

ORDINANCE NO. 2009-13

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GALT,
CALIFORNIA, TO AMEND THE TEXT OF THE GALT ZONING ORDINANCE
(GALT MUNICIPAL CODE TITLE 18) TO DEFINE THE TERM “MEDICAL
MARIJUANA DISPENSARY” AND TO PROHIBIT THAT USE TYPE IN
ALL ZONING DISTRICTS WITHIN THE CITY LIMITS**

THE CITY COUNCIL OF THE CITY OF GALT, CALIFORNIA, hereby ordains as follows:

SECTION 1. FINDINGS

- A. On April 27, 2009 the City Council adopted Interim Urgency Ordinance No. 2009-06 prohibiting the establishment and operation of medical marijuana dispensaries within the City of Galt until May 20, 2009, pursuant to California Government Code Section 65858 and including all required legislative findings.
- B. California Government Code Section 65858(a) provides that after notice pursuant to Section 65090 and a public hearing the legislative body may extend an interim urgency ordinance for ten (10) months and fifteen (15) days and subsequently for one year upon a four-fifths vote of the City Council.
- C. California Government Code Section 65858(c) provides that the legislative body shall not extend any interim urgency ordinance unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety or welfare.
- D. There have been significant recent changes in the enforcement of federal laws prohibiting possession and distribution of medical marijuana. Significantly, in March 2009, the United States Attorney General stated that the federal government will only target marijuana distributors that violate both federal and state law.
- E. The California Compassionate Use Act provides that persons who are in need of medical marijuana for specified medical purposes may obtain and use it under limited, specified circumstances. *See Health and Safety Code § 11362.5 et. seq.* This Act has led to the establishment of medical marijuana dispensaries in various communities throughout California.
- F. In contrast to state law, the Federal Controlled Substances Act provides that the manufacture, cultivation, distribution, and dispensing of marijuana are illegal for any purposes, including medical use. *See 21 U.S.C. 801 § et.seq*
- G. The federal policy shift away from enforcement of the Controlled Substances Act has led to increased concerns among members of the community that there will be renewed interest in the establishment and operation of medical marijuana dispensaries within the City.
- H. Members of the community are concerned that establishment and operation of medical marijuana dispensaries in the City will lead to an increase in crimes commonly associated with drug use, such as burglary, robbery and the sale of illegal drugs.
- I. Other California cities that have permitted the establishment of medical marijuana dispensaries have experienced an increase in crime, such as burglary, robbery and sale of illegal drugs in the areas immediately surrounding such medical marijuana dispensaries.
- J. Notice of a public hearing on the extension of Ordinance No. 2009-06 was published in the *Galt Herald* accordance with Government Code Sections 65090 and 65858(a).

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K. In accordance with California Government Code Section 65858(a), a public hearing was held on May 19, 2009 and the City Council extended Ordinance No. 2009-06 for ten months and fifteen days or until the City adopts a permanent ordinance addressing Medical Marijuana Dispensaries, whichever occurs first.

L. The Galt Municipal Code does not currently directly provide for the regulation of medical marijuana dispensaries. In order to address community concerns regarding the establishment of medical marijuana dispensaries, it is necessary for the City of Galt to establish regulations to address the potential impact such facilities may have on the public health, safety and welfare.

M. The purpose of this Ordinance is to protect the public safety, health and welfare from a current and immediate threat posed by the issuance of a permit, license or entitlement for the establishment and operation of medical marijuana dispensaries in the City.

N. Article XI, Section 7 of the California Constitution provides a city may make and enforce within its limits all local police, sanitary and other ordinances and regulations not in conflict with general laws.

SECTION 2. THE GALT ZONING ORDINANCE (GALT MUNICIPAL CODE TITLE 18) IS HEREBY AMENDED AS FOLLOWS:

A. Section 18.16.030, Table 18.16-1 “Permitted and conditionally permitted uses” is hereby amended to add the use type “Medical Marijuana Dispensary” to the land use matrix under the heading “Commercial Uses” and subheading “Services” and to designate it as Not Permitted “N” in all zoning districts as shown on Exhibit A attached hereto and made a part of this Ordinance.

B. Section 18.92.030 “List of terms defined” is hereby amended to include the term “Medical Marijuana Dispensary” in the alphabetical list of terms defined as shown on Exhibit B attached hereto and made a part of this Ordinance.

C. Section 18.92.040 is hereby amended to include a definition for “Medical Marijuana Dispensary” as shown on Exhibit C attached hereto and made a part of this Ordinance. For purposes of this ordinance, “medical marijuana dispensary” means (1) any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical marijuana to two or more of the following: a qualified patient or a person with an identification card, or a primary caregiver in strict accordance with California Health and Safety Code §11362.5 *et seq.*, or (2) any facility, building, structure or location where qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate to cultivate or distribute marijuana for medical purposes. The terms “primary caregiver,” “qualified patient,” and “person with an identification card” shall be as defined in California Health and Safety Code § 11362.5 *et seq.*

For purposes of this ordinance, a “medical marijuana dispensary” shall not include the following uses, as long as the location of such uses are otherwise regulated by applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of the California Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, California Health and Safety Code § 11362.5 *et seq.*

SECTION 3. COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The zoning ordinance text amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15061(b)(3) (General Rule exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

There are currently no legal medical marijuana dispensaries located in the City of Galt, and this project would ensure that there would be no such facilities in the future. Therefore, there would be no change in existing conditions resulting from this proposal, and no impacts on the environment.

SECTION 4. NO MANDATORY DUTY OF CARE. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the city, or any officer or employee thereof, a mandatory duty of care towards persons or parties within the city or outside of the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of the ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 6. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after its final passage and adoption.

SECTION 7. PUBLICATION. Within fifteen (15) days after its final passage, the City Clerk shall cause this ordinance to be published and posted in accordance with section 36933(c)(1) of the California Government Code.

The foregoing ordinance was introduced and the title thereof read at the regular meeting of the City Council of the City of Galt, the 7th day of July, 2009, and by majority vote of the Council members present, further reading was waived.

On a motion by Council Member _____, seconded by Council Member _____, the foregoing ordinance was duly passed and adopted by the City Council of the City of Galt at a regular meeting thereof held on this 21st day of July, 2009, by the following vote, to wit:

AYES:	Council members:
NOES:	Council members:
ABSTAIN:	Council members:
ABSENT:	Council members:

MAYOR, City of Galt

ATTEST:

CITY CLERK, City of Galt

Exhibit A

Excerpt from Galt Municipal Code Section 18.16.030, Table 18.16-1
(Adding Use Type of Medical Marijuana Dispensary)

galt code

USE TYPE	SPECIAL			RESIDENTIAL						COMMERCIAL					INDUSTRIAL	
	OS	PQ	RA	R1			R2	R3	C	HC	NC	OP	LM	M		
				A	B	C										
COMMERCIAL USES																
Services																
Laboratory, Testing Or Classification Including Agricultural Services	N	N	N	N	N	N	N	N	P	P	N	P ¹¹	P	P		
Laundry, Dry Cleaning, Tailoring, Shoe Repair	N	N	N	N	N	N	N	N	P	P	P	M	M	N		
Medical Services, Including Clinics, Physical Therapy (Less Than 10,000 S.F. Floor Area)	N	P	N	N	N	N	N	N	N	P	P	P	P	N		
Medical Services (other than a hospital), including clinics and physical therapy (10,000 S.F. or larger)	N	P	N	N	N	N	N	N	C	P	N	C	N	N		
Drug Treatment Clinic ¹⁷	N	N	N	N	N	N	N	N	N	N	N	N	C	C		
Medical Marijuana Dispensary	N	N	N	N	N	N	N	N	N	N	N	N	N	N		
Mini-Storage ⁸	N	N	N	N	N	N	N	N	N	N	N	N	P	P		
Mortuary	N	C	N	N	N	N	N	N	C	C	N	N	M	N		
Photography/Art Studio, Photographic Processing Or Supply, And Picture Framing	N	N	N	N	N	N	N	N	P	P	P	P	P	N		
Printing, Publishing, Cartography, Lithography, Or Blue-Printing	N	N	N	N	N	N	N	N	P	P	M	P	P	P		
Call Center or Telemarketing Facility	N	N	N	N	N	N	N	N	N	N	C	C	C	N		
Beauty Salon/Barber including incidental massage therapy	N	N	N	N	N	N	N	N	P	P	P	P	M	M		
Taxidermist	N	N	N	N	N	N	N	N	P	P	C	N	P	N		
Veterinary services/Animal Care Facility excluding outdoor Kennel	N	N	M	N	N	N	N	N	P	P	M	P	P	N		
Veterinary services/Animal Care Facility including outdoor Kennel	N	N	C	N	N	N	N	N	C	C	N	N	C	N		
INDUSTRIAL USES																
Agricultural and Food Industries																
Bakery, wholesale	N	N	N	N	N	N	N	N	C	C	N	N	P	P		
Brewery, distillery	N	N	N	N	N	N	N	N	C	C	N	N	C	C		



Exhibit B

Excerpt from Galt Municipal Code Section 18.92.030 (Adding “Medical Marijuana Dispensary to list of terms defined)

Section 18.92.030 List of terms defined.

Abandoned sign	Council	Incidental sign
Accessory structure	County	Integrated development
Accessory use	Covered parking	Interior sign
Adult bookstore	Curbside collection	Junk
Adult entertainment center	Day care center	Junkyard
Adult live entertainment center	Day care home	Kennel
Alley	Design	Landscaped freeway
Amusement enterprise, indoor	Developed area	Lot
Amusement enterprise, outdoor	Development project	Lot, interior
Animal, domestic	Directory sign	Lot, through
Animal, non-domestic	Discount store	Lot, reversed corner
Animal care facility	Discount superstore	Lot area
Animated sign	Discount superstore, large-format	Lot area, net
Arterial street	Discount warehouse/club	Lot coverage
Automobile repair garage	Downtown Revitalization and Historic Preservation Specific Plan	Lot line
Automobile wrecking	Drug treatment clinic	Lot line, front
Awning sign	Duplex	Lot line, rear
Bakery, retail	Emergency shelter	Lot line, side
Bakery, wholesale	Enclosed	Lot width
Banner	Engineer, City	Lounge, cocktail
Barber poles	Equipment rental yard	Manufactured home
Beacon	Family	Marquee
Bed and breakfast	Farmers market	Marquee sign
Billboard	Fence	Massage Parlor
Brewery, Micro	Flag	Medical office/services
Building	Flashing sign	Medical Marijuana Dispensary
Building height	Freestanding sign	Mini storage
Building marker	Frontage	Mobilehome
Building official	Galt Landscape Manual	Mobile food vending/preparation unit
Building sign	Garage Sale	Mobilehome park
Campground	Garage, two-car	Monument sign
Canopy sign	Gas station price sign	Multiple-family dwelling
Care providers, Residential	General plan	Mural
Cemetery	Governmental or other signs required by law	Nonconforming building
Change of copy	Grocery store/supermarket	Nonconforming lot
Changeable copy sign	Gross acre	Nonconforming sign
City	Group care facility	Nonconforming use
Club	Guest ranch	Non-taxable merchandise
Code compliance officer	Guest room	Nursery, landscape
Cold storage	Halfplex	Northeast Area Specific Plan
Commencement of development	Hazardous Materials	Pennant, pole
Commercial coach	Holiday decorations	Pennant, string
Commercial message	Home occupation	Permanent sign
Community garden	Hospital	Person
Condominium	Hotel/motel	Place of worship
Construction or contractor sign	Household pet	Planning commission
Convalescent facility	Identification sign	Planning director
Convenience store	Illuminated sign	Pole sign

Exhibit C

Excerpt from Galt Municipal Code Section 18.92.040 (Adding Medical Marijuana Dispensary Definition)

Manufactured home: A manufactured home is a complete single-family home deliverable in one or more transportable sections, and constructed to the standards established by the U.S. Department of Housing and Urban Development (HUD). A manufactured home is not the same as a recreational vehicle or commercial coach which may look similar from the exterior.

Marquee: A permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Marquee sign: A sign attached to, or made a part of, a marquee.

Massage Parlor: A building or portion thereof or a place where massage is administered for compensation or from which a massage business or service for compensation is operated, provided, however, that a health spa or reducing salon is not a massage parlor. As used herein, "massage" means any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external surfaces of the body with the hands, or with the aid of any mechanical, electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. Therapeutic massage administered in a medical office, hospital complex, medical care facility, beauty salon or health club/fitness center as an incidental service or as a home occupation shall not be deemed to render such office, complex, or facility a massage parlor within the meaning of this title.

Medical Marijuana Dispensary: (1) any facility, building, structure or location, whether fixed or mobile, where a primary caregiver makes available, sells, transmits, gives or otherwise provides medical marijuana to two or more of the following: a qualified patient or a person with an identification card, or a primary caregiver in strict accordance with California Health and Safety Code Section 11362.5 *et seq.*, or (2) any facility, building, structure or location where qualified patients and/or persons with identification cards and/or primary caregivers meet or congregate to cultivate or distribute marijuana for medical purposes. The terms "primary caregiver," "qualified patient," and "person with an identification card" shall be as defined in California Health and Safety Code Section 11362.5 *et seq.* For purposes of this ordinance, a "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of the California Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, California Health and Safety Code Section 11362.5 *et seq.*

Medical office/services: A use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services, primarily on an out-patient basis, by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the State of California, but not including a drug treatment clinic.