

ORDINANCE NO. 10118 (NEW SERIES)
01/25/11 (1)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY ZONING ORDINANCE TO
UPDATE AND CLARIFY SECTION 6935 RELATED TO MEDICAL MARIJUANA
COLLECTIVE FACILITIES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. On June 30, 2010, the Board of Supervisors added Section 6935 to the San Diego County Zoning Ordinance. The Board of Supervisors finds and determines that the following amendments to Section 6935 will provide a necessary update to the Zoning Ordinance. Changes are being proposed in order to clarify existing sections of the Zoning Ordinance related to the applicability of the medical marijuana collective facility requirements and to clarify provisions related to nonconforming medical marijuana collective facilities.

Section 2. Section 6935 of the San Diego County Zoning Ordinance is hereby amended to read as follows:

- a. Purpose and Intent. It is the purpose of this section to implement the Compassionate Use Act of 1996 (Health & Safety Code Section 11362.5) and the Medical Marijuana Program (Health & Safety Code Sections 11362.7 et seq.) by establishing reasonable and uniform zoning regulations of medical marijuana collective facilities which, in combination with licensing requirements contained in the San Diego County Code, will allow qualified patients and primary caregivers to collectively or cooperatively cultivate marijuana for medical purposes, and at the same time protect the public health, safety and welfare of communities, within the unincorporated area of San Diego County. It is the intent of this section that the regulations be utilized to preserve the character of neighborhoods and property values and to deter the spread of crime and prevent problems of blight, deterioration, and public safety which often accompany and are brought about by the operation of medical marijuana collective facilities.
- b. Definition. The terms “Qualified Patient”, “Primary Care Giver”, “Medical Marijuana Collective Facility” and “Collective Facility” shall have the meanings given in San Diego County Code Section 21.2502. However, this Zoning Ordinance shall not apply to the following: (1) a Collective Facility operated by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur; and, (2) a Collective Facility operated by a Primary Care Giver where the amount of marijuana at no time exceeds the amount allowed for a single Primary Care Giver under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

c. Use Regulations Where Collective Facilities Are Allowed. A Collective Facility may only be located upon property to which the M50, M52, M54, M56 or M58 Use Regulations apply, and within those areas, the separation restrictions of paragraph d below shall apply.

d. Separation Requirements For Collective Facilities. A Collective Facility shall not be allowed or permitted upon any parcel, any portion of which would be, at the time of establishment of the Collective Facility, within any of the following:

1. 1000 feet from a parcel to which a residential Use Regulation applies;
2. 1000 feet from a parcel containing a school, playground, park, church, recreation center, or youth center; or
3. 1000 feet from a parcel on which another Collective Facility has been established.

The distance between a Collective Facility and the parcels containing the uses listed in paragraph d above shall be measured in a straight line, without regard for intervening structures, from any parcel line of the real property on which the Collective Facility is located, to the nearest point on a parcel line of the real property on which any portion of the facility, building, or structure in which the above listed use occurs or is located. *The distance requirements specified above shall apply whether the use is in the unincorporated area or in an adjacent city.*

e. Openness of Premises. A Collective Facility shall be designed and constructed such that no area or portion where marijuana is cultivated or stored is visible from the exterior; however, the entrance shall be fully visible from the public street or building frontage.

f. Operating License Required. Pursuant to San Diego County Code Section 21.2503, a Medical Marijuana Collective Facility Operating Compliance Certificate is required for the operation of a Collective Facility.

g. Premises Requirements.

1. Signage. Exterior signage shall conform to the requirements of Section 6250 et al.
2. Parking. A Collective Facility shall conform to the requirements of Section 6762 and shall be considered an "Office" occupancy type for purposes of that Section.
3. Physical Appearance. The exterior appearance of the structure shall remain compatible with the exterior appearance of structures already constructed or under construction within the immediate area, and shall be maintained so as to prevent blight or deterioration or substantial diminishment or impairment or property values within the immediate area.

- h. Nonconforming Uses. Notwithstanding Section 6852, a Collective Facility which was lawfully established before August 5, 2009 shall cease operations no later than August 5, 2013. In order for a Collective Facility to be “lawfully” established it must have applied for and obtained a building permit and/or a certificate of occupancy prior to commencing operations. The Collective Facility may apply for one six-month extension of this period. The Director may grant that extension if upon determining that the operator would be subjected to unreasonable financial hardship if forced to cease operations, considering (1) the availability of alternative complying locations; (2) the term of any applicable lease for the premises and whether it may be modified or terminated; (3) the non-recoverable costs of any improvements that would only be of use to the Collective Facility, and (4) the potential for other conforming uses to locate on the site.

Any nonconforming medical marijuana collective facility shall not be expanded, enlarged, extended or altered except that the use may be changed to a conforming use.

Section 3. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL
BY
William L. Pettingill, Senior Deputy County Counsel

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 25th day of January, 2011.