

ORDINANCE NO. 05-716U

AN ORDINANCE OF THE CITY OF WEST HOLLYWOOD GOVERNING THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES AND DECLARING THE URGENCY THEREOF

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Purpose. Standards are required to assure that the operations of medical marijuana dispensaries are in compliance with California Health & Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any State regulations adopted in furtherance thereof, and to mitigate the adverse secondary effects from operations of dispensaries. The City Council finds that the numerical limits on medical marijuana dispensaries provided by this Ordinance are necessitated by the small size of the City and the proximity of these uses to residential zones, schools and parks; and further, that the limit is reasonable and not an obstacle to the implementation of Proposition 215. This Ordinance is enacted as a health and safety measure pursuant to the City's police powers as prescribed in Art. XI, Sec. 7 of the California Constitution. Nothing contained in this Ordinance shall excuse, facilitate or promote a violation of federal law.

SECTION 2. Title 7 of the West Hollywood Municipal Code is amended by adding thereto a new Chapter 7.32 to read as follows:

Chapter 7.32. Medical Marijuana Dispensaries

7.32.010. Scope of Chapter.

The operating standards established in this Chapter apply to any site, facility, location, use, cooperative or business currently operating in the City of West Hollywood that distributes, dispenses, stores, sells, exchanges, processes, delivers, gives away, or cultivates marijuana for medical purposes to qualified patients, health care providers, patients' primary caregivers, or physicians, pursuant to Health & Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act of 1996") or any State regulations adopted in furtherance thereof. All dispensaries in the City of West Hollywood shall operate in conformance with the operating standards set forth in Section 7.32.020 to assure that the operations of medical marijuana dispensaries are in compliance with California law and to mitigate the adverse secondary effects from operations of dispensaries.

7.32.020. Operating Standards.

- a. Dispensaries shall provide adequate security and lighting on-site to ensure the safety of persons and protect the premises from theft at all times.
- b. All security guards employed by dispensaries shall be licensed and possess a valid Department of Consumer Affairs "Security Guard Card" at all times. Security guards shall not possess firearms.
- c. Dispensaries shall provide a neighborhood security guard patrol for a two-block radius surrounding the dispensary during all hours of operation.
- d. No recommendations for medical marijuana shall be issued on-site.
- e. There shall be no on-site sales of alcohol or tobacco, and no on-site consumption of food, alcohol, tobacco or marijuana by patrons.
- f. Hours of operation shall be limited to: Monday - Saturday 10am-8pm and Sunday noon-7pm.
- g. Dispensaries shall only dispense medical marijuana to qualified patients and their caregivers as defined by California Health and Safety Code Section 11362.5 (Proposition 215). This shall include possession of a valid doctor's recommendation, not more than one year old, for medical marijuana use by the patient.
- h. Dispensaries shall notify patrons of the following verbally and through posting of a sign in a conspicuous location:
 1. Use of medical marijuana shall be limited to the patient identified on the doctor's recommendation. Secondary sale, barter or distribution of medical marijuana is a crime and can lead to arrest.
 2. Patrons must immediately leave the site and not consume medical marijuana until at home or in an equivalent private location. Dispensary staff shall monitor the site and vicinity to ensure compliance.
 3. Forgery of medical documents is a felony crime.
- i. Dispensaries shall not provide marijuana to any individual in an amount not consistent with personal medical use.
- j. Dispensaries shall not store more than \$200 in cash reserves overnight on the premises and shall make at least one daily bank drop that includes all cash collected on that business day.
- k. Any patient under 18 years of age shall be accompanied by a parent or legal guardian

- l. Dispensaries shall provide law enforcement and all neighbors within 100 feet of the dispensary the name and phone number of an on-site community relations staff person to notify if there are operational problems with the establishment.
- m. Each dispensary operator(s) shall complete a criminal background check.

7.32.030. Numerical Limit on Dispensaries.

No more than seven (7) medical marijuana dispensaries shall be permitted to operate in the City at any time.

SECTION 3. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 4. Purpose and findings; Urgency. At least seven medical marijuana dispensaries have been established in the City within the last 12 months, several in close proximity to residentially zoned properties and sensitive uses such as day care centers. The City's code enforcement staff and the Sheriff's Department report an increase in loitering around dispensaries, an incident of armed burglary within a dispensary, parking and traffic violations, and increased complaints from neighbors about increased pedestrian and vehicular traffic and noise. The City Council believes that it is necessary to enact regulations, consistent with State law, governing the operation of medical marijuana dispensaries in order to protect residents and businesses from harmful secondary effects of these establishments and to assure compliance with Proposition 215 and its implementing statutes and regulations. Based on the foregoing, the recent proliferation of medical marijuana dispensaries in the City and the secondary effects of those dispensaries poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat. This ordinance is adopted pursuant to California Government Code Section 36937 and shall take effect immediately upon adoption by a four-fifths vote of the City Council.

SECTION 5. Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

PASSED, APPROVED AND ADOPTED by the City Council of the City of West Hollywood at a regular meeting the 18th day of July, 2005, by the following vote:

AYES: Councilmember: Duran, Guarriello, Prang, and Mayor Land.
NOES: Councilmember: None.
ABSENT: Mayor Pro Tempore: Heilman.
ABSTAIN: Councilmember: None.



ABBE LAND, MAYOR

ATTEST:



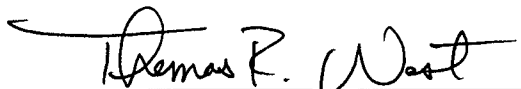
THOMAS R. WEST, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF WEST HOLLYWOOD)

I, THOMAS R. WEST, City Clerk of the City of West Hollywood, do hereby certify that the foregoing Ordinance No. 05-716U was duly passed, approved and adopted by the City Council of the City of West Hollywood at a regular meeting held on the 18th day of July, 2005.

I further certify that this ordinance was posted in three public places as provided for in Resolution No. 5, adopted the 29th day of November, 1984.

WITNESS MY HAND AND OFFICIAL SEAL THIS 19th DAY OF JULY, 2005.



THOMAS R WEST, CITY CLERK