



## City of Placerville MEMORANDUM

DATE: May 9, 2006

TO: City Council

FROM: John Driscoll, City Manager/City Attorney

SUBJECT: **AN ORDINANCE AMENDING CHAPTER 25 TO TITLE 5 IN ITS ENTIRETY, AMENDING SECTIONS OF CHAPTER 5 TO TITLE 10, AND AMENDING CHAPTER 10 TO TITLE 10 IN ITS ENTIRETY, ALL OF WHICH RELATE TO MEDICAL CANNABIS DISPENSARIES**

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### **RECOMMENDATION**

That the City Council introduce an ordinance relating to the following:

1. Amending Chapter 25 to Title 5 in its entirety;
2. Amending Sections 15(B) and 18(B) of Chapter 5 to Title 10; and
3. Amending Chapter 10 to Title 10 in its entirety,

and waive the reading thereof.

### **BACKGROUND**

In 1996, the People of the State of California passed Proposition 215, the Compassionate Use Act, with the stated intent of ensuring that seriously ill individuals have the right to obtain and use marijuana for medical purposes when recommended by a physician. This voter initiative exempts patients and their primary caregivers from prosecution under state laws that otherwise prohibit the cultivation or possession of marijuana.

In 2003, the state legislature passed SB 420, which established the Medical Marijuana Program. This legislation created a voluntary system for qualified patients and their caregivers to obtain identification cards which will insulate them from arrest for violations of state law relating to marijuana.

In June 2004, the City of Placerville adopted an ordinance allowing the operation of medical marijuana dispensaries in certain zones and under certain specified conditions. The ordinance was adopted as an urgency measure and was in response to several recent requests the City had received from potential operators of medical marijuana dispensaries.

In November of 2004, the City Council granted a variance to a medical marijuana dispensary which was to be located at 645 Main Street, with certain conditions. One of the conditions to the granting of the variance was that the facility could not operate and the entitlement only became effective at such time as: (1) the U.S. Supreme Court determines that the federal government does not have the right to interfere/prohibit the operation of medical marijuana dispensaries permitted under state law; or (2) congress passes a law prohibiting the federal government from interfering with the operation of medical marijuana dispensaries permitted under state law; or (3) marijuana is re-listed as a Schedule One controlled substance.

As discussed below, the U.S. Supreme Court has rendered its decision in *Gonzales v. Raich*. That decision provides that the federal government can continue to prohibit the possession of marijuana for medical purposes under the Controlled Substances Act. However, the applicant for the facility in Placerville has now requested that the City Council waive the above-stated condition and that the facility be allowed to operate as a medical marijuana dispensary. Please see the attached letter from Mr. Stephen Williams and the accompanying documentation.

In response to the Supreme Court's decision, and the applicant's request to waive the above-referenced condition, staff brought this matter to the Council at its January 10, 2006 meeting. Staff's recommendation at that time was to repeal the City's existing ordinances allowing medical marijuana dispensaries and adopt an ordinance prohibiting such dispensaries within the City of Placerville. At the January 10, 2006 meeting, the Council heard testimony from many medical marijuana advocates and there was substantial discussion regarding the conflict between federal law and California state law allowing and providing for medical marijuana dispensaries.

In response to the concern expressed over the prohibition of medical marijuana dispensaries in Placerville, staff expressed a willingness to explore the possibility of amending the City's existing ordinances pertaining to medical marijuana dispensaries and also a willingness to work with a committee of citizens for the purpose of bringing recommendations back to the Council for the purpose of strengthening the City's current medical marijuana dispensaries ordinances. Council tabled the matter and directed that staff and representative members of the audience meet and discuss options that would address both the City's and the medical marijuana dispensary proponents' concerns.

In response to Council's direction, staff has met on several occasions with a group of people representing the medical marijuana proponents. Staff members attending these meetings were Chief of Police George Nielsen and City Manager John Driscoll. Representing the medical marijuana dispensary proponents were Carol Anne Ogdin, Steve Williams, David Hardee and Matt Vaughn. As mentioned previously, this group met on several occasions and tonight's recommended action is the result of the consensus achieved amongst this group. This entire group is referred to hereafter as the "Committee."

As previously mentioned, Steven Williams, who has previously received a variance for the operation of a medical marijuana dispensary in Placerville, has requested that certain conditions relating to that variance be waived. In the event that the proposed amendments to the City's medical marijuana dispensaries ordinances are adopted and medical marijuana dispensaries are not prohibited in the City of Placerville, it is staff's intention to recommend that Mr. Williams' request that the condition of his variance relating to compliance with federal law be waived. This action would be agendized at the time set for the adoption of the ordinances.

## **ANALYSIS**

Recognizing that there remains a potential conflict between federal and state law, the Committee acknowledged that potential conflict in the findings set forth in Section 5-25-1 of the proposed ordinance amendments. The proposed amendments also acknowledge that the intent of the ordinances is to comply with California law as established by Proposition 215 and Senate Bill 420. It also should be noted that the current ordinances refer to medical marijuana dispensaries, and in the proposed amendments, the term "marijuana" has been changed to the more scientific term "cannabis."

Another change from the existing ordinances is found in the definition of a Medical Cannabis Dispensing Collective (dispensary). This definition was patterned after state law as well as a similar ordinance adopted by the City of Santa Rosa in that the County of El Dorado Health Department has not instituted the practice of identification cards. The proposed ordinance deletes the reference in the City's current ordinance referring to identification cards.

Other changes to the current ordinances include in Section 5-25-6 (A)19 the provision that information provided by an applicant for a dispensary be considered confidential. In Section 5-25-6(B), language was added to provide that the Chief of Police act on an application within a reasonable amount of time. Similarly, under 5-25-8, the Chief of Police shall within a reasonable period of time give notice of his decision to deny or issue a permit.

The Committee spent a great deal of time discussing the records to be kept by a dispensary, as well as how to proceed in the event the County does not issue identification cards pursuant to California Health and Safety Code Section 362.71. As a result, a provision was added to Section 5-25-13(H) to require the dispensary to maintain a copy of the medical recommendation pursuant to SB 420. The Committee also added a provision clearly stating that the permittee could not sell medical cannabis for a profit.

The last significant change in the medical marijuana dispensaries ordinances appears in those sections relating to zoning. Section 10-10-2 (D) was added limiting the number of dispensaries operating in the City to two.

It is staff's opinion that if the Council wants to continue to provide for the operation of medical cannabis dispensaries within the City, the proposed ordinances provide for all reasonable safeguards allowable under California law. The Committee felt that while the City's existing ordinances were fairly complete, the proposed amendments provide an improvement in the City's ability to regulate and control the operation of medical cannabis dispensaries.

As indicated in the January 10, 2006 staff report, cities have taken a variety of responses to the Supreme Court decision in *Gonzales v. Raich*. Recent statistics indicate that there are approximately 23 cities and 3 counties that have ordinances providing for the operation of medical cannabis dispensaries. A lesser number of cities (16) and counties (2) have outright bans. The majority of jurisdictions either have a moratorium with respect to the operation of medical cannabis dispensaries or no provisions at all. It also needs to be noted that the California State Attorney General has issued an opinion affirming that the municipalities may not restrict the protections afforded by Proposition 215 and SB 420 to qualified medical cannabis patients.

Staff feels that it is better to have an ordinance in place regulating the operation of medical cannabis dispensaries than not to have an ordinance dealing with the issue. While a dispensary operating as a permitted activity under municipal and state law is subject to the risk of arrest and federal prosecution, entities that prohibit their operation in California are potentially subject to lawsuit by organizations such as Americans for Safe Access, who claim that such prohibitions are in violation of California law. In essence, the proposed ordinances amending and continuing the existing provisions in the City Code for the operation of medical cannabis dispensaries comply with state law while putting the potential operator of a medical cannabis dispensary on notice of the existing conflict with federal law and letting a potential operator determine whether or not they want to take that risk.

### **ALTERNATIVES**

The Council could determine that the existing ordinances are sufficient and therefore not adopt the proposed amendments, or the Council could determine that the existing ordinances should be repealed, and ban the operation of medical cannabis dispensaries.

### **FISCAL IMPACT**

There is minimal fiscal impact associated with the proposed amendments.

Respectfully submitted,

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John Driscoll  
City Manager/City Attorney

**CITY OF PLACERVILLE**  
**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 25 TO TITLE 5 OF THE  
PLACERVILLE CITY CODE RELATING TO BUSINESS REGULATIONS  
(Medical Cannabis Dispensaries);**

**AMENDING SECTIONS 15(B) AND 18(B) OF CHAPTER 5 TO TITLE 10 OF THE  
PLACERVILLE CITY CODE RELATING TO ZONING  
(Zone Regulations);**

**AMENDING CHAPTER 10 TO TITLE 10 OF THE PLACERVILLE  
CITY CODE RELATING TO ZONING  
(Medical Cannabis Dispensary Businesses Regulated)**

The City Council of the City of Placerville does ordain as follows:

Section 1: Title 5, Chapter 25, of the City Code shall be amended in its entirety to read as follows:

**CHAPTER 25**  
**MEDICAL CANNABIS DISPENSARIES**

5-25-1: **FINDINGS:** The City Council adopts this chapter based upon the following findings:

- (A) The voters of the state of California approved Proposition 215; and
- (B) The intent of Proposition 215 was to enable persons who are in need of cannabis for specified medical purposes to obtain and use it under limited, specified circumstances; and
- (C) The state enacted Senate Bill 420 in October 2003, relating to controlled substances, to clarify the scope of the compassionate use act of 1996, and to allow cities and other governing bodies to adopt and enforce rules and regulations laws consistent with SB 420; and
- (D) Recognizing that there is a potential conflict between federal and state law, it is the City Council's intention that this chapter shall be deemed to comply with California law as established by Proposition 215 and Senate Bill 420 and to permit any activity that is authorized under those acts or other applicable laws; and

- (E) To protect the public health, safety, and welfare, it is the desire of the City Council to modify the Placerville City Code to be consistent with SB 420, regarding the location and operation of medical cannabis dispensaries; and
- (F) It is the City Council's intention that nothing in this chapter shall be construed to: 1) allow persons to engage in conduct that endangers others or causes a public nuisance, 2) allow the use of cannabis for nonmedical purposes, or 3) allow any activity relating to the cultivation, distribution, or consumption of cannabis that is otherwise illegal; and
- (G) Pursuant to Health and Safety Code Section 11362.7 et seq., the State Department of Health shall be responsible for establishing and maintaining a voluntary identification card program; and
- (H) California Health and Safety Code Section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the manner set forth in Section 11362.71 et seq. (Ord. 1598, 6-22-2004)

5-25-2: **PURPOSE AND INTENT:** It is the purpose and intent of this chapter to regulate medical cannabis dispensaries in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City of Placerville. It is neither the intent nor effect of this chapter to condone or legitimize the use of cannabis. (Ord. 1598, 6-22-2004)

5-25-3: **DEFINITIONS:** The following words and phrases, when used in this chapter, shall be construed as defined in this section, unless it is apparent from the context that they have a different meaning:

**APPLICANT:** A person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of the corporation, any other operator, manager, employee, or agent of a medical cannabis dispensary.

**CHURCH:** Any structure, property, or any part thereof, used primarily for religious worship or related religious activities.

**CITY:** The City of Placerville.

**CITY MANAGER:** The City of Placerville City Manager or the authorized representative thereof.

**DRUG PARAPHERNALIA:** Shall have the same definition as California Health and Safety Code Section 11364.5, as may be amended from time to time.

**IDENTIFICATION CARD:** Shall have the same definition as in California Health and Safety Code Section 11362.7, as may be amended from time to time.

**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" distribution of medical cannabis. "Dispensary" means any facility or location where the primary purpose is to dispense medical cannabis (i.e., marijuana) as a medication that has been recommended by a physician and where medical cannabis is made available to and/or distributed by or to two or more of the following: a primary caregiver and/or a qualified patient, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "dispensary" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the 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 Health and Safety Code, residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq., or a qualified patient's or caregiver's place of residence.

**PERMITTEE:** The person to whom a medical cannabis dispensary permit is issued.

**PERSON:** Any individual, partnership, co-partnership, firm, association joint stock company, corporation, limited liability company, or combination of the above in whatever form or character.

**PERSON WITH AN IDENTIFICATION CARD:** Shall have the same definition as California Health and Safety Code Section 11362.5 and may be amended.

**POLICE CHIEF:** The Police Chief of the City of Placerville or the authorized representative thereof.

**PRIMARY CAREGIVER:** Shall have the same definition as California Health and Safety Code Section 11362.7, as may be amended from time to time.

**QUALIFIED PATIENT:** Shall have the same definition as California Health and Safety Code Section 11362.5, as may be amended from time to time.

**SCHOOL:** An institute of learning for minors, whether private or public, offering a regular course of instruction required by the California Education Code. This definition includes a nursery school, kindergarten, elementary school,

middle school, or junior high school, senior high school or any special institution of education, but it does not include a vocational or professional institute of higher education, including a community or junior college, college, or university. (Ord. 1598, 6-22-2004)

5-25-4:       **ENFORCEMENT:** The Police Chief, or his designee, shall have the responsibility and duty of enforcement of this chapter. (Ord. 1598, 6-22-2004)

5-25-5:       **MEDICAL CANNABIS DISPENSARY PERMIT:**

- (A) Prior to initiating operations, and as a continuing prerequisite to conducting legally valid operations, any person or entity wishing to operate a medical cannabis dispensary shall apply for and receive from the Police Chief a medical cannabis dispensary permit, on the terms and conditions set forth herein.
- (B) The applicant for a medical cannabis dispensary permit shall submit to the Police Chief an application for a medical cannabis dispensary permit. Based on the information set forth therein, the Police Chief may impose reasonable terms and conditions on the proposed operations, consistent with Health and Safety Code Section 11362.5 et seq., and with public health, safety, and welfare. Such terms and conditions may include, but not be limited to, requirements as to parking, lighting, hours of operation, trash collection and disposal, and a security system acceptable to the Police Chief.
- (C) A medical cannabis dispensary permit shall be valid for only one year. An operator of a medical cannabis dispensary may apply for renewal of the permit for subsequent year(s). Each renewal application shall certify the accuracy of all previously supplied application information (as amended), and document any changes or additions to that information as of the date of application for renewal.
- (D) The chief of police or designee thereof shall conduct a background check of any applicant for a dispensary permit and report his/her determination on the acceptability of the applicant's background to the City Manager. A dispensary permit shall not be issued to any applicant for whom the Police Chief determines the background to be unacceptable. A dispensary shall have no employees unless such employees are primary caregivers meeting all terms and conditions of applicable law, including the Placerville City Code, and for whom the Police Chief determines the background to be acceptable.
- (E) A dispensary shall also apply for and maintain a general City business license as a prerequisite to obtaining a permit pursuant to the terms hereof. (Ord. 1598, 6-22-2004)

5-25-6: **BACKGROUND CHECK OF PERMIT APPLICANT:**

- (A) Any applicant for a dispensary permit shall provide the following information to enable the City Manager/Chief of Police, or designee thereof, to perform the background check specified herein:
1. The full name, current residence address, phone number, and fingerprints of the applicant;
  2. The address to which notice of action on the application is to be mailed;
  3. Previous addresses for the past ten (10) years immediately prior to the present address of the applicant;
  4. Written proof that the applicant is over eighteen (18) years of age;
  5. Applicant's height, weight, color of eyes, and hair;
  6. Photographs for identification purposes taken by the police department;
  7. All current and prior business, occupation, or employment history of the applicant for the ten (10) years immediately preceding the date of the application;
  8. The medical cannabis dispensary business license history of the applicant, including whether such person, in previously operating in this or another city, county, or state under license has had such license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation;
  9. A list of each criminal conviction of the applicant, whether such conviction was by verdict, plea of guilty, or plea of nolo contendere. The list shall, for each such conviction, set forth the date of arrest, the offense charged, and the offense of which the applicant was convicted;
  10. The names of all employees, independent contractors, and other persons who will work at the medical cannabis dispensary;
  11. The proposed security arrangements for ensuring the safety of persons and to protect the premises from theft;
  12. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the medical cannabis dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches ( $\pm 6''$ );
  13. An accurate straight line drawing prepared within thirty (30) days prior to application depicting the building and the portion thereof to be occupied by the medical cannabis dispensary, and: a) the property line of any other medical cannabis dispensary; and b) the property lines of any church, public or private school, public park and public library;

14. Such other information as may be required by the City Manager, the Police Chief, or designee thereof, consistent with the purposes of this chapter, the City Code, and applicable law;

15. Authorization for the City, its agents and employees to seek verification of the information contained within the application;

16. 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;

17. All improperly completed and incomplete applications will be returned within fifteen (15) days of receipt, notify the applicant of such fact, and on request of the applicant, grant the applicant an extension of fifteen (15) days to submit a completed application. Additional time extensions may be granted with cause. The time period for granting or denying a permit shall be stayed during the period in which the applicant is granted an extension of time; and

18. The fact that an applicant possesses other types of state or city permits or licenses does not exempt the applicant from the requirement of obtaining a medical cannabis dispensary permit.

19. Information provided by an applicant shall be considered confidential by the City.

(B) Upon receipt of the information referenced above, the chief of police, or his designee, shall conduct an investigation, within a reasonable amount of time and shall determine the background of the applicant to be acceptable or unacceptable for the purposes of the dispensary license. The grounds for denial of a permit shall be one or more of the following:

1. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule or regulation;

2. The applicant has violated any local or state law, statute, rule or regulation respecting the medical cannabis business;

3. The applicant failed to provide the information required herein;

4. The applicant provided false, inaccurate, or otherwise misleading information;

5. The applicant, his or her agent or employee, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony or misdemeanor involving dishonesty, fraud, deceit, or moral turpitude with intent to substantially benefit himself or herself, or another, or substantially injure another and the Police Chief concludes that, by reason of such crime or act, the applicant would not work in or otherwise operate a dispensary in a law abiding manner or in a manner which does not subject members of the public to risk of harm or criminal, deceitful or otherwise illegal practices. A "conviction" within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;

6. The applicant is under eighteen (18) years of age;
7. The medical cannabis dispensary does not comply with zoning ordinances, or local standards; or
8. The required application or renewal fees have not been paid. (Ord. 1598, 6-22-2004)

5-25-7:       **REFERRAL OF APPLICATION TO COUNCIL:** Notwithstanding the provisions of this chapter, the Police Chief, in his or her discretion, may refer the application for a permit to the City Council. (Ord. 1598, 6-22-2004)

5-25-8:       **APPEAL:** The Police Chief shall, within a reasonable period of time, cause a written notice of his or her decision to issue or deny a permit to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested. An applicant aggrieved by the Police Chief's decision may appeal such decision to the City Council by filing a written notice with the City Clerk within ten (10) working days of the Police Chief's written notice of decision. If appeal is not taken within such time, the Police Chief's decision shall be final. (Ord. 1598, 6-22-2004)

5-25-9:       **HEARING; SCHEDULING:** Upon referral or appeal to the City Council, the permit application shall be scheduled by the City Clerk for a public hearing within forty-five (45) days. (Ord. 1598, 6-22-2004)

5-25-10:       **HEARING; NOTICE:**

- (A) Notice of hearing shall be given by the posting of notice on the premises where the activity is to be conducted for a period of not less than ten (10) days prior to the date of the hearing. In addition, a copy of the notice of hearing shall be mailed to the applicant at least ten (10) days in advance of the hearing.
- (B) The Council may give such additional notice of hearing, as it deems appropriate in a particular case. (Ord. 1598, 6-22-2004)

5-25-11:       **HEARING; NOTICE:**

- (A) Notice of hearing shall be given by the posting of notice on the premises where the activity is to be conducted for a period of not less than ten (10) days prior to the date of the hearing. In addition, a copy of the notice of hearing shall be mailed to the applicant at least ten (10) days in advance of the hearing.

- (B) The Council may give such additional notice of hearing, as it deems appropriate in a particular case. (Ord. 1598, 6-22-2004)

5-25-12: **REGISTRATION OF NEW EMPLOYEES:**

- (A) As a further condition of approval every owner or operator shall register every employee with the police department within five (5) business days of the commencement of the employee's period of employment at the medical cannabis dispensary. Failure to comply with this section shall be grounds for suspension or revocation of the permit.
- (B) Each employee shall be required to provide two (2) recent color passport quality photographs and, at the discretion of the Police Chief, shall be fingerprinted by the police department for purposes of identification. In addition each new employee shall provide the following information on a form provided by the police department:
  - 1. Name, current residence address, and telephone number;
  - 2. Date of birth; and
  - 3. Height, weight, color of eyes and hair.
- (C) This information will be considered confidential and will not be released unless pursuant to subpoena issued by a court of competent jurisdiction.
- (D) Every owner or operator shall maintain a current register of the name of all employees currently employed and shall disclose such information for inspection to any police officer for the purpose of determining compliance with this section. (Ord. 1598, 6-22-2004)

5-25-13: **OPERATING REQUIREMENTS/RESTRICTIONS:** A medical cannabis dispensary, once permitted by the Police Chief, shall meet the following operating standards for the duration of the use:

- (A) A medical cannabis dispensary may possess no more than eight (8) ounces of dried cannabis per qualified patient or caregiver, and maintain no more than six (6) mature or twelve (12) immature cannabis plants per qualified patient. However, if a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the dispensary may possess an amount of cannabis consistent with the patient's needs and applicable law.
- (B) No cannabis shall be smoked, ingested or otherwise consumed on the premises of the dispensary. The term "premises" includes any structure on the premises, parking areas or any other part of the property upon which the dispensary is situated, or any property immediately adjacent thereto.

- (C) 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 unless they are a qualified patient or a primary caregiver and are in the presence of a parent or guardian.
- (D) It shall be unlawful for the permittee, operator, or other persons in charge of any medical cannabis dispensary to employ any person who is not at least eighteen (18) years of age.
- (E) No dispensary shall hold or maintain a license from the state department of alcohol beverage control to sell or furnish alcoholic beverages, or operate a business that sells or furnishes alcoholic beverages.
- (F) No cannabis may be cultivated on the premises, as the term "premises" is used in Subsection (B) of this section.
- (G) No dispensary shall conduct or engage in the commercial sale of any product, goods or service. The term "commercial sale" does not include the provision of medical cannabis on terms and conditions consistent with this code and applicable law.
- (H) A medical cannabis 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, as a protection of the confidentiality of the cardholder, or a copy of the written medical recommendation pursuant to Senate Bill 420.
- (I) Each dispensary shall allow the Police Chief, or his designee, to have access to the dispensary's books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination to determine compliance with this City Code and applicable law. Books, records, accounts, and any and all relevant data will be produced no later than twenty four (24) hours after receipt of the Police Chief's written request(s).
- (J) The dispensary shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.
- (K) The dispensary shall meet any specific, additional operating procedures and measures as may be imposed as conditions of approval by the Police Chief to ensure that the operation of the dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.
- (L) The building in which the dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and the Americans with disabilities act.
- (M) A dispensary that provides cannabis in the form of food or other comestibles shall obtain and maintain the appropriate license(s) from the health department for providing food or other comestibles.

- (N) A dispensary may receive compensation for actual expenses, including reasonable compensation incurred for services provided, or for payment for out of pocket expenses incurred in providing those services. However, any such dispensary must pay applicable sales tax on such services and obtain and maintain the applicable seller's or similar permit from the Franchise Tax Board or other regulatory agency.
- (O) The medical cannabis dispensary shall be open for business only between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M. on any particular day.
- (P) A medical cannabis dispensary shall meet all the operating criteria for the dispensing of medical cannabis as is required pursuant to California Health and Safety Code Section 11362.5 and all other local or state law, statute, rule or regulation respecting the medical cannabis business. (Ord. 1598, 6-22-2004)
- (Q) The permittee shall assume all legal liabilities and responsibilities pursuant to operation of the dispensary.
- (R) Permittee shall not sell medical cannabis for profit.

5-25-14: **DISPLAY OF PERMIT:** Every medical cannabis dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for such medical cannabis dispensary in a conspicuous place so that the same may be readily seen by all persons entering the business. (Ord. 1598, 6-22-2004)

5-25-15: **TRANSFER OF PERMIT:**

- (A) A permittee shall not operate a medical cannabis dispensary under the authority of a permit at any other place other than the address of the medical cannabis dispensary stated in the application for the permit.
- (B) The ownership or control of a medical cannabis dispensary permit shall not be transferable to another person.
- (C) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked. (Ord. 1598, 6-22-2004)

5-25-16: **FEES:** The City Council may, by resolution, impose such reasonable fees on both the application for, and the issuance of a permit for a dispensary to recoup the City's cost in administering and implementing the provisions relating thereto. (Ord. 1598, 6-22-2004)

5-25-17: **VIOLATIONS:** Violations of the terms and conditions of the dispensary's permit, of this code, or of applicable local, state, and federal rules, regulations, and laws shall be grounds for suspension or revocation of the permit or for nonrenewal. Failure to conduct the permitted business in a manner conducive to the peace, health or safety of the public or failure to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd problems inside or outside the business or creation of a public or private nuisance or obstruction of the business operations of another business shall also be grounds for suspension or revocation of the permit. (Ord. 1598, 6-22-2004)

5-25-18: **SUSPENSION AND REVOCATION; NOTICE:**

- (A) Any permit issued under the terms of this chapter may be suspended or revoked by the Police Chief when it shall appear to him or her that the permittee has committed any one or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.
- (B) No permit shall be revoked or suspended by virtue of this section until the permittee has had an opportunity for a hearing with the Police Chief. Written notice of the time and place of such hearing shall be served upon the person to whom the permit was granted at least five (5) days prior to the date set for such hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending such permit. Notice may be given either by personal delivery to the person to be notified, or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the person to be notified at his address as it appears in his application for a permit. (Ord. 1598, 6-22-2004)

5-25-19: **SUSPENSION AND REVOCATION; APPEAL:** Any permittee aggrieved by the decision of the Police Chief in suspending or revoking a permit may, within ten (10) calendar days, 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 ten (10) days, the decision of the Police Chief shall be final. If an appeal is filed in a timely manner, the Council shall, within forty five (45) days of the appeal's filing hold an appeal hearing. The Council may suspend or revoke the permit if it finds reasonable grounds for such action. The Council's decision shall be final. (Ord. 1598, 6-22-2004)

5-25-20: **SUSPENSION OR REVOCATION WITHOUT HEARING:** If any person holding a permit or acting under the authority of such permit under this chapter is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the Police Chief may revoke said permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. (Ord. 1598, 6-22-2004)

5-25-21: **EFFECT OF DENIAL:** When the Police Chief shall have denied or revoked any permit and the time for appeal to the Council has expired, or if after appeal to the Council, the decision of the Police Chief has been affirmed by the Council, no new application for a permit shall be accepted from the applicant and no such permit shall be issued to such person or to any corporation in which he shall have any beneficial interest for a period of one year after the action denying or revoking the permit. (Ord. 1598, 6-22-2004)

5-25-22: **SEPARATE OFFENSES FOR EACH DAY:** Any person who violates any provisions of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits or causes a violation thereof, and shall be penalized accordingly. (Ord. 1598, 6-22-2004)

5-25-23: **CRIMINAL PENALTIES:** Any person who violates, causes, or permits another person to violate any provisions of this chapter commits a misdemeanor. (Ord. 1598, 6-22-2004)

5-25-24: **CIVIL INJUNCTIONS:** The violation of any provisions of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief. (Ord. 1598, 6-22-2004)

5-25-25: **ADMINISTRATIVE REMEDIES:** In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City Code and state law. (Ord. 1598, 6-22-2004)

Section 2: Title 10, Chapter 5, Section 15(B) shall be amended to read as follows:

(B) Permitted Uses: The following uses and their accessory uses are permitted outright:

Club or association.

Domestic violence shelter.

Hospital, sanitarium, dispensary, clinic, mortuary.

Medical cannabis dispensary.

Motel and hotel.

One- or multi-family dwellings when above and/or below the ground floor.

One sign not to exceed the allowable size established by Section 10-4-17 of this title.

Place of worship and accessory social activities.

Professional or business office, bank, studio, place of entertainment and new and used retail sales when fully enclosed in a building, eating or drinking establishments, retail service, exclusive of fast food restaurants and automobile sales or service.

Public utility structure, fire station.

Reverse vending machines.

School, park, playground, golf course, cemetery.

(Ord. 1474, 1-8-1991; amd. Ord. 1585, 5-14-2002; Ord. 1598, 6-22-2004)

Section 3: Title 10, Chapter 5, Section 18(B) shall be amended to read as follows:

(B) Permitted Uses: The following uses and their accessory uses are permitted outright:

Animal clinic or shelter.

Bulk storage, wholesale, packing, truck, bus, taxi or rail terminal.

Gas station, new and used automobile sales and services.

Manufacturing, processing, services or research, provided that no odor, gas, fumes, dust, smoke, noise, vibrations, glare, heat, electrical interference, radioactive or waste material is produced or emitted beyond the confines of the property onto contiguous properties or into the air or watercourses, to an extent constituting a nuisance, and provided it does not constitute a physical hazard to persons or properties beyond the confines of the property by reason of fire, explosion or similar cause.

Medical cannabis dispensary.

Office or retail sale.

One dwelling or one mobile home for caretaker, watchman or person primarily employed on the property and his/her immediate family.

One sign not to exceed the allowable size established by Section 10-4-17 of this title.

Public utility structure, fire station.

Reconstruction of single-family dwellings provided that the other regulations of this title are met.

Trade school.

(Ord. 1487, 1-14-1992; amd. Ord. 1585, 5-14-2002; Ord. 1598, 6-22-2004)

Section 4: Title 10, Chapter 10, shall be amended in its entirety to read as follows:

## CHAPTER 10

### **MEDICAL CANNABIS DISPENSARY BUSINESSES REGULATED**

10-10-1: **PURPOSE:** The purpose of this chapter is to establish requirements and standards for the location and operation of medical cannabis dispensaries, as defined in Section 5-25-3 of this code. (Ord. 1598, 6-22-2004)

10-10-2: **MANDATORY LOCATION STANDARDS:**

- (A) A medical cannabis dispensary business shall be prohibited in all zone district classifications within the city, except C commercial and HC heavy commercial, as provided in this section.
- (B) In those land use districts where a medical cannabis dispensary business regulated by this chapter would otherwise be a permitted use, it shall be unlawful to establish any such medical cannabis dispensary business if the location is:
  - 1. within one thousand feet (1,000') of another medical cannabis dispensary business;
  - 2. within five hundred feet (500') of any church;
  - 3. within one thousand feet (1,000') of any public or private school, public park, or public library; or
  - 4. Adjacent to real property zoned for residential use.
- (C) The footage distances set forth in Subsection (B) of this section shall be measured from the lot lines or zone boundaries, whichever is longer, and shall be measured in a straight line, without regard to any intervening structures or objects. (Ord. 1598, 6-22-2004)
- (D) The number of dispensaries permitted and operating shall not exceed two (2) within the City limits.

10-10-3: **ACCESSORY USE:** A medical cannabis dispensary business is not and may not be approved as an accessory use to any other use permitted by this title. (Ord. 1598, 6-22-2004)

The above Ordinance was introduced at a regular meeting of the City Council of the City of Placerville held on May 9, 2006, by Councilmember \_\_\_\_\_, and it was read for the first time. The Ordinance was read for the second time on \_\_\_\_\_ and Councilmember \_\_\_\_\_ moved its adoption. The motion was seconded by Councilmember \_\_\_\_\_. A poll vote was taken, which stood as follows:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Pierre Rivas, Mayor

ATTEST:

\_\_\_\_\_  
Susan Zito, City Clerk