

AN EMERGENCY ORDINANCE OF THE CITY OF HUNTINGTON BEACH
AMENDING CHAPTER 204 (USE CLASSIFICATIONS) AND CHAPTER
212 (INDUSTRIAL DISTRICTS) OF THE HUNTINGTON BEACH ZONING
AND SUBDIVISION ORDINANCE TO INCLUDE MEDICAL MARIJUANA DISPENSARIES

The City Council of the City of Huntington Beach does hereby ordain and find as follows:

FINDINGS: The issuance of permits for medical marijuana dispensaries presents a current and immediate threat to the public health, safety, or welfare, and the approval of permits for such facilities would result in that threat to public health, safety, or welfare, and potential violation of Federal law. This finding is based upon evidence received by the City Council that medical marijuana dispensaries have negative, secondary effects in California cities where they exist and upon the determination by the Federal Appellate Court that such dispensaries are not legal under the criminal statutes of the United States.

SECTION 1. That Section 204.10 of the Huntington Beach Zoning and Subdivision Ordinance titled Commercial Use Classifications is hereby amended to add a new subsection R to read as follows:

R Medical Marijuana Dispensary or Dispensary. Any facility or location where medical marijuana is made available to and/or distributed by or to three or more of the following: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "medical marijuana dispensary" shall not include the following uses, 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
6. A home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.

SECTION 2. Section 212.04 of the Huntington Beach Zoning and Subdivision Ordinance titled IG and IL Districts: Land Use Controls is hereby amended to include in the Use

Classification-Commercial Uses, Medical Marijuana Dispensary, to be zoned P (L-13). Subsection L-13 shall read as follows:

L-13 Allowed subject to the following requirements:

- A. A proposed medical marijuana dispensary shall be at least five hundred feet (500') from any residential use, school, park and recreational facility, or any building used for religious assembly (collectively referred to as a "sensitive use") and at least seven hundred fifty feet (750') from another medical marijuana dispensary. For purposes of these requirements, all distances shall be measured from the lot line of the proposed medical marijuana dispensary to the lot line of the sensitive use or the other medical marijuana dispensary. The term "residential use" means any property zoned RL, RM, RMH, RH, RMP, and any properties with equivalent designations under any specific plan.

To determine such distances the applicant shall submit for review a straight line drawing depicting the distances from the lot line of the parcel of land on which the medical marijuana dispensary is proposed which includes all the proposed parking and:

1. the lot line of any other medical marijuana dispensary within seven hundred fifty feet (750') of the lot line of the medical marijuana dispensary; and
 2. the lot line of any building used for religious assembly, school, or park and recreational facility within five hundred (500') feet of the lot line of the medical marijuana dispensary; and
 3. the lot line of any parcel of land zoned RL, RM, RMH, RH, and RMP and any parcels of land with equivalent designations under any specific plans within five hundred feet (500') of the lot line of the proposed medical marijuana dispensary.
- B. Prior to or concurrently with applying for a building permit and/or a certificate of occupancy for the building, the applicant shall submit application for Planning Department Staff Review of a medical marijuana dispensary zoning permit with the drawing described in subsection A, a technical site plan, floor plans and building elevations, and application fee. Within ten (10) days of submittal, the Director shall determine if the application is complete. If the application is deemed incomplete, the applicant may resubmit a completed application within ten (10) days. Within thirty days of receipt of a completed application, the Director shall determine if the application complies with the applicable development and performance standards of the Huntington Beach Zoning and Subdivision Ordinance. Said standards include but are not limited to the following: Chapter 203, Definitions; Chapter 212, Industrial Districts; Chapter 230, Site Standards; Chapter 231, Off-Street Parking & Loading Provisions; Chapter 232, Landscape Improvements; and Chapter 236, Nonconforming Uses and Structures.


- C. The Director shall grant or deny the application for a medical marijuana dispensary zoning permit for a medical marijuana dispensary. There shall be no administrative appeal from the granting or denial of a permit application thereby permitting the applicant to obtain prompt judicial review.
- D. A medical marijuana dispensary may not apply for a variance pursuant to Chapter 241 nor a special sign permit pursuant to Chapter 233.
- E. A medical marijuana dispensary zoning permit shall become null and void one year after its date of approval unless:
 - 1. Construction has commenced or a Certificate of Occupancy has been issued, whichever comes first; or
 - 2. The use is established.
- F. The validity of a medical marijuana dispensary zoning permit shall not be affected by changes in ownership or proprietorship provided that the new owner or proprietor promptly notifies the Director of the transfer.
- G. A medical marijuana dispensary zoning permit shall lapse if the exercise of rights granted by it is discontinued for 12 consecutive months.

SECTION 3. This ordinance shall become effective immediately upon its adoption.

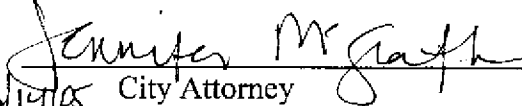
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 21st day of March, 2005.

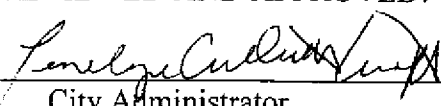


Mayor

ATTEST:


City Clerk

APPROVED AS TO FORM:

3/14/05 _____
City Attorney

REVIEWED AND APPROVED:


City Administrator

INITIATED AND APPROVED:


Director of Planning

Emergency Ord. No. 3703

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss:
CITY OF HUNTINGTON BEACH)

I, JOAN L. FLYNN, the duly elected, qualified City Clerk of the City of Huntington Beach, and ex-officio Clerk of the City Council of said City, do hereby certify that the whole number of members of the City Council of the City of Huntington Beach is seven; that the foregoing ordinance was read to said City Council at a regular meeting thereof held on the 21st day of March, 2005 and was passed and adopted by at least five affirmative votes of said City Council.

AYES: Hansen, Coerper Sullivan, Hardy, Green, Bohr, Cook

NOES: None

ABSENT: None

ABSTAIN: None

I, JOAN L. FLYNN, CITY CLERK of the City of Huntington Beach and ex-officio Clerk of the City Council, do hereby certify that a synopsis of this ordinance has been published in the Huntington Beach

Fountain Valley Independent on _____

March 31, 2005

In accordance with the City Charter of said City

Joan L. Flynn, City Clerk

Rehm. Redwood Deputy City Clerk

Joan L. Flynn
City Clerk and ex-officio Clerk
of the City Council of the City
of Huntington Beach, California