

ORDINANCE NO. CCO-10-04

AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MT. SHASTA  
AMENDING TITLE 18 BY ADDING CHAPTER 18.96  
TO THE MT. SHASTA MUNICIPAL CODE  
“MEDICAL MARIJUANA DISPENSARIES”

The City Council of the City of Mt. Shasta does ordain as follows:

Chapter 18.96, Section 18.96.010 – Section 18.96.120 are added to Title 18 of the Mt. Shasta Municipal Code as follows:

CHAPTER 18.96

MEDICAL MARIJUANA DISPENSARIES

Sections:

|           |  |
|-----------|--|
| 18.96.010 | Purpose  |
| 18.96.020 | Definitions  |
| 18.96.030 | Location   |
| 18.96.040 | Number of Dispensaries   |
| 18.96.050 | Medical Marijuana Dispensary Administrative Permit Process     |
| 18.96.060 | Findings for Issuance of a Medical Marijuana Dispensary Permit |
| 18.96.070 | Conditions of Operation  |
| 18.96.080 | Fees   |
| 18.96.090 | Violations   |
| 18.96.100 | Suspension and Revocation; Appeal                              |
| 18.96.110 | Existing Dispensaries  |
| 18.96.120 | Severability   |

Section 18.96.010 Purpose.

The purpose of this ordinance is to protect the public safety, health and welfare of the residents of Mt. Shasta by regulating the operation of medical marijuana dispensaries within city limits, to restrict the location of medical marijuana dispensaries to specific portions of commercial zones (C-1 and C-2), and to require dispensary operators to obtain an administrative permit prior to commencing operation.

Section 18.96.020 Definitions.

- (A) Medical Marijuana Dispensary. A medical marijuana dispensary is a facility where marijuana is made available for medical purposes in accordance with Health and Safety Code section 11362.5 et. seq. (Compassionate Use Act).
- (B) Administrative Review Committee. The Administrative Review Committee is the committee that reviews dispensary permit applications submitted under this Chapter, and consists of the Planning Director, Police Chief, and City Manager.

Section 18.96.030 Location.

- (A) Medical marijuana dispensaries shall be permitted only in those portions of the C-1 and C-2 District located between Mountain View Drive and Hinckley Avenue.
- (B) No medical marijuana dispensary shall be located within 1000 feet of Mt. Shasta Elementary School, Sission Middle School, Mt Shasta High School, or Jefferson High School.
  - (1) Distance shall be measured from the property line of the parcel containing the dispensary to the property line of the school, using the most direct vehicle or pedestrian route, whichever is shorter.

Section 18.96.040 Number of Dispensaries. No more than three (3) medical marijuana dispensaries shall be permitted to operate within the City of Mt. Shasta at any one time.

Section 18.96.050 Medical Marijuana Dispensary Administrative Permit Process.

- (A) Prior to initiating operations, any person or entity wishing to operate a medical marijuana dispensary shall apply for and receive from the Planning Department a medical marijuana dispensary permit.
- (B) The applicant for a medical marijuana dispensary permit shall submit to the Planning Department a permit application containing the information specified in subsection (C). Upon receipt of the application, the Planning Director shall review the application for completeness. Applications that are deemed incomplete by the Planning Department shall be returned to the applicant within fifteen (15) days of receipt.
- (C) An applicant for a dispensary permit shall provide the following information:
  - (1) The full name, current residence address, and phone number of the applicant;
  - (2) The address to which notice of action on the application is to be mailed;
  - (3) Written proof that the applicant is over eighteen (18) years of age;
  - (4) A map or diagram, to scale, demonstrating that the location is not within 1000 feet of the named locations in Section 18.96.030.

- (5) Authorization for the City, its agents and employees to seek verification of the information contained within the application;
  - (6) A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information within the application is true, and that that the applicant has read the California Attorney General's Guidelines and will comply with those Guidelines.
  - (7) Any information or evidence substantiating the required findings of fact for approval of the administrative permit.
  - (8) Criminal Background. A background investigation verifying whether the person or person having the management or supervision of applicant's business has been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefore
  - (9) Security Plans :A dispensary shall submit a plan demonstrating adequate security on the premises, as approved by the Chief of Police and reviewed by Administrative Committee, including lighting and alarms, to insure the safety of persons and to protect the premises from theft. Security Plans submitted must include plans for a professionally monitored robbery and burglary alarm system and a plan for adequate maintenance of the installed system so as to ensure it is maintained and in working condition
  - (10) Each applicant shall conspicuously post notice or notices on the premise stating that there has been an application for a Medical Marijuana Dispensary submitted to the City of Mt. Shasta at that particular site for at least four weeks prior to the Administrative Review Committee receiving the application, and that application files are available for review at City of Mt. Shasta, 305 North Mt Shasta Blvd, Mt. Shasta California.
- (D) Once an application is deemed complete, the Planning Director shall distribute the application materials to the Administrative Review Committee for review and decision. The Administrative Review Committee shall have 30 days to approve or deny the permit application. Application determinations shall be based on the findings of fact required by this Chapter. Dispensary operators must also comply with the additional conditions of operations that are required by this Chapter and will be contained in the permit.
- (E) Once the Administrative Review Committee has made its decision on the application, the Planning Director shall mail a written notice of decision to the applicant by certified U.S. mail, postage prepaid, return receipt requested. An applicant aggrieved by the Administrative Review Committee's decision may appeal the decision to the City

Council by filing a written notice with the City Clerk within ten (10) business days of receipt of the Planning Director's notice of decision. If an appeal is not taken within that time period, the decision shall be final.

- (F) If a request for an appeal to the City Council is received within the applicable time period, the appeal shall be scheduled by the City Clerk for a public hearing within forty-five (45) days of receipt of the request. Public notice of the hearing shall be given pursuant to Government Code Section 65091.

Section 18.96.060 Findings for Issuance of a Medical Marijuana Dispensary Permit. A permit to operate a medical marijuana dispensary shall be granted only if the Administrative Review Committee makes all the following findings of fact:

- (A) The medical marijuana dispensary, as proposed and at the location specified in the application, will not create an adverse impact on surrounding uses; and
- (B) The medical marijuana Dispensary, as proposed and at the location specified in the application, will be compatible with adjacent uses; and
- (C) The Medical Marijuana Dispensary, as proposed and at the location specified in the application, will not result in the aggravation of crime problems in the area, nor will it make law enforcement unduly difficult.

Section 18.96.070 Conditions of Operation. A medical marijuana dispensary, once permitted by the City, shall meet the following conditions for the duration of its operation.

- (A) The use shall be conducted in strict compliance with the provisions of the Compassionate Use Act (Health and Safety Code section 11362.5 et. seq.).
- (B) Consumption of any medical marijuana or medical marijuana product (including smoking) or ingestion is prohibited in, on, or adjacent to the permitted premises.
- (C) All employees of the dispensary must be eighteen years of age or older.
- (D) No persons under the age of eighteen shall be permitted in the dispensary at any time. The building entrance shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) are precluded from entering the premises.
- (E) On-site cultivation of mature medical marijuana is not permitted at any dispensary location, with the exception of small immature cuttings, starts, or clones.
- (F) No retail sales of any products other than medical marijuana or medical marijuana related products are permitted at the dispensary.

- (G) The property owner and or operator shall be required to report any illegal activity occurring on the site, or associated with the dispensary, to the Mt. Shasta Police Department
- (H) Sale of food products containing medical marijuana is prohibited unless the dispensary is in compliance with applicable Siskiyou County health regulations
- (I) The medical marijuana dispensary shall be open for business only between the hours of nine o'clock (9:00 ) A.M. and eight (8:00) P.M. Sunday through Saturday.
- (J) All medical marijuana transactions shall occur at the dispensary, and medical marijuana products shall be dispensed directly to the patient or designated caregiver. No owner, operator, employee, or volunteer may provide any product to any patient or designated caregiver at any location other than inside the dispensary building. No delivery services shall be permitted within the City limits.
- (K) The permittee shall assume all legal responsibility and liability associated with the operation of the dispensary.
- (L) A representative of the City has the right to enter the premises to audit the medical marijuana dispensary financial records, after notice to the owner or operator of not less than five business days. Financial records include, but are not limited to, income statements and balance sheets. Other information to be provided on request may include but not be limited to total pounds grown, total pounds purchased (identification card number or membership number as defined below), total pounds sold, and existing inventory.
- (M) Patient Records. A dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.71 et seq., as a protection of the confidentiality of the cardholders. All patient and doctor confidentiality shall be upheld and preserved.
- (N) All signage shall be in accordance with the City of Mt. Shasta sign ordinance
- (O) A dispensary shall maintain a general City of Mt. Shasta business license as a prerequisite to obtaining a permit pursuant to the terms hereof
- (P) Each dispensary shall display a sign at its entrance, in a legible and visible manner, conveying the following information:
  - (1) Days and hours of operation.
  - (2) Emergency contact information.
  - (3) Notice that persons under the age of eighteen are not allowed in the dispensary
  - (4) Notice that all illegal activity shall be reported to law enforcement authorities.

- (Q) Each dispensary shall post on site a notice that smoking or other methods of consumption of medical marijuana is prohibited in, on, or in the vicinity of the dispensary
- (R) Each medical marijuana dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter in a conspicuous place so that it may be readily seen by all persons entering the business.

Section 18.96.00 Fees.

The City Council may, by resolution, impose such reasonable fees on both the application for, and the issuance of, a permit to operate a medical marijuana dispensary. The amount of the fee shall be commensurate with the City's cost to administer and implement the provisions of this Chapter.

Section 18.96.090 Violations. Violations of the terms and conditions of the dispensary permit, of this code, or of applicable local and state laws and regulations shall be grounds for suspension or revocation of the permit by the City Manager, and subject to the appeal rights set forth in Section 18.96.100.

Section 18.96.100 Suspension and Revocation; Appeal. Any permittee aggrieved by the decision of the City Manager to suspend or revoke a permit may, within ten (10) calendar days of the issuance of the decision, appeal to the City Council by filing a written notice with the City Clerk. During the pendency of the appeal to the Council, the permit shall remain in effect. If an appeal is not filed within the ten (10) day period, the decision of the City shall be final. If an appeal is filed in a timely manner, the Council shall, within forty-five (45) days of the filing of the appeal, hold an appeal hearing. The Council may uphold the suspension or revocation of the permit if it finds that the permittee is in violation of the terms and conditions of the permit or other applicable law or regulation. The Council's decision shall be final.

Section 18.96.110 Existing Dispensaries. Dispensaries licensed to do business in the City of Mt. Shasta prior to the enactment of this ordinance shall have 180 days from its final adoption to apply for and receive a medical marijuana dispensary permit pursuant to the ordinance in order to remain in operation.

Section 18.96.120 Severability. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance; and the City Council of the City of Mt. Shasta hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, sub-sections, sentences, clauses or phrases be declared invalid or unconstitutional. Provided further, that if any provision of this ordinance or its application to any person or circumstance is held invalid, said ordinance or the application of said provisions to other persons or circumstances shall not be affected thereby.

**IT IS HEREBY CERTIFIED** that the foregoing Ordinance No CCO-10-04 was read by title only, by the City Council of the City of Mt. Shasta at a regular meeting of said Council on September 27, 2010 and was duly adopted, by title only, by said Council on October 25, 2010 by the following vote:

AYES: Council Members Steams, Boss, Porterfield and Mayor Murray

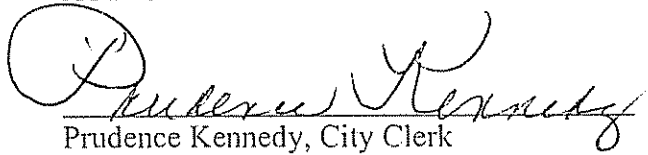
NOES: None

ABSENT: None

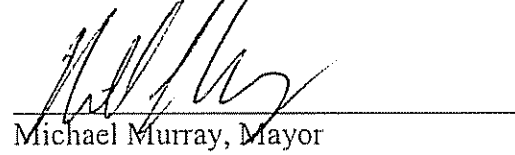
ABSTAIN: None

DATED: October 25, 2010

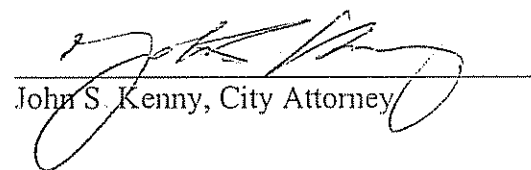
ATTEST:

  
Prudence Kennedy, City Clerk

CITY OF MT. SHASTA

  
Michael Murray, Mayor

APPROVED AS TO FORM:

  
John S. Kenny, City Attorney