such dispensary in a conspicuous place so that the same may be readily seen by all persons entering the dispensary.

Q. Payment of Fees.

A licensee shall pay all annual license fees at the time that an original application is filed or an annual renewal application is submitted.

Section 5-20.14 Annual Term of License and Renewal Required.

- A. Licenses issued under this Chapter shall expire one (1) year following the date of their issuance.
- B. Licenses may be renewed by the City Administrator for additional one (1) year periods upon application by the licensee, unless the license is suspended or revoked in accordance with the provisions of this Chapter.
- C. The dispensary shall be notified by the City on a timely basis that an annual renewal application is due to be filed. Complete applications for renewal shall be made at least forty-five (45) days before the annual expiration date of the license and shall be accompanied by the nonrefundable application fee referenced herein. Applications for renewal shall be governed by the same criteria applicable to initial applications for licenses.
- D. Applications for renewal made less than forty-five (45) days before the annual expiration date shall not stay the annual expiration date of the license, and in addition to satisfying all other applicable criteria for license renewal, the applicant shall be required to demonstrate good cause for failing to have timely filed the application for license renewal. The City Administrator shall have the sole discretion to determine whether such good cause is demonstrated.
- E. Licenses may be revoked or suspended by the City Council on the grounds and terms provided in this Chapter.
- F. In the event that the City Administrator and Police Chief are not able to act upon a license renewal application prior to the date said license expires, and said inability is due to no fault of the City, said license shall expire as of its expiration date and the dispensary shall no longer operate after said expiration date. In such circumstances, should the licensee of the expired license desire to reestablish the right to operate a dispensary, the licensee

must do so by applying for a new dispensary license complying with all requirements of this Chapter applicable to an original application for a dispensary license. Should the City Council approve the license application, said decision shall be deemed effective on the date of the City Council's decision.

- G. The establishment of a Youth-Oriented Facility within 600 feet of a dispensary following the initial issuance of the license shall not be grounds for subsequently revoking the license.

Section 5-20.15 Suspension and Revocation.

- A. Any license issued under the terms of this Chapter may be suspended or revoked if the City Council finds that the Licensee has violated any of the provisions of this Chapter, or the dispensary is otherwise being operated in a manner that violates any of the provisions this Chapter.
- B. Except as otherwise provided in this Chapter, no dispensary license shall be revoked or suspended by virtue of this section absent notice and a hearing. The City shall provide written notice to the Licensee that the City Council will hold a hearing, at a scheduled meeting, regarding the suspension or revocation of his/her dispensary license. The City shall provide such notice no less than fifteen (15) days before the date of said hearing. The notice shall contain a brief statement of the grounds for revoking or suspending the Licensee's dispensary license. Notice may be given either by personal delivery to the Licensee (in which case, service shall have deemed to have been effected upon delivery of the notice), or by certified U.S. mail in a sealed envelope, postage prepaid, return receipt requested, addressed to Licensee at the address appearing on his/her dispensary license application (in which case, service shall be deemed to have been effected on the date the receipt indicates delivery was accomplished).
- C. If the City Council finds that sufficient grounds exist for the revocation or suspension of a dispensary license, then said determination shall be announced at the hearing, and written notice of said determination sent to the Licensee by personal delivery or certified U.S. mail in a sealed envelope, postage prepaid, return receipt requested, and addressed to the Licensee at the address appearing on his/her dispensary license application.
- D. The decision of the City Council shall be final and conclusive and there shall be no right of appeal.
- E. Procedures for the above are not exclusive and the City reserves the right to enforce all applicable laws for any licensee's violation of any law.

Section 5-20.16 Transfer of Licenses.

- A. A licensee shall not operate a dispensary under the authority of a dispensary license at any place other than the address of the dispensary stated in the application for the license.

- B. A licensee shall not transfer ownership or control of a dispensary or transfer a dispensary license to another person unless and until the transferee obtains an amendment to the license from the City Council stating that the transferee is now the licensee. Such an amendment may be obtained only if the transferee files an application with the City Administrator in accordance with all provisions of this Chapter (as though the transferee were applying for an original dispensary license) accompanied by a transfer fee in an amount set by resolution of the City Council (or if not set, shall be the same amount as the application fee), and the City Council determines (after hearing) in accordance this Chapter that the transferee would be entitled to the issuance of an original license.
- C. No license may be transferred when the City Administrator or Police Chief has notified the licensee that the license has been or may be suspended or revoked.
- D. Any attempt to transfer a license either directly or indirectly in violation of this section is hereby declared void, and such a purported transfer shall be deemed a ground for revocation of the license.

Section 5-20.17 Imposition of Fees.

- A. Every application for a dispensary license or renewal shall be accompanied by a nonrefundable fee, as established by resolution of the City Council from time to time. This application or renewal fee shall include fingerprinting, photographing, and background check costs and shall be in addition to any other costs imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees shall be as established by resolution adopted by the City Council from time to time. The time frames for the implementation of this Ordinance shall not be in effect until the City Council adopts a fee resolution. In the event that employee changes occur during the year, the applicant must submit the new employee for fingerprinting, photographing, and a background check and pay the appropriate fees for those services.
- B. All fees established by the Council to implement this Ordinance will reflect the City's costs to complete the requirements of the Ordinance. In addition, there will be a one-time fee to initiate the application process and an annual renewal fee. This one-time fee and the renewal fee will be comparable to the typical cost of obtaining a City Business License.

Section 5-20. 18 Violations.

- A. It is unlawful for any person, individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company or combination of the above in whatever form or character to violate any provision or fail to comply with any of the requirements of this Chapter and/or any dispensary license issued here under.
- B. A violation of this Chapter and/or any dispensary license issued here under shall be punished in accordance with the Clearlake Municipal Code.

Section 5-20. 19 Remedies Cumulative.

All remedies prescribed under this Chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

Section 5-20. 20 Separate Offense for Each Day.

Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

Section 5-20. 21 Public Nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter and/or any dispensary license issued here under shall be and is hereby declared a public nuisance and may be summarily abated by the City.

Section 5-20. 22 Criminal Penalties.

Any person who violates, causes, or permits another person to violate any provision of this Chapter and/or any dispensary license issued hereunder commits a misdemeanor.

Section 5-20. 23 Civil Injunction.

The violation, or threatened violation, of any provision of this Chapter and/or any dispensary license issued hereunder shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City Council, create a cause of action for injunctive relief, which may be brought by the City Attorney.

Section 5-20. 24 Administrative Remedies.

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this Chapter and/or any dispensary license issued here under may be subject to administrative remedies as set forth in the Code.

Section 5-20. 25 Conflicts.


All ordinances or parts of ordinances or resolutions in conflict herewith are hereby repealed to the extent of such conflicts and no further.

Section 5-20. 26 Effective Date.

The effective date of this Ordinance is thirty (30) days after its adoption by the City Council.

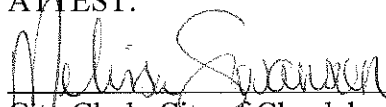
PASSED AND ADOPTED this 14th day of July, 2011 by the following vote:

AYES: Mayor Joyce Overton, Council Member Curt Giambruno, Council Member Jeri Spittler, Council Member Judy Thein
NOES: None
ABSENT: Vice Mayor Joey Luiz
ABSTAIN: None



Mayor, City of Clearlake

ATTEST:



City Clerk, City of Clearlake

