

## **SAMPLE ORDINANCE REGULATING MEDICAL CANNABIS DISPENSING COLLECTIVES**

### **Purposes**

The purpose of this ordinance is to implement California Health and Safety Code Section 11362.5, known as the Compassionate Use Act of 1996, and the provisions of California Health and Safety Code Section 11362.7 (SB-420), a state law passed to clarify and help further implement the Compassionate Use Act. This ordinance is intended:

- A. To help ensure that seriously ill \_\_\_\_\_ residents can obtain and use cannabis for medical purposes where that medical use has been deemed appropriate by a physician in accordance with California law.
- B. To help ensure that the qualified patients and their primary caregivers who obtain or cultivate cannabis solely for the qualified patient's medical treatment are not subject to arrest, criminal prosecution, or sanction.
- C. To protect citizens from the adverse impacts of irresponsible medical cannabis distribution, storage, and use practices.
- D. To establish a new section in the municipal code pertaining to the permitted distribution of medical cannabis in \_\_\_\_\_ consistent with state law.

### **Definitions**

The following words or phrases, whenever used in this ordinance, shall be given the following definitions:

- A. "Medical cannabis dispensing collective," hereinafter "dispensary," shall be construed to include any association, cooperative, affiliation, or collective of persons where multiple "qualified patients" and/or "primary care givers," are organized to provide education, referral, or network services, and facilitation or assistance in the lawful, "retail" production, acquisition, and distribution of medical cannabis.
- B. "Medical cannabis patient collective," hereinafter "patient collective," shall be defined the same as "dispensary," but does not operate in a "retail" capacity. As such, "patient collectives" are exempt from the provisions of this ordinance.
- C. "Primary caregiver" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, and which defines "Primary Caregiver" as a individual, or "medical cannabis collective" designated by a qualified patient or by a person with an identification card, or a written recommendation, who has consistently assumed responsibility for the housing, health, or safety of that patient or person, and may include any of the following:

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#### **Headquarters**

1322 Webster St, Suite 402, Oakland, CA 94612  
PHONE: 510.251.1856 FAX: 510.251.2036

#### **National Office**

1730 M Street NW, Washington DC 20036  
PHONE: 202.857.4272 FAX: 202.857.4273

#### **General Information**

WEB: [www.AmericansForSafeAccess.org](http://www.AmericansForSafeAccess.org)  
TOLL FREE: 1.888.939.4367

1. In any case in which a qualified patient or person with an identification card receives medical care or supportive services, or both, from a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the California Health and Safety Code, a health care facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the California Health and Safety Code, a residential care
  2. An individual who has been designated as a primary caregiver by more than one qualified patient or person with an identification card, if every qualified patient or person with an identification card who has designated that individual as a primary caregiver resides in the same city or county as the primary caregiver.
  3. An individual who has been designated as a primary caregiver by a qualified patient or person with an identification card who resides in a city or county other than that of the primary caregiver, if the individual has not been designated as a primary caregiver by any other qualified patient or person with an identification card.
- D. "Qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, and which states a person suffering from a serious medical condition who obtains a written recommendation from a physician licensed to practice medicine in the state of California to use marijuana for personal medical purposes.
- E. "Serious medical condition" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, and which states all of the following medical conditions: Acquired immune deficiency syndrome (AIDS); Anorexia; Arthritis; Cachexia; Cancer; Chronic pain; Glaucoma; Migraine; Persistent muscle spasms, including, but not limited to, spasms associated with multiple sclerosis; Seizures, including, but not limited to, seizures associated with epilepsy; Severe nausea; Any other chronic or persistent medical symptom that either: a. Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with Disabilities Act of 1990 (Public Law 101-336). Or, b. If not alleviated, may cause serious harm to the patient's safety or physical or mental health.
- F. "Written recommendation" shall have the same definition as California Health and Safety Code Section 11362.7 et seq, and as may be amended, and which states a "written recommendation" is an accurate reproductions of those portions of a patient's medical records that have been created by the attending physician, that contain the information required by paragraph (2) of subdivision (a) of California Health and Safety Code Section 11362.715, and that the patient may submit to a county health department or the county's designee as part of an application for an identification card. (Ord. 12585 § 1 (part), 2004)

### **Location of medical cannabis dispensing collectives**

Dispensaries established after the date upon which this Chapter becomes effective shall be at least five hundred (500) feet from a public elementary, middle, or high school, and any other such dispensary.

### **Permitting of medical cannabis dispensing collectives**

Dispensaries shall be located in appropriate commercial districts within the city and subject to the same permit requirements and land use restrictions as other lawful businesses in the city.

### **Performance Standards**

Dispensaries, once permitted, shall meet the following operational and safety standards for the duration of the use:

- A. Pooling of Resources Recognized. The City/County of \_\_\_\_\_ recognizes that some qualified patients may not have primary caregivers and also may not be able to undertake all the physical activities necessary to cultivate cannabis for personal medical use. Accordingly, this section recognizes that qualified patients may join together with or without their primary caregivers to form a medical cannabis dispensing collective for the purpose of cultivating and providing medical cannabis solely for the personal medical use of the members who are qualified patients. The City recognizes that not all members of a dispensary will perform the same tasks or contribute to the dispensary in an equal manner. Accordingly, dispensaries are free to decide how to best pool their resources and divide responsibilities in cultivating or providing medical cannabis for the personal medical use of their members who are qualified patients.
- B. Restriction on Membership. Membership in a dispensary must be restricted to qualified patients and their primary caregivers. However, primary caregivers shall not be allowed to obtain cannabis for their own personal use. In addition, a primary caregiver cannot be a member of a dispensary, unless the primary caregiver's qualified patient is also a member.
- C. Restriction on Distribution to Non-Members. Dispensaries and each member thereof, shall not sell, barter, give away, or otherwise distribute cannabis to non-members of the medical cannabis collective.
- D. Good Conduct. It is unlawful for any person or association operating a dispensary to permit any breach of peace therein or any disturbance of public order or decorum by any tumultuous, riotous, or disorderly conduct.
- E. No Alcohol Permits. Dispensary shall not hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages.
- F. Records. Dispensaries shall maintain adequate records of all patients and primary caregivers served to ensure that all persons are legally qualified under California Health and Safety Code 11362.5. Membership records shall be held as strictly confidential.

- G. Security. Dispensaries shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to help protect the premises from theft.
- H. Contact Information. Dispensaries shall provide city officials and all neighbors located within 50 feet of the establishment with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice of there are operating problems associated with the establishment.
- I. Odors. Dispensaries should have sufficient ventilation and storage facilities so that no odor is evident outside the facility.
- J. Accessibility and Accommodations. Dispensaries shall be wheelchair accessible and disability accommodations shall be provided upon request.

### **Police procedures and training**

- A. Within six months of the date that this chapter becomes effective, the training materials handbooks, and printed procedures of the Police Department shall be updated to reflect its provisions. These updated materials shall be made available to police officers in the regular course of their training and service.
- B. Medical cannabis-related activities shall be the lowest possible priority of the Police Department.
- C. Qualified patients, their primary caregivers, and medical cannabis dispensing collectives who come into contact with law enforcement will not be cited or arrested and dried cannabis or cannabis plants in their possession will not be seized if they are in compliance with the provisions of this chapter.
- D. Qualified patients, their primary caregivers, and medical cannabis dispensing collectives who come into contact with law enforcement and cannot establish or demonstrate their status as a qualified patient, primary caregiver, or medical cannabis dispensing collective, but are otherwise in compliance with the provisions of this chapter, will not be cited or arrested and dried cannabis or cannabis plants in their possession will not be seized if (1) based on the activity and circumstances, the officer determines that there is no evidence of criminal activity; (2) the claim to be a qualified patient, primary caregiver, or medical cannabis dispensing collective is credible; and (3) proof of status as a qualified patient, primary caregiver, or medical cannabis dispensing collective can be provided to the Police Department within three business days of the date of contact with law enforcement.

### **Severability**

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this Chapter that can be given effect without the invalid provision or application; and to this end, the provisions or applications of this Chapter are severable.