

ORDINANCE NO.: 10474 (NEW SERIES)

AN ORDINANCE AMENDING SECTIONS 21.2501 AND 21.2503(a) OF THE SAN DIEGO COUNTY REGULATORY ORDINANCES RELATING TO THE ISSUANCE OF MEDICAL MARIJUANA COLLECTIVE FACILITIES OPERATING CERTIFICATES

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

Section 1. LEGISLATIVE FINDINGS AND INTENT

Section 21.2501 of the Code of Regulatory Ordinances is amended to read as follows:

- (a) On June 30, 2010, the Board of Supervisors for the County of San Diego added to the County Code of Regulatory Ordinances Title 2, Division 1, Chapter 25 relating to medical marijuana collective facilities. The regulatory codes therein determined that the Sheriff's Department would be the issuing and enforcement authority for legally established medical marijuana operation certificates and approved fees to recover the cost of processing applications and compliance monitoring for medical marijuana facility operating certificates.
- (b) In May 2013, the California Supreme Court issued its decision in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc., et al.*, holding that cities and counties have the authority to ban medical marijuana land uses.
- (c) On October 11, 2015, the Governor signed into law Senate Bill 643, Assembly Bill 266, and Assembly Bill 243, collectively referred to as the Medical Cannabis Regulation and Safety Act ("MCRSA"), effective January 1, 2016, which establishes a state licensing system for medical marijuana cultivation, manufacturing, delivery and dispensing, regulating these activities with licensing requirements and regulations that are only applicable if cities and counties also permit marijuana cultivation, manufacturing, or dispensing within their jurisdictions. Under the MCRSA, cities and counties may continue to ban these marijuana facilities and activities, in which case the state will not issue licenses within those jurisdictions.
- (d) On November 8, 2016, the state voters approved the Adult Use of Marijuana Act, also identified as Proposition 64 ("Prop 64"). Prop 64 legalized adult non-medical use of marijuana and established a state licensing scheme for non-medical marijuana facilities largely patterned on the MCRSA, and generally (1) allows adults 21 years and older to possess up to one ounce of marijuana and cultivate up to six plants for personal use; (2) regulates and taxes the production, manufacture, and sale of marijuana for adult use; and (3) rewrites criminal penalties so as to reduce the most common marijuana felonies to misdemeanors and allow prior offenders to petition for reduced charges. Prop 64, similar to MCRSA, allows cities and counties to prohibit the establishment of non-medical

facilities and licenses that are provided under Prop 64, providing for minimal personal use exceptions.

- (e) On March 15, 2017, the Board of Supervisors found and determined that amendments to the Zoning Ordinance to ban Medical and Non-Medical Marijuana Facilities throughout any unincorporated zones were reasonable and necessary for public health, safety and welfare, and consistent with the General Plan, and the intent of those amendments was to prohibit the establishment and operation of both Medical and Non-Medical Marijuana Facilities.
- (f) The Board of Supervisors also finds and determines that amendments to the Regulatory Ordinances, Section 21.2503(a), to prohibit the Sheriff's Department from issuing any new Medical Marijuana Collective Facility Operating Certificates to facilities that were not lawfully established prior to April 14, 2017, and consistent with San Diego County Zoning Ordinance Section 6935, are reasonable and necessary for public health, safety and welfare. The Board determines that all applicable County Code of Regulatory Ordinances related to the operation of Medical Marijuana Collective Facilities with valid Operating Certificates shall continue to apply until such time as those facilities have been amortized pursuant to Zoning Ordinance Section 6935.

Section 21.2502 – No change

Section 2. Section 21.2503(a) of the Code of Regulatory Ordinances is amended to read as follows:

- (a) A collective may only operate a collective facility in the unincorporated area of San Diego County if a valid Medical Marijuana Collective Facility Operating Compliance Certificate ("Operating Certificate") has been issued by the Sheriff's Department to a member of the collective. The Sheriff's Department shall only issue new Operating Certificates to Medical Marijuana Collective Facilities that were lawfully established prior to April 14, 2017, and consistent with San Diego County Zoning Ordinance Section 6935.
- (b) The procedure for obtaining an Operating Certificate, including appeals of denials and revocations, shall be as set forth in Chapter 1 of the County of San Diego Uniform Licensing Procedure, except as set forth in this chapter and in addition, shall be subject to the specific requirements and regulations set forth in this chapter.
- (c) The form of application for an Operating Certificate shall be developed by the Sheriff's Department. At a minimum, the form of application developed by the Sheriff shall require the applicant(s) to provide sufficient information deemed necessary by the Sheriff to make an initial determination that (1) the applicant(s) will be operating a legitimate collective facility in compliance with state law and this ordinance, and (2) the applicant(s) is or are the owner(s) of the property for which the Operating Certificate is sought or have the written permission of the owner(s) of the property for which the license is sought.

- (d) As a condition for obtaining an Operating Certificate from the Sheriff, the applicant must show proof that the location has been approved by the Department of Planning and Development Services, Zoning Division, and a building permit (including a tenant improvement permit) has been applied for if required by the California Building Code.
- (e) The form of application, which upon completion shall be signed by the applicant(s), shall also require the applicant(s), at a minimum, to make the following express representations:
 - (1) That no activities prohibited by state law will occur on or at the collective facility with the knowledge of the responsible person(s).
 - (2) That the collective facility, the collective and its members will comply with all provisions of this chapter and state law pertaining to medical marijuana.
- (f) An Operating Certificate issued pursuant to this section shall be valid only for the address for which it was issued.
- (g) Section 21.108(c) of the County of San Diego Uniform Licensing Procedure shall not apply to the issuance of Operating Certificates for collective facilities.
- (h) The applicant(s) shall provide to the Sheriff along with a completed application and fee for the Operating Certificate, evidence that any required building permit (including a tenant improvement permit) issued by the Department of Planning and Development Services has passed final inspection and occupancy approval has been issued before the Sheriff's Operating Certificate can be effective.
- (i) For purposes of facilitating the provisions of this ordinance, a collective must have a unique identifying name that will be entered onto the application for an Operating Certificate.
- (j) The fee for an Operating Certificate shall be as provided in section 21.1901 of the County Code of Regulatory Ordinances.
- (k) The application for an Operating Certificate shall designate and identify one or more persons as responsible persons. The designated responsible person(s) shall include the applicant(s).
- (l) An Operating Certificate shall not be issued where a responsible party has a felony conviction.

(Added by Ord. No. 10060 (N.S.), effective 7-30-10; amended by Ord. No. 10224 (N.S.), effective 10-25-12)

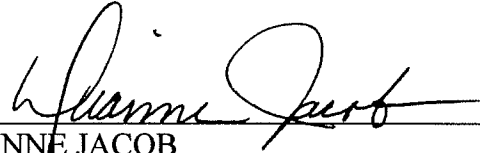
Sections 21.2504 through Sections 21.2508 – No Change

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 Transcript, a newspaper of general circulation published in the County of San Diego.

Approved as to form and legality
County Counsel

By: Justin Crumley, Senior Deputy

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 22nd day of March, 2017.



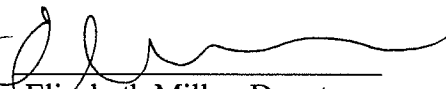
DIANNE JACOB
Chairwoman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Jacob, Gaspar, Horn
NOES: Cox, Roberts

ATTEST my hand and the seal of the Board of Supervisors this 22nd day of March, 2017.

DAVID HALL
Clerk of the Board of Supervisors

By 
Elizabeth Miller, Deputy



Ordinance No. 10474 (N.S.)

03/22/17 (6)