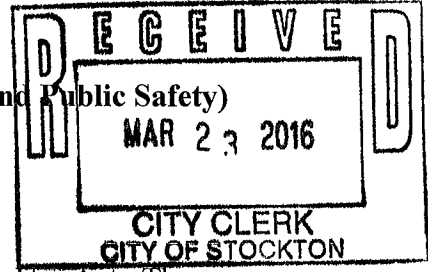


20160323

**PROPOSED INITIATIVE – City of Stockton (Medical Cannabis and Public Safety)**



**PURPOSE AND INTENT**

In 1996 California voters approved Proposition 215, the Compassionate Use Act. The People of the State of California declared that their purpose in enacting the ballot measure was “to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes where that medical use is deemed appropriate and has been recommended by a physician who has determined that the person’s health would benefit from the use of cannabis in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief.”

Proposition 215 called on federal and state governments to “implement a plan to provide for the safe and affordable distribution of cannabis to all patients in medical need of cannabis.”

In 2003 the State Legislature enacted Senate Bill 420, known as the Medical Cannabis Program Act. The Act promoted uniform and consistent application of Proposition 215 throughout the state by ensuring that seriously ill Californians and their caregivers have access to medical cannabis through collective, cooperative cultivation projects.

In 2008, the California Attorney General issued *Guidelines for the Security and Non-Diversion of Cannabis Grown for Medicinal Use*. The Guidelines recognize and protect the rights of qualified patients, their designated primary caregivers, and medical cannabis provider associations to access safe and affordable cannabis for medicinal purposes, by establishing reasonable parameters upon the manner in which medicinal cannabis may be cultivated while protecting public health, safety and welfare.

In 2015, the Legislature passed and the Governor signed into law three bills that create a licensing and regulatory framework for medical cannabis dispensaries and cultivation. This is known as the Medical Marijuana Regulation and Safety Act (MMRSA). MMRSA includes creation of a Bureau of Medical Cannabis Regulation and a statewide Medical Cannabis Chief.

It is the purpose and intent of this chapter to follow these laws and guidelines by generally prohibiting Medical Cannabis Dispensaries and Medical Cannabis Cultivators, but granting limited immunity from the enforcement of its prohibition to four (4) Medical Cannabis Dispensaries with existing permits and four (4) Medical Cannabis Cultivators that do not violate the restrictions set forth in this ordinance.

It is the intent of this chapter to strictly and appropriately limit the location of any cannabis facilities and ensure that thorough license and background checks are conducted continuously to ensure public safety.

It is the further purpose and intent of this chapter to tax Medical Cannabis Dispensaries and Medical Cannabis Cultivators at a rate of 3.5 to 5% of gross revenues, as determined by the City Council. This is in addition to paying the general sales tax rate for the City of 9%. Expenditure of these new tax funds shall be reviewed by the Stockton Transaction and Use Tax Ordinance Citizen's Oversight Committee.

This ordinance is not intended to conflict with federal or state law. Nothing in this ordinance purports to permit activities that are otherwise illegal under federal, state, or local law.

**5.98.030 of the Stockton City Code is Amended to Read:**

**Payment of tax**

Notwithstanding any provision to the contrary, every business, including non-profit organizations, operating as a "Medical Cannabis Dispensary," or "**Medical Cannabis Cultivator,**" shall pay the following tax:

A. On, or after January 1, 2017, a **minimum of \$35 and a maximum of \$2550.00** for each \$1,000.00 of gross receipts per year, **as determined by vote of the City Council.**

B. Notwithstanding the tax rate imposed by subsection A, the City Council may, in its discretion, at any time by ordinance or resolution implement any lower tax rate it deems appropriate, and may increase such tax rate from time to time not to exceed the maximum tax rate imposed by subsection A. (Ord. 018-10 § 3, eff. 12-02-10)

**C. The tax rate imposed in subsection A shall be in addition to, and not supplant, any other general sales or other tax imposed by the City.**

**D. The proceeds of the taxes imposed by this Ordinance may be used for any lawful purpose of the City, as authorized by ordinance, resolution, or action of the City Council. These taxes are not special taxes within the meaning of section 1, subdivision (d) of Article XIII C of the California Constitution, but are general taxes imposed for general governmental purposes.**

**E. Oversight of the City expenditure of these funds shall be conducted by the Stockton Transaction and Use Tax Ordinance Citizen's Oversight Committee, pursuant to Ordinance 2013-07-09-1601.**

**5.100.025 is Added to the Stockton City Code to Read:**

**Medical Cannabis Cultivators**

**A. A further purpose of this chapter is to require the issuance of an annual permit to conduct, own, and operate Medical Cannabis Cultivator facilities within the City; to enforce rules consistent with the Compassionate Use Act and the Medical Cannabis Program Act, which rules will provide for the health, safety, and welfare of the public; to require work permits for all employees; to establish standards for the issuance of said permits; to establish rules and regulations under which such**

**permits shall remain in force, be suspended or revoked; and providing penalties for violations thereof.**

**B. The provisions of this chapter are in addition to the business license required to conduct business.**

**C. All Medical Cannabis Cultivators must apply for and receive a permit consistent with this Chapter to operate. All provisions of this chapter from 5.100.040 through 5.100.250 shall apply to Medical Cannabis Cultivators and Medical Cannabis Dispensaries to be granted a permit and to continue operations.**

**D. In no case shall a Medical Cannabis Cultivator dispense or distribute, sell, transfer or in any other way provide cannabis to any other person or entity other than a Medical Cannabis Dispensary.**

**5.100.300 of the Stockton City Code is Amended to Read:**

A. The presence of minors, under the age of 18 years, on the premises of a Dispensary **or Cultivator** is prohibited unless they are a qualified patient ~~or a primary caregiver~~ and they are in the presence of their parent or legal guardian.

B. No permittee shall cause, permit or allow, either by act or by failure to act, the violation of subsection A of this section. Any violation of subsection A of this section shall subject the permittee of the Dispensary **or Cultivator** where the violation occurred to the immediate revocation of the Operators Permit pursuant to Section 5.100.120(A)(1)(a) of this chapter.

**5.100.320 of the Stockton City Code is Amended to Read:**

**Business License Tax**

Notwithstanding any provision to the contrary, all Cannabis Dispensaries **or Cultivators** shall pay an annual business license tax at the retail sales rate or at a designated higher rate, if adopted, based on gross receipts, even if it is a non-profit organization.

**5.100.080 of the Stockton City Code is Amended to Read:**

**Limitation on number of Medical Cannabis Dispensary and Medical Cannabis Cultivator Permits.**

At no time shall there be in operation within the City more than ~~three (3)~~ **four (4)** active Operators Permits **for Medical Cannabis Dispensaries. At no time shall there be in operation within the City more than four (4) Medical Cannabis Cultivators.** At no time shall there be more than two (2) dispensaries in operation within any Council District. **At no time shall there be more than two (2) Medical Cannabis Cultivators**

**in operation within any Council District. Medical Cannabis Cultivators may only be operated by Medical Cannabis Dispensaries with active Operators Permits and Use Permits.**

**5.100.300 of the Stockton City Code is Amended to Read:**

A. The presence of minors, under the age of 18 years, on the premises of a Dispensary is prohibited unless they are a qualified patient ~~or a primary caregiver~~ and they are in the presence of their parent or legal guardian.

B. No permittee shall cause, permit or allow, either by act or by failure to act, the violation of subsection A of this section. Any violation of subsection A of this section shall subject the permittee of the Dispensary where the violation occurred to the immediate revocation of the Operators Permit pursuant to Section 5.100.120(A)(1)(a) of this chapter.

**5.100.325 of the Stockton City Code is Added to Read:**

**Dispensary Site Security**

**Medical Cannabis Dispensaries shall provide on site state certified security guards during hours of operation and security cameras that are available for remote access by the Stockton Police Department.**

**5.100.330 is Added to the Stockton City Code to read:**

**Prohibition on Mobile Dispensaries and Delivery**

**No Medical Cannabis Dispensary shall offer or provide mobile dispensary or delivery services of cannabis.**

**16.80.195 of the Stockton City Code is Amended to Read:**

Medical cannabis dispensaries **and cultivation** are prohibited.

A. Medical cannabis dispensaries, as defined herein, are prohibited in the City of Stockton, **except as provided in this ordinance.** No **other** person or entity shall operate, locate or otherwise permit or suffer a medical cannabis dispensary within the City of Stockton.

**B. The City shall issue permits to medical dispensaries that meet the requirements of City ordinances 5.100.040 through 5.100.250 and that either:**

- 1. Hold a current and valid Operator Permit to operate a medical marijuana dispensary located on real property that has a current and valid Use Permit for a medical marijuana dispensary, both issued by the City of Stockton, or**

**2. Meets all of the following conditions:**

**a. Hold a current and valid Operator Permit to operate a medical marijuana dispensary located on real property that has a current and valid Use Permit or authorized non-conforming use for a medical marijuana dispensary, both issued by the City of Stockton, or**

**b. Meets all of the following conditions:**

- a. Was incorporated in California as a business with non-profit tax status under federal law, and has conducted business as a non-profit in the City of Stockton for 18 months in the 3 years preceding adoption of this ordinance,**
- b. Can demonstrate that it had over 8,000 members with prescriptions for medical cannabis validly issued under State law and who have signed as members with the non-profit in Stockton, California, as members within 3 years of the enactment of this ordinance and**
- c. Has paid city sales tax from a single location in the City of Stockton for 18 months in the 3 years preceding adoption of this ordinance, regardless whether or not they had a valid operator or use permit to operate.**

**BC.** The City shall not issue, approve or grant any permit, license or other entitlement for the establishment or operation of a medical cannabis dispensary **except as provided in this ordinance.**

**CD.** No medical cannabis dispensary that has a current operator's permit and use permit pursuant to 16.80.195 (B)(1) for a medical dispensary at the time of the enactment of this ordinance shall be permitted to relocate to a different location to operate a medical dispensary, without obtaining a new operator's permit and use permit from the city of Stockton. Any dispensary that moves for any reason, without obtaining a new operator's permit and use permit from the city of Stockton, shall forfeit their operator's permit. Any medical cannabis dispensary that meets the requirements under this ordinance pursuant to 16.80.195 (B)(2) shall be issued an operator's permit and be allowed to apply for a use permit that meets the requirements under this ordinance.

**DE.** The prohibition in subsections A and BC, above, includes, without limitation, renting, leasing, or otherwise permitting a medical cannabis dispensary to occupy or use a location, building, structure or vehicle.

**F.** **Except as provided in this ordinance,** the establishment, maintenance or operation of a medical cannabis dispensary, as defined herein, within the City limits of the City of Stockton is a public nuisance. Violations of this ordinance may be enforced by any applicable law, with criminal penalties limited if inconsistent with the Compassionate Use Act of 1996 or California Health and Safety Code Section 11362.7 et seq.

**G. Approved medical cannabis dispensaries shall only be permitted in areas zoned for commercial or industrial uses in the City under this Chapter.**

**H. All public safety requirements and zoning restrictions found in Title 5 and Title 16 of the Municipal Code must be followed by all Medical Cannabis Dispensaries. This includes: prohibiting medical cannabis dispensaries from being located within 1000 feet from any K-12 school or park; limiting hours of operation; requiring background checks for owners and employees; restricting people under age 18 from being on the premises; testing for safety and potential contamination of cannabis.**

**I. Cannabis cultivation is prohibited, except as provided in this ordinance. Medical Cannabis Cultivators may only be operated by Medical Cannabis Dispensaries with active Operators Permits. Any medical dispensary operating with a permit issued by the City of Stockton may cultivate cannabis only at a separate facility from the dispensary that meets all of the following requirements:**

**1. Cannabis cultivation is only permitted under the following land uses in ordinance 16.20.020: Agricultural and Resource-Related Uses, and Industry, Manufacturing & Processing Uses.**

**2. In any zone or land use, cannabis cultivation must comply with the following provisions:**

- a. The cultivation site may not be located within a 1000-foot radius of a school, as required by section 11362.768 of the California Health and Safety Code.**
- b. The cultivation site may not be located within a 600-foot radius of a park.**
- c. Cannabis cultivation must be within a fully enclosed building and must not be visible from the public right-of-way.**
- d. The total canopy size of cannabis growing on a single parcel must not exceed 22,000 square feet.**
- e. Cannabis cultivation must comply with all applicable state and local laws.**

**J. The definition of “cannabis cultivation” is as follows:**

**“Cannabis cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. As used in this definition, “cannabis” has the same meaning as in section 19300.5 of the California Business and Professions Code, which includes cannabis as defined in section 11018 of the California Health and Safety Code.**

**Conflicting Measures.**

**This Initiative is intended to be comprehensive. It is the intent of the People of the City of Stockton that in the event this Initiative and one or more measures relating**

**to the same subject shall appear on the same City ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Initiative. In the event that this Initiative receives a greater number of affirmative votes, the provisions of this Initiative shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.**

**Severability**

**If any provision of this Initiative, or any part of it, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Initiative are severable.**