

ORDINANCE NO. 1682

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADDING A NEW CHAPTER 8.52 TO THE GARDEN GROVE MUNICIPAL CODE ENTITLED "SALE AND DISPLAY OF NARCOTIC AND OTHER PARAPHERNALIA."

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1: A new Chapter 8.52 is hereby added to the Garden Grove Municipal Code to read as follows:

Chapter 8.52  
SALE AND DISPLAY OF NARCOTIC AND OTHER PARAPHERNALIA

Section 8.52.010. Minors:

No owner, manager, proprietor or other person in charge of any room in any place of business selling, or displaying for the purpose of sale, any device, contrivance, instrument or paraphernalia for smoking or injecting, or consuming marijuana, hashish, PCP, or any controlled substance, as defined in the Health and Safety Code of the State of California, other than prescription drugs and devices to ingest or inject prescription drugs, as well as roach clips, and cigarette papers and rollers designed for the smoking of the foregoing, shall allow or permit any person under the age of eighteen (18) years to be, remain in, enter or visit such room unless such minor person is accompanied by one of his or her parents, or by his or her legal guardian.

Section 8.52.020. Minors - Excluded:

A person under the age of eighteen (18) years shall not be, remain in, enter or visit any room in any place used for the sale, or displaying for sale, devices, contrivances, instruments or paraphernalia for smoking or injecting marijuana, hashish, PCP, or any controlled substance, other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, unless such person is accompanied by one of his or her parents, or his or her legal guardian.

Section 8.52.030. Sale and Display Rooms:

A person shall not maintain in any place or business to which the public is invited the display for sale, or the offering to sell, of devices, contrivances, instruments or paraphernalia for smoking or injecting marijuana, hashish, PCP, or any controlled substance, other than prescription

drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, unless within a separate room or enclosure to which minors not accompanied by a parent or legal guardian are excluded. Each entrance to such a room shall be sign posted in reasonably visible and legible words to the effect that narcotic paraphernalia are being offered for sale in such a room, and minors unless accompanied by a parent or legal guardian are excluded.

Section 8.52.040. Same; Nuisance.

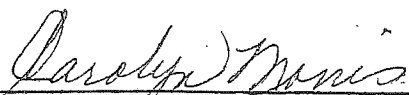
The distribution or possession for the purpose of sale, exhibition, or display in any place of business from which minors are not excluded as set forth in this section, and where devices, contrivances, instruments or paraphernalia for smoking or injecting marijuana, hashish, PCP, or any controlled substance, other than prescription drugs or devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, is hereby declared to be a public nuisance, and may be abated pursuant to the provisions of Section 731 of the Code of Civil Procedure of the State of California. This remedy is in addition to any other remedy provided by law, including the penalty provisions applicable for violation of the terms and provisions of this Code.

SECTION 2: This ordinance shall take effect thirty (30) days after adoption and shall within fifteen (15) days of adoption be published with the names of the Councilmen voting for and against the same in the Orange County Evening News, a newspaper of general circulation, published and circulated in the City of Garden Grove.

The foregoing ordinance was passed by the City Council of the City of Garden Grove this 13th day of February, 1979.

  
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MAYOR

ATTEST:

  
\_\_\_\_\_  
DEPUTY CITY CLERK



ORDINANCE NO. 2418

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE, CALIFORNIA, ESTABLISHING ZONING RESTRICTIONS WITH RESPECT TO ANY CAREGIVER ACTIVITY RELATING TO THE POSSESSION, DISPENSING, USE OR CULTIVATION OF MARIJUANA PENDING THE COMPLETION OF A PLANNING AND ZONING STUDY PURSUANT TO GOVERNMENT CODE SECTION 65858

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1:

Findings and Intent

The voters of the State of California approved Proposition 215 at the November 1996 election. Under Proposition 215, one may not be prosecuted criminally for the possession or cultivation of marijuana, providing a) the individual is a patient who under a doctor's approval possesses or cultivates marijuana for personal medical purposes; or b) the person is a patient's primary caregiver (See Health & Safety Code Section 11362.5).

The City Council hereby finds that if Proposition 215 can be legally implemented, it follows that there is an immediate need for the City to formulate zoning restrictions as to where such conduct might occur in the community without causing public health and safety hazards to its citizens. For example, the City Council is concerned that the distribution, cultivation, and provision of use of marijuana by "caregivers," as that word is defined within Proposition 215, not occur within close proximity to schools within the community.

The City Council finds that Proposition 215 does not abrogate the City's police power, which is set forth in California Constitution, Article XI, Section 7, to enact appropriate zoning regulations.

The City Council further notes that a recent appellate decision in the case of Daniel Lungren v. Dennis Peron (97 DAR 15058, December 12, 1997) held that a Cannabis Club could not legally acquire and dispense marijuana to individuals because it did not legally qualify as a caregiver under Proposition 215.

SECTION 2:

Prohibition On Possession Or Cultivation Of Marijuana By Cannabis Clubs Or Any Other Combination Of Persons, Or A Person Acting As A Caregiver Under Proposition 215

(A) Prohibition. No person, or combination of persons in the form of a Cannabis Club, or any other type of group, shall engage in any form of possession, distribution, or cultivation of marijuana within the City for the purpose of carrying on a "caregiver" activity as that term is defined under Proposition 215 until such time that a planning and zoning study is completed. The purpose of the zoning study is to develop appropriate time, place, and manner

restrictions as to the location of such activities in relation to existing land uses within the community.

(B) Scope. This prohibition shall apply to any existing or proposed person or organization, or groups of persons or organizations engaging in conduct prohibited by this section.

SECTION 3:

Preparation of Planning and Zoning Study

The Planning Department is hereby directed to perform both a general plan and zoning study to determine appropriate land use restrictions for the time, place, and manner of caregiver activities as defined under Proposition 215.

SECTION 4:

Additional Findings

Pursuant to Government Code Section 65858(c), the City Council further finds and determines that there is a current and immediate threat to the public health, safety, and general welfare arising from the possibility of unregulated activities of Cannabis Clubs, or similar groups, as for example, the previously noted possibility of a Cannabis Club operating next to a school.

SECTION 5:

Effective Date

This interim ordinance is enacted pursuant to Government Code Section 65858 and shall take effect immediately. It shall be effective for a period of 45 days, unless extended for a period of time pursuant to Government Code Section 65858.

SECTION 6:

Enforcement Penalties

(A) A violation of this interim ordinance shall be deemed to be a misdemeanor offense.

(B) The City Attorney is further authorized to institute a civil action as an alternative remedy to enforce the prohibitions of this ordinance.

SECTION 7:

Pursuant to Government Code Section 65858, this ordinance shall take effect immediately.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 24th day of February, 1998.

ATTEST:

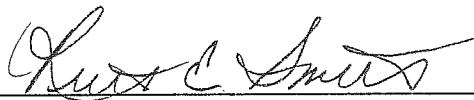
  
\_\_\_\_\_  
CITY CLERK

  
\_\_\_\_\_  
MAYOR

STATE OF CALIFORNIA     )  
COUNTY OF ORANGE     ) SS:  
CITY OF GARDEN GROVE   )

I, RUTH E. SMITH, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was passed by the Council of the City of Garden Grove, by a vote of four-fifths (4/5th) of the members thereof, at a regular meeting held on the 24th day of February, 1998, by the following vote:

AYES:     COUNCILMEMBERS: (5) CHUNG, DINSEN, LEYES, MADDOX, BROADWATER  
NOES:     COUNCILMEMBERS: (0) NONE  
ABSENT:   COUNCILMEMBERS: (0) NONE

  
\_\_\_\_\_  
CITY CLERK

ORDINANCE NO. 2424

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE  
EXTENDING INTERIM ORDINANCE NO. 2418

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1: Extension of Interim Ordinance 2418

Pursuant to Government Code Section 65868(b), Interim Ordinance No. 2418 is hereby extended for a period of 22 months and 15 days from the effective date of this Ordinance.

SECTION 2: Findings

Pursuant to Government Code Section 65858(c), the City Council finds and determines that there is an immediate threat to the public health, safety, and general welfare of the community arising from the lack of zoning regulation of activities of Cannabis Clubs, or similar groups, as for example, the possibility of the establishment of a Cannabis Club next to a school as was discussed in Interim Ordinance No. 2418.


The report referred to in Government Code Section 65858(d) is set forth in the City Attorney's staff report dated March 9, 1998.

SECTION 3. Effective Date of This Ordinance

Pursuant to Government Code Section 65858, this Ordinance shall take effect immediately.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 24th day of March, 1998.

ATTEST:

  
MAYOR

  
DEPUTY CITY CLERK

STATE OF CALIFORNIA     )  
COUNTY OF ORANGE     ) SS:  
CITY OF GARDEN GROVE   )

I, PRISCILLA STIERSTORFER, Deputy City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was passed by the Council of the City of Garden Grove, by a vote of four-fifths (4/5th) of the members thereof, at a regular meeting held on the 24th day of March, 1998, by the following vote:

AYES:     COUNCILMEMBERS: (5) CHUNG, DINSEN, LEYES, MADDOX, BROADWATER  
NOES:     COUNCILMEMBERS: (0) NONE  
ABSENT:   COUNCILMEMBERS: (0) NONE

  
DEPUTY CITY CLERK

ORDINANCE NO. 2734

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE  
AMENDING TITLE 9 CHAPTER 08 OF THE GARDEN GROVE MUNICIPAL CODE TO  
ADD SECTION 110 PERTAINING TO MEDICAL MARIJUANA DISPENSARIES

City Attorney's Summary

This Ordinance adds Section 110 to Title 9 Chapter 08 of the Garden Grove Municipal Code to prohibit the establishment and operation of medical marijuana dispensaries in the city.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND  
DETERMINES AS FOLLOWS:

- A. In 1970, Congress enacted the Controlled Substances Act ("CSA") which, among other things, makes it illegal to import, manufacture, distribute, possess, or use marijuana in the United States.
- B. In 1996, the voters of the State of California approved Proposition 215, known as the "Compassionate Use Act" ("Act") (codified as Health and Safety (H & S) Code section 11362.5 et seq.).
- C. The Act creates a limited exception from criminal liability under California law as opposed to federal law for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances.
- D. On January 1, 2004, SB 420 went into effect. SB 420, known as the "Medical Marijuana Program Act" (codified as Health and Safety Code Sections 11362.7 through 11362.63) ("MMP") was enacted by the State Legislature to clarify the scope of the Act and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420; it does not, however, address the role of dispensaries, nor does it require municipalities to provide for medical marijuana dispensaries.
- E. The City Council takes legislative notice, based on the materials presented to the City Council during the legislative process leading to the enactment of this Ordinance, of the fact that several California cities and counties which have permitted the establishment of medical marijuana dispensaries have experienced serious adverse impacts associated with and resulting from such dispensaries. According to these communities, according to news stories widely reported, and according to medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by, minors and other persons without medical need in the areas immediately



surrounding such medical marijuana dispensaries. The City of Garden Grove reasonably could anticipate experiencing similar adverse impacts and effects.

F. The Drug Enforcement Agency ("DEA"), the federal agency charged with enforcing the federal Controlled Substances Act, has expressed its view that "[l]ocal and state law enforcement counterparts cannot distinguish between illegal marijuana grows and grows that qualify as medical exemptions" and that "many self-designated medical marijuana growers are, in fact, growing marijuana for illegal, 'recreational' use." While the City Council in no manner intends or undertakes by the adoption of this Ordinance to enforce federal law, the City Council recognizes that the comments by the DEA reflect to some extent the adverse secondary impacts identified above.

G. The City Council further takes legislative notice that concerns about non-medical marijuana use arising in connection with Proposition 215 and the MMP also have been recognized by state and federal courts. See, e.g., *People ex rel. Lungren v. Peron*, 59 Cal. App. 4th 1383, 1386-1387 (1997); *Gonzales v. Raich*, 125 S.Ct. 2195, 2214 n. 43 (2005).

H. The City Council further takes legislative notice that the use, possession, distribution, and sale of marijuana remain a federal crime under the CSA; that the federal courts have recognized that despite California's Act and MMP, marijuana is deemed to have no accepted medical use (*Gonzales v. Raich*, 125 S. Ct. 2195; *United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483 (2001)); that medical necessity has been ruled not to be a defense to prosecution under the CSA (*United States v. Oakland Cannabis Buyers' Cooperative*, 532 U.S. 483); and that the federal government properly may enforce the CSA despite the Act and MMP. (*Gonzales v. Raich*, 125 S. Ct. 2195.)

I. Allowing medical marijuana dispensaries and issuing permits or other entitlements providing for the establishment and/or operation of medical marijuana dispensaries results in increased demands for police patrols and responses, which the City's police department is not adequately staffed to handle and further poses a significant threat to the public health, safety, and welfare.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 9 Chapter 08 of the Garden Grove Municipal Code is hereby amended to add Section 110 to read as follows:

SECTION 110: MEDICAL MARIJUANA DISPENSARIES PROHIBITED

(a) Purpose and Findings.

The City Council finds that in order to serve the public health, safety, and welfare of the residents and businesses within the city, the declared purpose of this chapter is to prohibit medical marijuana dispensaries from locating in the city as stated in this section.

(b) Definitions.

The following terms and phrases, whenever used in this section, shall be construed as defined in this section:

"Identification card" is a document issued by the State Department of Health Services and/or the County of Orange Health Care Agency, which identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

"Medical marijuana" is marijuana used 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 marijuana in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other serious medical condition for which marijuana is deemed to provide relief as defined in subsection (h) of Health and Safety Code Section 11362.7.

"Medical marijuana dispensary" or "dispensary" is any facility or location where medical marijuana is made available to and/or distributed by or to three or more individuals who fall into one or more of the following categories: a qualified patient, a person with an identification card, or a primary caregiver. Each of these terms is defined herein and shall be interpreted in strict accordance with California Health and Safety Code Sections 11362.5 and 11362.7 et seq. as such sections may be amended from time to time.

"Primary caregiver" is the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

"Physician" is an individual who meets the definition as set forth in California Health and Safety Code Section 11362.7(a), as such section may be amended from time to time, which as of the date of this Ordinance is "an individual who possesses a license in good standing to practice medicine or osteopathy issued by the Medical Board of California or the Osteopathic Medical Board of California and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling, or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's assessment of whether the patient has a serious medical condition and whether the medical use of marijuana is appropriate."

"Qualified patient" is a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued by the State Department of Health Services.

(c) Medical Marijuana Dispensary Prohibited.

It shall be unlawful for any person or entity to own, manage, conduct, or operate any medical marijuana dispensary or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any medical marijuana dispensary in the City of Garden Grove.

(d) Use or Activity Prohibited By State Law or Federal Law.

Nothing contained in this chapter shall be deemed to permit or authorize any use or activity, which is otherwise prohibited by any state or federal law.

(e) Establishment or Maintenance of Medical Marijuana Dispensaries Declared a Public Nuisance.

The establishment, maintenance, or operation of a medical marijuana dispensary as defined in this section within the city limits of the City of Garden Grove is declared to be a public nuisance and enforcement action may be taken and penalties assessed pursuant to Title 1, Chapter 04 of the Garden Grove Municipal Code, and/or any other law or ordinance that allows for the abatement of public nuisances.

SECTION 2. Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly and concerns general policy and procedure making.

SECTION 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 14<sup>th</sup> day of October 2008.

ATTEST:

Kathleen Bailer  
CITY CLERK

William Daler  
MAYOR

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) SS:  
CITY OF GARDEN GROVE )

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on September 23, 2008, with vote as follows:

AYES:    COUNCIL MEMBERS:   (4) BROADWATER, JONES, NGUYEN, DALTON  
NOES:    COUNCIL MEMBERS:   (1) ROSEN  
ABSENT: COUNCIL MEMBERS:   (0) NONE

and was passed on October 14, 2008, by the following vote:

AYES:    COUNCIL MEMBERS:   (4) BROADWATER, JONES, NGUYEN, DALTON  
NOES:    COUNCIL MEMBERS:   (1) ROSEN  
ABSENT: COUNCIL MEMBERS:   (0) NONE

Kathleen Bailer  
CITY CLERK

URGENCY ORDINANCE NO. 2797

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE  
ESTABLISHING AN ELIGIBILITY CUT-OFF DATE AND A REGISTRATION PROCESS  
FOR POTENTIAL ELIGIBILITY OF MEDICAL MARIJUANA DISPENSARIES FOR FUTURE  
PERMITS, PENDING ADOPTION BY THE CITY OF REGULATIONS GOVERNING THE  
LOCATION AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES

The City Council of the City of Garden Grove hereby ordains as follows:

Section 1. Chapter 80 of Title 5 of the Garden Grove Municipal Code shall be added as follows:

"CHAPTER 80: REGISTRATION PROCESS FOR MEDICAL MARIJUANA DISPENSARIES  
- URGENCY ORDINANCE

Section 5.80.010 Findings.

A. In 1996, California voters approved Proposition 215, entitled "The Compassionate Use Act," later codified as Health and Safety Code sections 11362.5. The Compassionate Use Act ensures that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction. In 2003, the State Legislature enacted Senate Bill 420, known as the Medical Marijuana Program Act and codified at Health and Safety Code sections 11362.7 et seq. The Medical Marijuana Program was intended to supplement, clarify, and give effect to the intent of the Compassionate Use Act and to allow, but not require, cities to adopt and enforce rules and regulations consistent with the Medical Marijuana Program.

B. Several California cities and counties that have permitted the establishment of medical marijuana dispensaries have experienced serious adverse impacts and negative secondary effects on the public health, safety, and welfare associated with and resulting from such dispensaries. According to these communities, news stories widely reported, and medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by, minors and other persons without medical need in the areas immediately surrounding such medical marijuana dispensaries.

C. There appears to be a proliferation throughout the state of medical marijuana dispensaries that do not comply with The Compassionate Use Act, the Medical Marijuana Program or the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (2008).

D. The adverse secondary effects arising from the operation of these dispensaries throughout California have been chronicled in detail by a 56 page report prepared by the California Police Chiefs' Association, dated April 22, 2009. In this report, various crimes consisting of armed robberies and murders, and

burglary, arising from, or connected with, the operation of these establishments have been recorded by law enforcement agencies in, among numerous other communities, the California communities of Santa Barbara, Mendocino, San Leandro, Hayward, Laytonville, Bellflower, Claremont, and Willits.

E. The City Council of the City of Los Angeles specifically found that reports from its police department and the media showed an increase in, and escalation of, violent crime at the location of medical marijuana dispensaries, and further that, medical marijuana that has not been collectively or personally grown constitutes a unique health hazard to the public because it is not regulated, inspected, or analyzed for contamination by the state or federal government.

F. The California Police Chiefs' Association report further found: (a) that there have been reported poisonings from distribution of marijuana products due to contamination issues, which are more likely, because such products are not inspected by health agencies; (b) that adverse traffic, noise, and drug dealing impacts occur commonly outside marijuana dispensaries; (c) that gang involvement in the ownership and operation of these dispensaries has been reported in some communities.

G. Numerous other media and agency reports have documented criminal and nuisance activities associated with medical marijuana dispensaries.

H. The City Council further takes legislative notice that concerns about non-medical marijuana use arising in connection with the Act and the Program also have been recognized by state and federal courts. See, e.g., *People ex rel. Lungren v. Peron*, 59 Cal. App. 4th 1383, 1386-1387 (1997); *Gonzales v. Raich*, 125 S.Ct. 2195, 2214 n. 43 (2005).

I. In 2008, the City Council adopted Ordinance No. 2734 prohibiting medical marijuana dispensaries throughout the city for the purpose of eliminating the adverse secondary impacts to the public health, safety, and welfare associated with medical marijuana dispensaries.

J. Notwithstanding Finding I, above, medical marijuana dispensaries have been known to operate and advertise in the city of Garden Grove, often disguised as permitted retail or commercial establishments. These establishments are operating without having obtained any City discretionary or regulatory review, approvals, or permits and the City has not adopted conditions or regulations governing or allowing such operations.

K. City staff has initiated the preparation of ordinances for the City Council's future consideration that would amend the existing Land Use Code provisions to permit legitimate medical marijuana dispensaries in certain zones, and that would establish Municipal Code provisions for the permitting and regulation of medical marijuana dispensaries.

L. It would defeat in whole or in part, the objectives of any proposed conditions and regulations if, during the period the proposed conditions and regulations are being studied and considered for adoption, further proliferation, establishment, expansion, or modifications of medical marijuana dispensaries occurs.

M. In addition, due to the numerous adverse secondary impacts to the public health, safety, and welfare associated with medical marijuana dispensaries, the City Council does not wish to encourage the proliferation of additional medical marijuana dispensaries in the city.

N. The following is a sampling of cities that have permitted medical marijuana dispensaries, their respective populations, and maximum number of dispensaries permitted in each:

City	Approximate Population	No. of Dispensaries Permitted	Dispensaries per Capita
Los Angeles	3,900,000	100	1 per 39,000
Oakland	447,000	4	1 per 55,875
Santa Rosa	162,000	3	1 per 54,333
Berkeley	113,000	3	1 per 37,667
Martinez	36,000	1	1 per 36,000

The city of Garden Grove has approximately 175,000 residents. It is believed that there are approximately thirty (30) establishments currently cultivating and/or distributing medical marijuana in the city. Based on the number of dispensaries permitted in other cities, the number of medical marijuana dispensaries currently believed to be operating in the city is more than adequate to service the legitimate medical marijuana needs of city residents.

O. Accordingly, it is the City Council's desire that, in the event it subsequently adopts an ordinance which permits medical marijuana dispensaries to operate in the city, initial eligibility for medical marijuana dispensary permits will be limited to those medical marijuana dispensaries that register with the City and can establish they were operating in the city on or before June 30, 2011.

P. This Ordinance is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that the City Council finds and determines that there is nothing in this Ordinance or its implementation that could reasonably have any significant effect on the environment.

Section 5.80.020 Purpose. The purpose of this Ordinance is to establish a date certain by which a medical marijuana dispensary must have been established and operating in the city in order to be potentially eligible for a future permit to legally operate in the city and to provide for a registration process to allow the City to

identify such medical marijuana dispensaries. The establishment of such a date certain is necessary in order to discourage the further proliferation of unauthorized and unregulated medical marijuana dispensaries while new regulatory and zoning provisions are developed and considered. This Ordinance is not intended to, and shall not be interpreted to, authorize, sanction, or permit the operation of any medical marijuana dispensary in the city contrary to state or local law, including the Garden Grove Municipal Code, or to amend or modify any provision of the Garden Grove Municipal Code.

Section 5.80.030 Definitions. For purposes of this Ordinance, the following terms shall have the following meanings:

A. "Medical marijuana dispensary" or "dispensary" means five or more qualified patients and caregivers who collectively or cooperatively cultivate and share physician-recommended medical marijuana or medical marijuana in a manner strictly consistent with the Compassionate Use Act, the Medical Marijuana Program Act, and the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued August 2008, by the Office of the Attorney General for the State of California, as each may be amended from time to time. The term "medical marijuana dispensary" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses: 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 the 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; a 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 Health and Safety Code, as long as such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et. seq.

B. "City Manager" shall mean the City Manager of the City of Garden Grove or his or her designee.

C. "Established operation" shall mean and refer to a medical marijuana dispensary that has been open, operating, and providing medical marijuana at a fixed location in the city of Garden Grove since at least June 30, 2011.

D. "Person" means any cooperative or collective (within the meaning of the Medical Marijuana Program Act), individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company, or combination of the above in whatever form or character.

Section 5.80.040 Restriction on New Medical Marijuana Dispensaries.



A. Pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, and consistent with Section 9.16.020.100 of the Garden Grove Municipal Code, no person shall open, commence operation, or expand or modify operations of a medical marijuana dispensary at any location in the city of Garden Grove, or permit or allow such opening, operation, expansion, or modification.

B. Pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, and consistent with Section 9.16.020.100 of the Garden Grove Municipal Code, no application for a business operation tax certificate, building permit or other development-related permit or entitlement shall be reviewed or accepted, no hearing on an application (including appeals) for a discretionary entitlement shall be conducted, and no building permit or other development-related permit shall be issued or approved for a medical marijuana dispensary.

Section 5.80.050 Registration of Established Medical Marijuana Dispensaries.

A. Any person that wishes to be eligible for a future permit to operate a medical marijuana dispensary in the City shall submit a registration application in accordance with this Section, which, based on credible evidence, establishes to the satisfaction of the City Manager that the person is an owner or operator of an "established operation." The registration application shall be signed by the medical marijuana dispensary owner or operator under penalty of perjury; shall be submitted to the City's Finance Director on a form provided by the City on or before the date set forth in the notice of the registration application process published by the City pursuant to Section 5.80.060, which date shall be no less than thirty (30) days from the date of publication of said notice; shall be accompanied by a registration application fee established by City Council resolution; and should include originals or true and correct copies of the following documents:

- i. State Board of Equalization seller's permit;
- ii. Commercial or business insurance policy evidencing liability insurance coverage of the owner's or operator's operations at its current location;
- iii. If renting or leasing property at its current location, the current rental contract or lease executed by both landlord and tenant; or, if the property is owned by the medical marijuana dispensary owner or operator, the current real property deed evidencing such ownership;
- iv. Utility bills for the premises for the period including June 30, 2011; and
- v. Any additional evidence that the applicant is an owner or operator of an "established operation."

No "established operation" shall be subsequently eligible to operate in the City if the owner or operator of the medical marijuana dispensary has failed to timely file a complete registration application with the City's Finance Director.

B. The City Manager shall evaluate each registration application, conduct a reasonable investigation, and determine whether the applicant is an "established operation." In order to make this determination, the City Manager may request such supplemental or additional information or documentation from the applicant as the City Manager deems necessary. Such additional information or documentation shall be provided to the City by the applicant within the time period specified in writing by the City Manager. The City Manager shall mail the findings and conclusions to the applicant within thirty (30) days from the close of the registration application process.

C. Notwithstanding any other provision of the Garden Grove Municipal Code to the contrary, any decision pursuant to this Section 5.80.050 by the City Manager shall be final and conclusive, with no appeal to the City Council or any other appellate body.

D. The application and documents submitted to the City pursuant to this Section 5.80.050 shall not be used by the City in any criminal proceeding as evidence of an admission of guilt or violation of any provision of the Garden Grove Municipal Code by the applicant.

E. Nothing herein shall permit any medical marijuana dispensary to operate in any manner contrary to applicable state or local law, including the Garden Grove Municipal Code.

F. Notwithstanding this Section 5.80.050, no medical marijuana dispensary operating or purporting to operate prior to the date of adoption of this Ordinance shall be deemed to have been a legally established use under the provisions of the Garden Grove Municipal Code or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

G. Notwithstanding this Section 5.80.050, pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the City, nothing in this Ordinance shall be construed to authorize the operation of a medical marijuana dispensary in violation of Section 9.16.020.100 of the Garden Grove Municipal Code.

H. Judicial review of a decision made under this Ordinance shall be in accordance with the requirements of administrative mandamus procedure, California Code of Civil Procedure 1094.5. Any such action shall be filed within 90 days after the day the decision becomes final as provided in Code of Civil Procedure 1094.6.

Section 5.80.060 Notice of Registration Process. The City Manager shall provide notice to the public of the registration application process set forth in Section 5.80.050 by each of the following methods:

- i. publication of notice once in a newspaper of general circulation within the City;
- ii. posting of notice on the City's website; and
- iii. mailing of notice to any person who has submitted a request to the City Clerk for written notice.

Section 5.80.070 Penalties.

A. Any person who violates Subsection 5.80.040(A) of this Ordinance shall be guilty of a misdemeanor. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of Subsection 5.80.040(A) of this Ordinance occurs and shall be punishable as herein provided.

B. In addition to criminal sanctions, the City Attorney, in the name of and on behalf of the City and/or the people of the state, may bring a civil action in a court of competent jurisdiction to enforce any provision of this Ordinance, or to restrain or abate any violation of the provisions of this Ordinance as a public nuisance.

C. Unless otherwise expressly provided, the remedies, procedures and penalties provided in this Ordinance are cumulative to each other and to any other remedies, procedures and penalties available under state law or City Ordinance.

Section 5.80.080 Urgency. This Urgency Ordinance is necessary for the immediate protection of the public health, welfare, and general safety of the City for the following reasons:

A. The City of Garden Grove has not adopted conditions or regulations allowing or regulating the operation of medical marijuana dispensaries. Nonetheless, medical marijuana dispensaries have been known to operate and advertise in the city of Garden Grove, often disguised as permitted retail or commercial establishments. These medical marijuana dispensaries are operating without having obtained any City discretionary or regulatory review, approvals, or permits.

B. City staff has initiated the preparation of proposed regulations for the City Council's future consideration governing the location and operation of medical marijuana dispensaries in the City.

C. It would defeat in whole or in part the objectives of any proposed conditions and regulations if, during the period the proposed conditions and

regulations are being studied and considered for adoption, further proliferation, establishment, expansion, or modifications of medical marijuana dispensaries in addition to those already established and operating in the City occurs.

D. Several California cities and counties that have permitted the establishment of medical marijuana dispensaries have experienced serious adverse impacts and negative secondary effects on the public health, safety and welfare associated with and resulting from such dispensaries. According to these communities, news stories widely reported, and medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by, minors and other persons without medical need in the areas immediately surrounding such medical marijuana dispensaries. The City of Garden Grove reasonably could anticipate experiencing similar adverse impacts and effects. Due to the numerous adverse secondary impacts to the public health, safety and welfare associated with medical marijuana dispensaries, the proliferation of additional medical marijuana dispensaries in the City pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city would be harmful to the public health, welfare, and general safety of the city.

E. The number of medical marijuana dispensaries currently believed to be operating in the City is more than adequate to service the legitimate medical marijuana needs of city residents. Due to the numerous adverse secondary impacts to the public health, safety, and welfare associated with medical marijuana dispensaries, in order to adequately protect the public health, welfare, and general safety of the city from the numerous adverse secondary impacts and effects that would occur if additional medical marijuana dispensaries are established in the City, it is necessary to establish a date certain of June 30, 2011, by which medical marijuana dispensaries must have been already established and operating in the City in order to potentially be eligible for a future permit to operate in the City. Because the areas in which medical marijuana dispensaries are permitted to operate in Orange County are limited, it can be anticipated that, upon learning of the City's intent to establish this date, persons not already operating established medical marijuana dispensaries in the City may attempt to immediately establish additional medical marijuana dispensaries in the City in the hope of becoming potentially eligible for a future permit. It is necessary that this Ordinance take effect immediately in order to discourage this activity."

Section 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof,

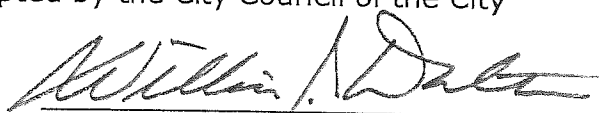
irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

Section 3. Effective Date. This Ordinance is an Urgency Ordinance and shall become effective immediately upon adoption.

Section 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and posted pursuant to the provisions of law.

The foregoing Urgency Ordinance was adopted by the City Council of the City of Garden Grove on the 19<sup>th</sup> day of July 2011.

ATTEST:

  
WILLIAM J. DALTON  
MAYOR

  
TERESA POMEROY  
DEPUTY CITY CLERK

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) SS:  
CITY OF GARDEN GROVE )

I, TERESA POMEROY, Deputy City Clerk of the City of Garden Grove, do hereby certify that the foregoing Urgency Ordinance was duly adopted by the City Council of the City of Garden Grove, at an Adjourned Regular Meeting held on the 19<sup>th</sup> day of July 2011, with a vote as follows:

AYES:       COUNCIL MEMBERS:   (5) BEARD, BROADWATER, JONES, NGUYEN, DALTON  
NOES:       COUNCIL MEMBERS:   (0) NONE  
ABSENT:     COUNCIL MEMBERS:   (0) NONE

URGENCY ORDINANCE NO. 2797-A

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE  
ESTABLISHING AN ELIGIBILITY CUT-OFF DATE AND A REGISTRATION PROCESS  
FOR POTENTIAL ELIGIBILITY OF MEDICAL MARIJUANA DISPENSARIES FOR FUTURE  
PERMITS, PENDING ADOPTION BY THE CITY OF REGULATIONS GOVERNING THE  
LOCATION AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES

The City Council of the City of Garden Grove hereby ordains as follows:

Section 1. Chapter 80 of Title 5 of the Garden Grove Municipal Code shall be added as follows:

"CHAPTER 80: REGISTRATION PROCESS FOR MEDICAL MARIJUANA DISPENSARIES  
- URGENCY ORDINANCE

Section 5.80.010 Findings.

A. In 1996, California voters approved Proposition 215, entitled "The Compassionate Use Act," later codified as Health and Safety Code sections 11362.5. The Compassionate Use Act ensures that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction. In 2003, the State Legislature enacted Senate Bill 420, known as the Medical Marijuana Program Act and codified at Health and Safety Code sections 11362.7 et seq. The Medical Marijuana Program was intended to supplement, clarify, and give effect to the intent of the Compassionate Use Act and to allow, but not require, cities to adopt and enforce rules and regulations consistent with the Medical Marijuana Program.

B. Several California cities and counties that have permitted the establishment of medical marijuana dispensaries have experienced serious adverse impacts and negative secondary effects on the public health, safety, and welfare associated with and resulting from such dispensaries. According to these communities, news stories widely reported, and medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by, minors and other persons without medical need in the areas immediately surrounding such medical marijuana dispensaries.

C. There appears to be a proliferation throughout the state of medical marijuana dispensaries that do not comply with The Compassionate Use Act, the Medical Marijuana Program or the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (2008).

D. The adverse secondary effects arising from the operation of these dispensaries throughout California have been chronicled in detail by a 56 page report prepared by the California Police Chiefs' Association, dated April 22, 2009. In this report, various crimes consisting of armed robberies and murders, and

burglary, arising from, or connected with, the operation of these establishments have been recorded by law enforcement agencies in, among numerous other communities, the California communities of Santa Barbara, Mendocino, San Leandro, Hayward, Laytonville, Bellflower, Claremont, and Willits.

E. The City Council of the City of Los Angeles specifically found that reports from its police department and the media showed an increase in, and escalation of, violent crime at the location of medical marijuana dispensaries, and further that, medical marijuana that has not been collectively or personally grown constitutes a unique health hazard to the public because it is not regulated, inspected, or analyzed for contamination by the state or federal government.

F. The California Police Chiefs' Association report further found: (a) that there have been reported poisonings from distribution of marijuana products due to contamination issues, which are more likely, because such products are not inspected by health agencies; (b) that adverse traffic, noise, and drug dealing impacts occur commonly outside marijuana dispensaries; (c) that gang involvement in the ownership and operation of these dispensaries has been reported in some communities.

G. Numerous other media and agency reports have documented criminal and nuisance activities associated with medical marijuana dispensaries.

H. The City Council further takes legislative notice that concerns about non-medical marijuana use arising in connection with the Act and the Program also have been recognized by state and federal courts. See, e.g., *People ex rel. Lungren v. Peron*, 59 Cal. App. 4th 1383, 1386-1387 (1997); *Gonzales v. Raich*, 125 S.Ct. 2195, 2214 n. 43 (2005).

I. In 2008, the City Council adopted Ordinance No. 2734 prohibiting medical marijuana dispensaries throughout the city for the purpose of eliminating the adverse secondary impacts to the public health, safety, and welfare associated with medical marijuana dispensaries.

J. Notwithstanding Finding I, above, medical marijuana dispensaries have been known to operate and advertise in the city of Garden Grove, often disguised as permitted retail or commercial establishments. These establishments are operating without having obtained any City discretionary or regulatory review, approvals, or permits and the City has not adopted conditions or regulations governing or allowing such operations.

K. City staff has initiated the preparation of ordinances for the City Council's future consideration that would amend the existing Land Use Code provisions to permit legitimate medical marijuana dispensaries in certain zones, and that would establish Municipal Code provisions for the permitting and regulation of medical marijuana dispensaries.

L. It would defeat in whole or in part, the objectives of any proposed conditions and regulations if, during the period the proposed conditions and regulations are being studied and considered for adoption, further proliferation, establishment, expansion, or modifications of medical marijuana dispensaries occurs.

M. In addition, due to the numerous adverse secondary impacts to the public health, safety, and welfare associated with medical marijuana dispensaries, the City Council does not wish to encourage the proliferation of additional medical marijuana dispensaries in the city.

N. The following is a sampling of cities that have permitted medical marijuana dispensaries, their respective populations, and maximum number of dispensaries permitted in each:

City	Approximate Population	No. of Dispensaries Permitted	Dispensaries per Capita
Los Angeles	3,900,000	100	1 per 39,000
Oakland	447,000	4	1 per 55,875
Santa Rosa	162,000	3	1 per 54,333
Berkeley	113,000	3	1 per 37,667
Martinez	36,000	1	1 per 36,000

The city of Garden Grove has approximately 175,000 residents. It is believed that there are approximately thirty (30) establishments currently cultivating and/or distributing medical marijuana in the city. Based on the number of dispensaries permitted in other cities, the number of medical marijuana dispensaries currently believed to be operating in the city is more than adequate to service the legitimate medical marijuana needs of city residents.

O. Accordingly, it is the City Council's desire that, in the event it subsequently adopts an ordinance which permits medical marijuana dispensaries to operate in the city, initial eligibility for medical marijuana dispensary permits will be limited to those medical marijuana dispensaries that register with the City and can establish they were operating in the city on or before June 30, 2011.

P. This Ordinance is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that the City Council finds and determines that there is nothing in this Ordinance or its implementation that could reasonably have any significant effect on the environment.

Section 5.80.020 Purpose. The purpose of this Ordinance is to establish a date certain by which a medical marijuana dispensary must have been established and operating in the city in order to be potentially eligible for a future permit to legally operate in the city and to provide for a registration process to allow the City to



identify such medical marijuana dispensaries. The establishment of such a date certain is necessary in order to discourage the further proliferation of unauthorized and unregulated medical marijuana dispensaries while new regulatory and zoning provisions are developed and considered. This Ordinance is not intended to, and shall not be interpreted to, authorize, sanction, or permit the operation of any medical marijuana dispensary in the city contrary to state or local law, including the Garden Grove Municipal Code, or to amend or modify any provision of the Garden Grove Municipal Code.

Section 5.80.030 Definitions. For purposes of this Ordinance, the following terms shall have the following meanings:

A. "Medical marijuana dispensary" or "dispensary" means five or more qualified patients and caregivers who collectively or cooperatively cultivate and share physician-recommended medical marijuana or medical marijuana in a manner strictly consistent with the Compassionate Use Act, the Medical Marijuana Program Act, and the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued August 2008, by the Office of the Attorney General for the State of California, as each may be amended from time to time. The term "medical marijuana dispensary" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses: 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 the 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; a 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 Health and Safety Code, as long as such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et. seq.

B. "City Manager" shall mean the City Manager of the City of Garden Grove or his or her designee.

C. "Established operation" shall mean and refer to a medical marijuana dispensary that has been open, operating, and providing medical marijuana at a fixed location in the city of Garden Grove since at least June 30, 2011.

D. "Person" means any cooperative or collective (within the meaning of the Medical Marijuana Program Act), individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company, or combination of the above in whatever form or character.

Section 5.80.040 Restriction on New Medical Marijuana Dispensaries.

A. Pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, and consistent with Section 9.16.020.100 of the Garden Grove Municipal Code, no person shall open, commence operation, or expand or modify operations of a medical marijuana dispensary at any location in the city of Garden Grove, or permit or allow such opening, operation, expansion, or modification.

B. Pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, and consistent with Section 9.16.020.100 of the Garden Grove Municipal Code, no application for a business operation tax certificate, building permit or other development-related permit or entitlement shall be reviewed or accepted, no hearing on an application (including appeals) for a discretionary entitlement shall be conducted, and no building permit or other development-related permit shall be issued or approved for a medical marijuana dispensary.

Section 5.80.050 Registration of Established Medical Marijuana Dispensaries.

A. Any person that wishes to be eligible for a future permit to operate a medical marijuana dispensary in the City shall submit a registration application in accordance with this Section, which, based on credible evidence, establishes to the satisfaction of the City Manager that the person is an owner or operator of an "established operation." The registration application shall be signed by the medical marijuana dispensary owner or operator under penalty of perjury; shall be submitted to the City's Finance Director on a form provided by the City on or before the date set forth in the notice of the registration application process published by the City pursuant to Section 5.80.060, which date shall be no less than thirty (30) days from the date of publication of said notice; shall be accompanied by a registration application fee established by City Council resolution; and should include originals or true and correct copies of the following documents:

- i. State Board of Equalization seller's permit;
- ii. Commercial or business insurance policy evidencing liability insurance coverage of the owner's or operator's operations at its current location;
- iii. If renting or leasing property at its current location, the current rental contract or lease executed by both landlord and tenant; or, if the property is owned by the medical marijuana dispensary owner or operator, the current real property deed evidencing such ownership;
- iv. Utility bills for the premises for the period including June 30, 2011; and
- v. Any additional evidence that the applicant is an owner or operator of an "established operation."

No "established operation" shall be subsequently eligible to operate in the City if the owner or operator of the medical marijuana dispensary has failed to timely file a complete registration application with the City's Finance Director.

B. The City Manager shall evaluate each registration application, conduct a reasonable investigation, and determine whether the applicant is an "established operation." In order to make this determination, the City Manager may request such supplemental or additional information or documentation from the applicant as the City Manager deems necessary. Such additional information or documentation shall be provided to the City by the applicant within the time period specified in writing by the City Manager. The City Manager shall mail the findings and conclusions to the applicant within thirty (30) days from the close of the registration application process.

C. Notwithstanding any other provision of the Garden Grove Municipal Code to the contrary, any decision pursuant to this Section 5.80.050 by the City Manager shall be final and conclusive, with no appeal to the City Council or any other appellate body.

D. The application and documents submitted to the City pursuant to this Section 5.80.050 shall not be used by the City in any criminal proceeding as evidence of an admission of guilt or violation of any provision of the Garden Grove Municipal Code by the applicant.

E. Nothing herein shall permit any medical marijuana dispensary to operate in any manner contrary to applicable state or local law, including the Garden Grove Municipal Code.

F. Notwithstanding this Section 5.80.050, no medical marijuana dispensary operating or purporting to operate prior to the date of adoption of this Ordinance shall be deemed to have been a legally established use under the provisions of the Garden Grove Municipal Code or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

G. Notwithstanding this Section 5.80.050, pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the City, nothing in this Ordinance shall be construed to authorize the operation of a medical marijuana dispensary in violation of Section 9.16.020.100 of the Garden Grove Municipal Code.

H. Judicial review of a decision made under this Ordinance shall be in accordance with the requirements of administrative mandamus procedure, California Code of Civil Procedure 1094.5. Any such action shall be filed within 90 days after the day the decision becomes final as provided in Code of Civil Procedure 1094.6.

Section 5.80.060 Notice of Registration Process. The City Manager shall provide notice to the public of the registration application process set forth in Section 5.80.050 by each of the following methods:

- i. publication of notice once in a newspaper of general circulation within the City;
- ii. posting of notice on the City's website; and
- iii. mailing of notice to any person who has submitted a request to the City Clerk for written notice.

Section 5.80.070 Penalties.

A. Any person who violates Subsection 5.80.040(A) of this Ordinance shall be guilty of a misdemeanor. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of Subsection 5.80.040(A) of this Ordinance occurs and shall be punishable as herein provided.

B. In addition to criminal sanctions, the City Attorney, in the name of and on behalf of the City and/or the people of the state, may bring a civil action in a court of competent jurisdiction to enforce any provision of this Ordinance, or to restrain or abate any violation of the provisions of this Ordinance as a public nuisance.

C. Unless otherwise expressly provided, the remedies, procedures and penalties provided in this Ordinance are cumulative to each other and to any other remedies, procedures and penalties available under state law or City Ordinance.

Section 5.80.080 Urgency. This Urgency Ordinance is necessary for the immediate protection of the public health, welfare, and general safety of the City for the following reasons:

A. The City of Garden Grove has not adopted conditions or regulations allowing or regulating the operation of medical marijuana dispensaries. Nonetheless, medical marijuana dispensaries have been known to operate and advertise in the city of Garden Grove, often disguised as permitted retail or commercial establishments. These medical marijuana dispensaries are operating without having obtained any City discretionary or regulatory review, approvals, or permits.

B. City staff has initiated the preparation of proposed regulations for the City Council's future consideration governing the location and operation of medical marijuana dispensaries in the City.

C. It would defeat in whole or in part the objectives of any proposed conditions and regulations if, during the period the proposed conditions and

regulations are being studied and considered for adoption, further proliferation, establishment, expansion, or modifications of medical marijuana dispensaries in addition to those already established and operating in the City occurs.

D. Several California cities and counties that have permitted the establishment of medical marijuana dispensaries have experienced serious adverse impacts and negative secondary effects on the public health, safety and welfare associated with and resulting from such dispensaries. According to these communities, news stories widely reported, and medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by, minors and other persons without medical need in the areas immediately surrounding such medical marijuana dispensaries. The City of Garden Grove reasonably could anticipate experiencing similar adverse impacts and effects. Due to the numerous adverse secondary impacts to the public health, safety and welfare associated with medical marijuana dispensaries, the proliferation of additional medical marijuana dispensaries in the City pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city would be harmful to the public health, welfare, and general safety of the city.

E. The number of medical marijuana dispensaries currently believed to be operating in the City is more than adequate to service the legitimate medical marijuana needs of city residents. Due to the numerous adverse secondary impacts to the public health, safety, and welfare associated with medical marijuana dispensaries, in order to adequately protect the public health, welfare, and general safety of the city from the numerous adverse secondary impacts and effects that would occur if additional medical marijuana dispensaries are established in the City, it is necessary to establish a date certain of June 30, 2011, by which medical marijuana dispensaries must have been already established and operating in the City in order to potentially be eligible for a future permit to operate in the City. Because the areas in which medical marijuana dispensaries are permitted to operate in Orange County are limited, it can be anticipated that, upon learning of the City's intent to establish this date, persons not already operating established medical marijuana dispensaries in the City may attempt to immediately establish additional medical marijuana dispensaries in the City in the hope of becoming potentially eligible for a future permit. It is necessary that this Ordinance take effect immediately in order to discourage this activity."

Section 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof,

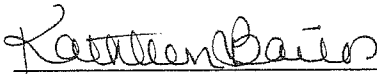
irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

Section 3. Effective Date. This Ordinance is an Urgency Ordinance and shall become effective immediately upon adoption.

Section 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and posted pursuant to the provisions of law.

The foregoing Urgency Ordinance was adopted by the City Council of the City of Garden Grove on the 9<sup>th</sup> day of August 2011.

ATTEST:

  
\_\_\_\_\_  
KATHLEEN BAILOR, CMC  
CITY CLERK

  
\_\_\_\_\_  
WILLIAM J. DALTON  
MAYOR

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) SS:  
CITY OF GARDEN GROVE )

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Urgency Ordinance was duly adopted by the City Council of the City of Garden Grove, at a Regular Meeting held on the 9<sup>th</sup> day of August 2011, with a vote as follows:

AYES:       COUNCIL MEMBERS:   (5) BEARD, BROADWATER, JONES, NGUYEN, DALTON  
NOES:       COUNCIL MEMBERS:   (0) NONE  
ABSENT:     COUNCIL MEMBERS:   (0) NONE

**THIS ORDINANCE WAS NOT ADOPTED**

ORDINANCE NO. 2798

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ESTABLISHING AN ELIGIBILITY CUT-OFF DATE AND A REGISTRATION PROCESS FOR POTENTIAL ELIGIBILITY OF MEDICAL MARIJUANA DISPENSARIES FOR FUTURE PERMITS, PENDING ADOPTION BY THE CITY OF REGULATIONS GOVERNING THE LOCATION AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES

City Attorney's Summary

This Ordinance establishes June 30, 2011, as the date by which a medical marijuana dispensary must have been established and operating in the City in order to be potentially eligible for a future permit to legally operate in the City and establishes a process for the registration of such medical marijuana dispensaries pending the adoption by the City of regulations governing the location, permitting and operation of medical marijuana dispensaries in the City. This Ordinance also prohibits any person to open, commence operation, or expand or modify operations of a medical marijuana dispensary, or to permit or allow such opening, operation, expansion or modification, at any location in the City of Garden Grove pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the City.

The City Council of the City of Garden Grove hereby ordains as follows:

Section 1. Chapter 85 of Title 5 of the Garden Grove Municipal Code shall be added as follows:

"CHAPTER 85: REGISTRATION PROCESS FOR MEDICAL MARIJUANA DISPENSARIES

Section 5.85.010 Findings.

A. In 1996, California voters approved Proposition 215, entitled "The Compassionate Use Act," later codified as Health and Safety Code sections 11362.5. The Compassionate Use Act ensures that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction. In 2003, the State Legislature enacted Senate Bill 420, known as the Medical Marijuana Program Act and codified at Health and Safety Code sections 11362.7 et seq. The Medical Marijuana Program was intended to supplement, clarify, and give effect to the intent of the Compassionate Use Act and to allow, but not require, cities to adopt and enforce rules and regulations consistent with the Medical Marijuana Program.

B. Several California cities and counties that have permitted the establishment of medical marijuana dispensaries have experienced serious adverse impacts and negative secondary effects on the public health, safety and welfare associated with and resulting from such dispensaries. According to these

communities, news stories widely reported, and medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and use of marijuana by, minors and other persons without medical need in the areas immediately surrounding such medical marijuana dispensaries.

C. There appears to be a proliferation throughout the state of medical marijuana dispensaries that do not comply with The Compassionate Use Act, the Medical Marijuana Program or the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (2008).

D. The adverse secondary effects arising from the operation of these dispensaries throughout California have been chronicled in detail by a 56 page report prepared by the California Police Chiefs' Association, dated April 22, 2009. In this report, various crimes consisting of armed robberies and murders, and burglary, arising from, or connected with, the operation of these establishments have been recorded by law enforcement agencies in, among numerous other communities, the California communities of Santa Barbara, Mendocino, San Leandro, Hayward, Laytonville, Bellflower, Claremont, and Willits.

E. The City Council of the City of Los Angeles specifically found that reports from its police department and the media showed an increase in, and escalation of, violent crime at the location of medical marijuana dispensaries, and further that, medical marijuana that has not been collectively or personally grown constitutes a unique health hazard to the public because it is not regulated, inspected, or analyzed for contamination by the state or federal government.

F. The California Police Chiefs' Association report further found: (a) that there have been reported poisonings from distribution of marijuana products due to contamination issues, which are more likely, because such products are not inspected by health agencies; (b) that adverse traffic, noise, and drug dealing impacts occur commonly outside marijuana dispensaries; (c) that gang involvement in the ownership and operation of these dispensaries has been reported in some communities.

G. Numerous other media and agency reports have documented criminal and nuisance activities associated with medical marijuana dispensaries.

H. The City Council further takes legislative notice that concerns about non-medical marijuana use arising in connection with the Act and the Program also have been recognized by state and federal courts. See, e.g., *People ex rel. Lungren v. Peron*, 59 Cal. App. 4th 1383, 1386-1387 (1997); *Gonzales v. Raich*, 125 S.Ct. 2195, 2214 n. 43 (2005).



I. In 2008, the City Council adopted Ordinance No. 2734 prohibiting medical marijuana dispensaries throughout the city for the purpose of eliminating the adverse secondary impacts to the public health, safety and welfare associated with medical marijuana dispensaries.

J. Notwithstanding Finding I, above, medical marijuana dispensaries have been known to operate and advertise in the city of Garden Grove, often disguised as permitted retail or commercial establishments. These establishments are operating without having obtained any City discretionary or regulatory review, approvals, or permits, and the City has not adopted conditions or regulations governing or allowing such operations.

K. City staff has initiated the preparation of ordinances for the City Council's future consideration that would amend the existing Land Use Code provisions to permit legitimate medical marijuana dispensaries in certain zones, and that would establish Municipal Code provisions for the permitting and regulation of medical marijuana dispensaries.

L. It would defeat in whole or in part, the objectives of any proposed conditions and regulations if, during the period the proposed conditions and regulations are being studied and considered for adoption, further proliferation, establishment, expansion, or modifications of medical marijuana dispensaries occurs.

M. In addition, due to the numerous adverse secondary impacts to the public health, safety, and welfare associated with medical marijuana dispensaries, the City Council does not wish to encourage the proliferation of additional medical marijuana dispensaries in the city.

N. The following is a sampling of cities that have permitted medical marijuana dispensaries, their respective populations, and maximum number of dispensaries permitted in each:

City	Approximate Population	No. of Dispensaries Permitted	Dispensaries per Capita
Los Angeles	3,900,000	100	1 per 39,000
Oakland	447,000	4	1 per 55,875
Santa Rosa	162,000	3	1 per 54,333
Berkeley	113,000	3	1 per 37,667
Martinez	36,000	1	1 per 36,000

The city of Garden Grove has approximately 175,000 residents. It is believed that there are approximately thirty (30) establishments currently cultivating and/or distributing medical marijuana in the city. Based on the number of dispensaries permitted in other cities, the number of medical marijuana

dispensaries currently believed to be operating in the city is more than adequate to service the legitimate medical marijuana needs of city residents.

O. Accordingly, it is the City Council's desire that, in the event it subsequently adopts an ordinance which permits medical marijuana dispensaries to operate in the city, initial eligibility for medical marijuana dispensary permits will be limited to those medical marijuana dispensaries that register with the City and can establish they were operating in the city on or before June 30, 2011.

P. This Ordinance is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that the City Council finds and determines that there is nothing in this Ordinance or its implementation that could reasonably have any significant effect on the environment.

Section 5.85.020 Purpose. The purpose of this Ordinance is to establish a date certain by which a medical marijuana dispensary must have been established and operating in the city in order to be potentially eligible for a future permit to legally operate in the city and to provide for a registration process to allow the City to identify such medical marijuana dispensaries. The establishment of such a date certain is necessary in order to discourage the further proliferation of unauthorized and unregulated medical marijuana dispensaries while new regulatory and zoning provisions are developed and considered. This Ordinance is not intended to, and shall not be interpreted to, authorize, sanction, or permit the operation of any medical marijuana dispensary in the city contrary to state or local law, including the Garden Grove Municipal Code, or to amend or modify any provision of the Garden Grove Municipal Code.

Section 5.85.030 Definitions. For purposes of this Ordinance, the following terms shall have the following meanings:

A. "Medical marijuana dispensary" or "dispensary" shall mean five or more qualified patients and caregivers who collectively or cooperatively cultivate and share physician-recommended medical marijuana or medical marijuana in a manner strictly consistent with the Compassionate Use Act, the Medical Marijuana Program Act, and the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued August 2008, by the Office of the Attorney General for the State of California, as each may be amended from time to time. The term "medical marijuana dispensary" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses: 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 the 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; a 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 Health and Safety Code, as long as such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et. seq.

B. "City Manager" shall mean the City Manager of the City of Garden Grove or his or her designee.

C. "Established operation" shall mean and refer to a medical marijuana dispensary that has been open, operating, and providing medical marijuana at a fixed location in the city of Garden Grove since at least June 30, 2011.

D. "Person" shall mean any cooperative or collective (within the meaning of the Medical Marijuana Program Act), individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company, or combination of the above in whatever form or character.

Section 5.85.040 Restriction on New Medical Marijuana Dispensaries.

A. Pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, and consistent with Section 9.16.020.100 of the Garden Grove Municipal Code, no person shall open, commence operation, or expand or modify operations of a medical marijuana dispensary at any location in the city of Garden Grove, or permit or allow such opening, operation, expansion, or modification.

B. Pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, and consistent with Section 9.16.020.100 of the Garden Grove Municipal Code, no application for a business operation tax certificate, building permit or other development-related permit or entitlement shall be reviewed or accepted, no hearing on an application (including appeals) for a discretionary entitlement shall be conducted, and no building permit or other development-related permit shall be issued or approved for a medical marijuana dispensary.

Section 5.85.050 Registration of Established Medical Marijuana Dispensaries.

A. Any person that wishes to be eligible for a future permit to operate a medical marijuana dispensary in the City shall submit a registration application in accordance with this Section, which, based on credible evidence, establishes to the satisfaction of the City Manager that the person is an owner or operator of an "established operation." The registration application shall be signed by the medical marijuana dispensary owner or operator under penalty of perjury; shall be submitted to the City's Finance Director on a form provided by the City on or before the date set forth in the notice of the registration application process published by the City pursuant to Section 5.85.060, which date shall be no less than thirty (30)

days from the date of publication of said notice; shall be accompanied by a registration application fee established by City Council resolution; and should include originals or true and correct copies of the following documents:

- i. State Board of Equalization seller's permit;
- ii. Commercial or business insurance policy evidencing liability insurance coverage of the owner's or operator's operations at its current location;
- iii. If renting or leasing property at its current location, the current rental contract or lease executed by both landlord and tenant; or, if the property is owned by the medical marijuana dispensary owner or operator, the current real property deed evidencing such ownership;
- iv. Utility bills for the premises for the period including June 30, 2011; and
- v. Any additional evidence that the applicant is an owner or operator of an "established operation."

No "established operation" shall be subsequently eligible to operate in the City if the owner or operator of the medical marijuana dispensary has failed to timely file a complete registration application with the City's Finance Director.

B. The City Manager shall evaluate each registration application, conduct a reasonable investigation, and determine whether the applicant is an "established operation." In order to make this determination, the City Manager may request such supplemental or additional information or documentation from the applicant as the City Manager deems necessary. Such additional information or documentation shall be provided to the City by the applicant within the time period specified in writing by the City Manager. The City Manager shall mail the findings and conclusions to the applicant within thirty (30) days from the close of the registration application process.

C. Notwithstanding any other provision of the Garden Grove Municipal Code to the contrary, any decision pursuant to this Section 5.85.050 by the City Manager shall be final and conclusive, with no appeal to the City Council or any other appellate body.

D. The application and documents submitted to the City pursuant to this Section 5.85.050 shall not be used by the City in any criminal proceeding as evidence of an admission of guilt or violation of any provision of the Garden Grove Municipal Code by the applicant.

E. Nothing herein shall permit any medical marijuana dispensary to operate in any manner contrary to applicable state or local law, including the Garden Grove Municipal Code.

F. Notwithstanding this Section 5.85.050, no medical marijuana dispensary operating or purporting to operate prior to the date of adoption of this Ordinance shall be deemed to have been a legally established use under the provisions of the Garden Grove Municipal Code or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

G. Notwithstanding this Section 5.85.050, pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, nothing in this Ordinance shall be construed to authorize the operation of a medical marijuana dispensary in violation of Section 9.16.020.100 of the Garden Grove Municipal Code.

H. Judicial review of a decision made under this Ordinance shall be in accordance with the requirements of administrative mandamus procedure, California Code of Civil Procedure 1094.5. Any such action shall be filed within 90 days after the day the decision becomes final as provided in Code of Civil Procedure 1094.6.

Section 5.85.060 Notice of Registration Process. The City Manager shall provide notice to the public of the registration application process set forth in Section 5.85.050 by each of the following methods:

- i. publication of notice once in a newspaper of general circulation within the city;
- ii. posting of notice on the City's website; and
- iii. mailing of notice to any person who has submitted a request to the City Clerk for written notice.

Section 5.85.070 Penalties.

A. Any person who violates Subsection 5.85.040(A) of this Ordinance shall be guilty of a misdemeanor. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of Subsection 5.85.040(A) of this Ordinance occurs and shall be punishable as herein provided.

B. In addition to criminal sanctions, the City Attorney, in the name of and on behalf of the City and/or the people of the state, may bring a civil action in a court of competent jurisdiction to enforce any provision of this Ordinance, or to restrain or abate any violation of the provisions of this Ordinance as a public nuisance.

C. Unless otherwise expressly provided, the remedies, procedures, and penalties provided in this Ordinance are cumulative to each other and to any other remedies, procedures, and penalties available under state law or City Ordinance."

Section 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the \_\_\_ day of \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) SS:  
CITY OF GARDEN GROVE )

I, TERESA POMEROY, Deputy City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on July 19, 2011, with a vote as follows:

AYES:	COUNCIL MEMBERS:	(5)	BEARD, BROADWATER, JONES, NGUYEN, DALTON
NOES:	COUNCIL MEMBERS:	(0)	NONE
ABSENT:	COUNCIL MEMBERS:	(0)	NONE

ORDINANCE NO. 2798-A

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE  
ESTABLISHING AN ELIGIBILITY CUT-OFF DATE AND A REGISTRATION PROCESS  
FOR POTENTIAL ELIGIBILITY OF MEDICAL MARIJUANA DISPENSARIES FOR FUTURE  
PERMITS, PENDING ADOPTION BY THE CITY OF REGULATIONS GOVERNING THE  
LOCATION AND OPERATION OF MEDICAL MARIJUANA DISPENSARIES

City Attorney's Summary

This Ordinance establishes June 30, 2011, as the date by which a medical marijuana dispensary must have been established and operating in the City in order to be potentially eligible for a future permit to legally operate in the City and establishes a process for the registration of such medical marijuana dispensaries pending the adoption by the City of regulations governing the location, permitting and operation of medical marijuana dispensaries in the City. This Ordinance also prohibits any person to open, commence operation, or expand or modify operations of a medical marijuana dispensary, or to permit or allow such opening, operation, expansion or modification, at any location in the City of Garden Grove pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the City.

The City Council of the City of Garden Grove hereby ordains as follows:

Section 1. Chapter 85 of Title 5 of the Garden Grove Municipal Code shall be added as follows:

"CHAPTER 85: REGISTRATION PROCESS FOR MEDICAL MARIJUANA DISPENSARIES

Section 5.85.010 Findings.

A. In 1996, California voters approved Proposition 215, entitled "The Compassionate Use Act," later codified as Health and Safety Code sections 11362.5. The Compassionate Use Act ensures that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction. In 2003, the State Legislature enacted Senate Bill 420, known as the Medical Marijuana Program Act and codified at Health and Safety Code sections 11362.7 et seq. The Medical Marijuana Program was intended to supplement, clarify, and give effect to the intent of the Compassionate Use Act and to allow, but not require, cities to adopt and enforce rules and regulations consistent with the Medical Marijuana Program.

B. Several California cities and counties that have permitted the establishment of medical marijuana dispensaries have experienced serious adverse impacts and negative secondary effects on the public health, safety and welfare associated with and resulting from such dispensaries. According to these communities, news stories widely reported, and medical marijuana advocates, medical marijuana dispensaries have resulted in and/or caused an increase in crime, including burglaries, robberies, violence, illegal sales of marijuana to, and

use of marijuana by, minors and other persons without medical need in the areas immediately surrounding such medical marijuana dispensaries.

C. There appears to be a proliferation throughout the state of medical marijuana dispensaries that do not comply with The Compassionate Use Act, the Medical Marijuana Program or the Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use (2008).

D. The adverse secondary effects arising from the operation of these dispensaries throughout California have been chronicled in detail by a 56 page report prepared by the California Police Chiefs' Association, dated April 22, 2009. In this report, various crimes consisting of armed robberies and murders, and burglary, arising from, or connected with, the operation of these establishments have been recorded by law enforcement agencies in, among numerous other communities, the California communities of Santa Barbara, Mendocino, San Leandro, Hayward, Laytonville, Bellflower, Claremont, and Willits.

E. The City Council of the City of Los Angeles specifically found that reports from its police department and the media showed an increase in, and escalation of, violent crime at the location of medical marijuana dispensaries, and further that, medical marijuana that has not been collectively or personally grown constitutes a unique health hazard to the public because it is not regulated, inspected, or analyzed for contamination by the state or federal government.

F. The California Police Chiefs' Association report further found: (a) that there have been reported poisonings from distribution of marijuana products due to contamination issues, which are more likely, because such products are not inspected by health agencies; (b) that adverse traffic, noise, and drug dealing impacts occur commonly outside marijuana dispensaries; (c) that gang involvement in the ownership and operation of these dispensaries has been reported in some communities.

G. Numerous other media and agency reports have documented criminal and nuisance activities associated with medical marijuana dispensaries.

H. The City Council further takes legislative notice that concerns about non-medical marijuana use arising in connection with the Act and the Program also have been recognized by state and federal courts. See, e.g., *People ex rel. Lungren v. Peron*, 59 Cal. App. 4th 1383, 1386-1387 (1997); *Gonzales v. Raich*, 125 S.Ct. 2195, 2214 n. 43 (2005).

I. In 2008, the City Council adopted Ordinance No. 2734 prohibiting medical marijuana dispensaries throughout the city for the purpose of eliminating the adverse secondary impacts to the public health, safety and welfare associated with medical marijuana dispensaries.



J. Notwithstanding Finding I, above, medical marijuana dispensaries have been known to operate and advertise in the city of Garden Grove, often disguised as permitted retail or commercial establishments. These establishments are operating without having obtained any City discretionary or regulatory review, approvals, or permits, and the City has not adopted conditions or regulations governing or allowing such operations.

K. City staff has initiated the preparation of ordinances for the City Council's future consideration that would amend the existing Land Use Code provisions to permit legitimate medical marijuana dispensaries in certain zones, and that would establish Municipal Code provisions for the permitting and regulation of medical marijuana dispensaries.

L. It would defeat in whole or in part, the objectives of any proposed conditions and regulations if, during the period the proposed conditions and regulations are being studied and considered for adoption, further proliferation, establishment, expansion, or modifications of medical marijuana dispensaries occurs.

M. In addition, due to the numerous adverse secondary impacts to the public health, safety, and welfare associated with medical marijuana dispensaries, the City Council does not wish to encourage the proliferation of additional medical marijuana dispensaries in the city.

N. The following is a sampling of cities that have permitted medical marijuana dispensaries, their respective populations, and maximum number of dispensaries permitted in each:

City	Approximate Population	No. of Dispensaries Permitted	Dispensaries per Capita
Los Angeles	3,900,000	100	1 per 39,000
Oakland	447,000	4	1 per 55,875
Santa Rosa	162,000	3	1 per 54,333
Berkeley	113,000	3	1 per 37,667
Martinez	36,000	1	1 per 36,000

The city of Garden Grove has approximately 175,000 residents. It is believed that there are approximately thirty (30) establishments currently cultivating and/or distributing medical marijuana in the city. Based on the number of dispensaries permitted in other cities, the number of medical marijuana dispensaries currently believed to be operating in the city is more than adequate to service the legitimate medical marijuana needs of city residents.

O. Accordingly, it is the City Council's desire that, in the event it subsequently adopts an ordinance which permits medical marijuana dispensaries to operate in the city, initial eligibility for medical marijuana dispensary permits will be limited to those medical marijuana dispensaries that register with the City and can establish they were operating in the city on or before June 30, 2011.

P. This Ordinance is found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061(b)(3) in that the City Council finds and determines that there is nothing in this Ordinance or its implementation that could reasonably have any significant effect on the environment.

Section 5.85.020 Purpose. The purpose of this Ordinance is to establish a date certain by which a medical marijuana dispensary must have been established and operating in the city in order to be potentially eligible for a future permit to legally operate in the city and to provide for a registration process to allow the City to identify such medical marijuana dispensaries. The establishment of such a date certain is necessary in order to discourage the further proliferation of unauthorized and unregulated medical marijuana dispensaries while new regulatory and zoning provisions are developed and considered. This Ordinance is not intended to, and shall not be interpreted to, authorize, sanction, or permit the operation of any medical marijuana dispensary in the city contrary to state or local law, including the Garden Grove Municipal Code, or to amend or modify any provision of the Garden Grove Municipal Code.

Section 5.85.030 Definitions. For purposes of this Ordinance, the following terms shall have the following meanings:

A. "Medical marijuana dispensary" or "dispensary" shall mean five or more qualified patients and caregivers who collectively or cooperatively cultivate and share physician-recommended medical marijuana or medical marijuana in a manner strictly consistent with the Compassionate Use Act, the Medical Marijuana Program Act, and the Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued August 2008, by the Office of the Attorney General for the State of California, as each may be amended from time to time. The term "medical marijuana dispensary" shall not include dispensing by primary caregivers to qualified patients in the following locations and uses: 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 the 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; a 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 Health and Safety Code, as long as such use complies strictly with applicable law including, but not limited to, Health and Safety Code sections 11362.5 and 11362.7 et. seq.

B. "City Manager" shall mean the City Manager of the City of Garden Grove or his or her designee.

C. "Established operation" shall mean and refer to a medical marijuana dispensary that has been open, operating, and providing medical marijuana at a fixed location in the city of Garden Grove since at least June 30, 2011.

D. "Person" shall mean any cooperative or collective (within the meaning of the Medical Marijuana Program Act), individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company, or combination of the above in whatever form or character.

Section 5.85.040 Restriction on New Medical Marijuana Dispensaries.

A. Pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, and consistent with Section 9.16.020.100 of the Garden Grove Municipal Code, no person shall open, commence operation, or expand or modify operations of a medical marijuana dispensary at any location in the city of Garden Grove, or permit or allow such opening, operation, expansion, or modification.

B. Pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, and consistent with Section 9.16.020.100 of the Garden Grove Municipal Code, no application for a business operation tax certificate, building permit or other development-related permit or entitlement shall be reviewed or accepted, no hearing on an application (including appeals) for a discretionary entitlement shall be conducted, and no building permit or other development-related permit shall be issued or approved for a medical marijuana dispensary.

Section 5.85.050 Registration of Established Medical Marijuana Dispensaries.

A. Any person that wishes to be eligible for a future permit to operate a medical marijuana dispensary in the City shall submit a registration application in accordance with this Section, which, based on credible evidence, establishes to the satisfaction of the City Manager that the person is an owner or operator of an "established operation." The registration application shall be signed by the medical marijuana dispensary owner or operator under penalty of perjury; shall be submitted to the City's Finance Director on a form provided by the City on or before the date set forth in the notice of the registration application process published by the City pursuant to Section 5.85.060, which date shall be no less than thirty (30) days from the date of publication of said notice; shall be accompanied by a registration application fee established by City Council resolution; and should include originals or true and correct copies of the following documents:

- i. State Board of Equalization seller's permit;
- ii. Commercial or business insurance policy evidencing liability insurance coverage of the owner's or operator's operations at its current location;
- iii. If renting or leasing property at its current location, the current rental contract or lease executed by both landlord and tenant; or, if the property is owned by the medical marijuana dispensary owner or operator, the current real property deed evidencing such ownership;
- iv. Utility bills for the premises for the period including June 30, 2011; and
- v. Any additional evidence that the applicant is an owner or operator of an "established operation."

No "established operation" shall be subsequently eligible to operate in the City if the owner or operator of the medical marijuana dispensary has failed to timely file a complete registration application with the City's Finance Director.

B. The City Manager shall evaluate each registration application, conduct a reasonable investigation, and determine whether the applicant is an "established operation." In order to make this determination, the City Manager may request such supplemental or additional information or documentation from the applicant as the City Manager deems necessary. Such additional information or documentation shall be provided to the City by the applicant within the time period specified in writing by the City Manager. The City Manager shall mail the findings and conclusions to the applicant within thirty (30) days from the close of the registration application process.

C. Notwithstanding any other provision of the Garden Grove Municipal Code to the contrary, any decision pursuant to this Section 5.85.050 by the City Manager shall be final and conclusive, with no appeal to the City Council or any other appellate body.

D. The application and documents submitted to the City pursuant to this Section 5.85.050 shall not be used by the City in any criminal proceeding as evidence of an admission of guilt or violation of any provision of the Garden Grove Municipal Code by the applicant.

E. Nothing herein shall permit any medical marijuana dispensary to operate in any manner contrary to applicable state or local law, including the Garden Grove Municipal Code.

F. Notwithstanding this Section 5.85.050, no medical marijuana dispensary operating or purporting to operate prior to the date of adoption of this Ordinance shall be deemed to have been a legally established use under the

provisions of the Garden Grove Municipal Code or any other local ordinance, rule or regulation, and such use shall not be entitled to claim legal nonconforming status.

G. Notwithstanding this Section 5.85.050, pending the adoption by the City of regulations governing the location and operation of medical marijuana dispensaries in the city, nothing in this Ordinance shall be construed to authorize the operation of a medical marijuana dispensary in violation of Section 9.16.020.100 of the Garden Grove Municipal Code.

H. Judicial review of a decision made under this Ordinance shall be in accordance with the requirements of administrative mandamus procedure, California Code of Civil Procedure 1094.5. Any such action shall be filed within 90 days after the day the decision becomes final as provided in Code of Civil Procedure 1094.6.

Section 5.85.060 Notice of Registration Process. The City Manager shall provide notice to the public of the registration application process set forth in Section 5.85.050 by each of the following methods:

- i. publication of notice once in a newspaper of general circulation within the city;
- ii. posting of notice on the City's website; and
- iii. mailing of notice to any person who has submitted a request to the City Clerk for written notice.

Section 5.85.070 Penalties.

A. Any person who violates Subsection 5.85.040(A) of this Ordinance shall be guilty of a misdemeanor. Such person shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of Subsection 5.85.040(A) of this Ordinance occurs and shall be punishable as herein provided.

B. In addition to criminal sanctions, the City Attorney, in the name of and on behalf of the City and/or the people of the state, may bring a civil action in a court of competent jurisdiction to enforce any provision of this Ordinance, or to restrain or abate any violation of the provisions of this Ordinance as a public nuisance.

C. Unless otherwise expressly provided, the remedies, procedures, and penalties provided in this Ordinance are cumulative to each other and to any other remedies, procedures, and penalties available under state law or City Ordinance."

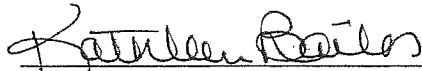
Section 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or

unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsection, subdivision, sentence, clause, phrase, or portions thereof be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or a summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 23<sup>rd</sup> day of August 2011.

ATTEST:

  
KATHLEEN BAILOR, CMC  
CITY CLERK

  
WILLIAM J. DALTON  
MAYOR

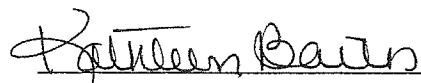
STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS:  
CITY OF GARDEN GROVE)

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on August 9, 2011, with a vote as follows:

AYES: COUNCIL MEMBERS: (5) BEARD, BROADWATER, JONES, NGUYEN, DALTON  
NOES: COUNCIL MEMBERS: (0) NONE  
ABSENT: COUNCIL MEMBERS: (0) NONE

and was passed on August 23, 2011, by the following vote:

AYES: COUNCIL MEMBERS: (4) BEARD, BROADWATER, JONES, DALTON  
NOES: COUNCIL MEMBERS: (0) NONE  
ABSENT: COUNCIL MEMBERS: (1) NGUYEN

  
KATHLEEN BAILOR, CMC  
CITY CLERK

ORDINANCE NO. 2863

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-015-2015 AMENDING TITLE 9 OF THE GARDEN GROVE MUNICIPAL CODE TO UPDATE THE CITY'S LAND USE REGULATIONS PERTAINING TO CANNABIS DISPENSARIES, DELIVERY, AND CULTIVATION, AND TO CONFIRM THAT USES NOT SPECIFICALLY IDENTIFIED IN A ZONING DISTRICT ARE PROHIBITED IN THAT DISTRICT

**City Attorney Summary**

***This Ordinance approves a text amendment to Title 9 of the Garden Grove Municipal Code to update and revise zoning regulations pertaining to marijuana dispensaries and other commercial cannabis activity. Consistent with the recently enacted Medical Marijuana Regulation and Safety Act, this Ordinance clarifies that the establishment, maintenance, or operation of marijuana dispensaries and related commercial cannabis activities, including the distribution, manufacture, cultivation and delivery of cannabis and/or cannabis products, continues to be prohibited throughout the City. In addition, the text amendment confirms that any use not specifically identified as a permitted use, conditionally permitted use, or incidental use in any zone or planned unit development area is a prohibited use in that zone or planned unit development area.***

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, the subject case, initiated by the City of Garden Grove, proposes to amend Title 9 of the Garden Grove Municipal Code to update the City's land use regulations pertaining to cannabis dispensaries, delivery, and cultivation, and to confirm that uses not specifically identified in a zoning district are prohibited in that district;

WHEREAS, following a Public Hearing held on December 3, 2015, the Planning Commission adopted Resolution No. 5853-15 recommending approval of Amendment No. A-015-2015;

WHEREAS, pursuant to a legal notice, a Public Hearing regarding the proposed adoption of this Ordinance was held by the City Council on January 12, 2016, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

**SECTION 1:** The above recitals are true and correct.

SECTION 2: The City Council finds that the proposed Code Amendment is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (California Code Regulations, Title 14, Section 15000 et seq.).

SECTION 3: Amendment No. A-015-2015 is hereby approved pursuant to the findings set forth herein and the facts and reasons stated in Planning Commission Resolution No. 5853-15, a copy of which is on file in the Office of the City Clerk, and which is incorporated herein by reference with the same force and effect as if set forth in full.

SECTION 4: Section 9.16.020.100 of Title 9 of the Garden Grove Municipal Code is hereby repealed.

SECTION 5: Chapter 9.52 is hereby added to Title 9 of the Garden Grove Municipal Code to read as follows:

## **CHAPTER 9.52 CANNABIS ACTIVITIES**

### **9.52.010 Purpose, Findings and Definitions**

- A. Purpose and Findings. The City Council finds that in order to serve the public health, safety, and welfare of the residents and businesses within the city, the declared purpose of this Chapter is to prohibit marijuana dispensaries and delivery services from locating and operating in the city as stated in this Section.
- B. Definitions. As used in this Chapter, the following terms, words and phrases have the meanings as defined in this Section, unless another meaning is clearly apparent from the context:

"Cannabis" or "Marijuana" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the California Health and Safety Code. "Cannabis" includes, but is not limited to, "medical cannabis" as defined in California Business & Professions Code § 19300.5(ag). "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the



purpose of this definition, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

"Cannabis delivery" or "delivery of cannabis" means the transfer of cannabis or cannabis products from a dispensary to any person or entity at a location in the city. "Cannabis delivery" also includes the use by a dispensary of any technology platform owned and controlled by the dispensary, or independently licensed, that enables individuals to arrange for or facilitate the transfer by a dispensary of cannabis or cannabis products. "Cannabis delivery" includes, but is not limited to, "delivery" as defined in California Business & Professions Code Section 19300.5(m).

"Cannabis dispensary," "marijuana dispensary" or "dispensary" means any association, business, facility, use, establishment, location, cannabis delivery service, cooperative, collective, or provider, whether fixed or mobile, that possesses, processes, manufactures, distributes, makes available, or otherwise facilitates the distribution of cannabis or cannabis products to any person, including, but not limited to, a qualified patient, a person with an identification card, or a primary caregiver. The term "cannabis dispensary" includes, but is not limited to, a business, facility, use or location that engages "commercial cannabis activity" as defined in California Business & Professions Code Section 19300.5(k). The term "cannabis dispensary" shall not include the following facilities, locations or uses to the extent cannabis is dispensed by primary caregivers to qualified patients for medicinal use, as long as such use complies strictly with applicable law including, but not limited to, California Health and Safety Code Section 11362.5 and 11362.7: a clinic licensed pursuant to Chapter 1 of Division 2 of the California Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the California Health and Safety Code; a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the California Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the California Health and Safety Code; or a residential hospice or home health agency licensed pursuant to Chapter 8 of Division 2 of the California Health and Safety Code.

"Cannabis cultivation" or "cultivation of cannabis" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

"Cannabis cultivation site" means any indoor or outdoor facility or location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

"Cannabis product" means a product containing cannabis, including, but not limited to, concentrates and extractions and includes, but is not limited to, any "medical cannabis product" or "cannabis product," as defined in California Business & Professions Code § 19300.5(ag), and/or any "edible cannabis product" as defined in California Business and Professions Code Section 19300.5(s).

"Identification card" is a document issued by the State Department of Health Services and/or the County of Orange Health Care Agency which identifies a person authorized to engage in the medical use of marijuana and the person's designated primary caregiver, if any.

"Primary caregiver" is the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person.

"Qualified patient" is a person who is entitled to the protections of California Health and Safety Code Section 11362.5, but who does not have an identification card issued by the State Department of Health Services.

- C. Use or Activity Prohibited by State Law or Federal Law. Nothing contained in this Chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

#### **9.52.020 Cannabis Dispensaries and Delivery Prohibited**

- A. Cannabis Dispensaries and Delivery Prohibited. Cannabis dispensaries and cannabis delivery are prohibited in all zoning districts, planned unit development districts, and specific plan areas in the city. It shall be unlawful for any person or entity to own, manage, conduct, or operate any cannabis dispensary or cannabis delivery service or to participate as an employee, contractor, agent or volunteer, or in any other manner or capacity, in any cannabis dispensary or cannabis delivery service in the city of Garden Grove.
- B. Establishment or Maintenance of Cannabis Dispensaries Declared a Public Nuisance. The establishment, maintenance, or operation of a cannabis dispensary or cannabis delivery service as defined in this Chapter within the city limits of the City of Garden Grove is declared to be a public nuisance and enforcement action may be taken and penalties assessed pursuant to Title 1, Chapter 1.04 of the Garden Grove Municipal Code, and/or any other law or ordinance that allows for the abatement of public nuisances.

#### **9.52.030 Cultivation of Cannabis**

- A. Cannabis Cultivation Prohibited. The cultivation of cannabis and/or the establishment, maintenance or operation of any cannabis cultivation site is

prohibited in all zoning districts, planned unit development districts, and specific plan areas in the city.

- B. Establishment or Maintenance of Cannabis Cultivation Site Declared a Public Nuisance. The establishment, maintenance, or operation of a cannabis cultivation site as defined in this Chapter within the city limits of the City of Garden Grove is declared to be a public nuisance and enforcement action may be taken and penalties assessed pursuant to Title 1, Chapter 1.04 of the Garden Grove Municipal Code, and/or any other law or ordinance that allows for the abatement of public nuisances.

**SECTION 6:** Subsection D.7 of Section 9.32.030 of Chapter 9.32 of Title 9 of the Garden Grove Municipal Code is hereby amended to read as follows (additions in ***bold/italics***, deletions in ~~strike-through~~):

7. Interpretation of Use.
  - a. Applicability.
    - i. ***Any use not specifically listed as a permitted use, incidental use, or conditional use shall be prohibited; provided, however, that*** ~~Whenever~~ a use has not been specifically listed as a permitted use, ***incidental use, or conditional use*** in a particular zone district, but similar uses are found to exist in that zone, the hearing body shall be responsible for interpreting whether or not the use is permitted in that zone district, and under what conditions.
    - ii. Any use determined to be inconsistent or not similar to other uses shall be required to file an application for an ordinance amendment.
  - b. Required Finding. That the proposed use is:
    - i. Similar in scale and operational characteristics to other uses permitted in that zone;
    - ii. Consistent with the intent of the general plan and the zone district;
    - iii. Compatible with other permitted uses.


**SECTION 7:** If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby

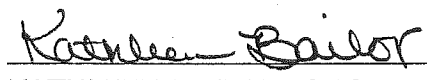
declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

**SECTION 8:** The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 26<sup>th</sup> day of January 2016.

ATTEST:

  
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BAO NGUYEN  
MAYOR

  
\_\_\_\_\_  
KATHLEEN BAILOR, CMC  
CITY CLERK

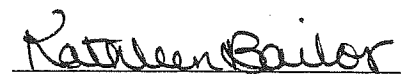
STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS:  
CITY OF GARDEN GROVE )

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on January 12, 2016, with a vote as follows:

AYES: COUNCIL MEMBERS: (5) BEARD, BUI, JONES, PHAN, NGUYEN  
NOES: COUNCIL MEMBERS: (0) NONE  
ABSENT: COUNCIL MEMBERS: (0) NONE

and was passed on January 26, 2016, by the following vote:

AYES: COUNCIL MEMBERS: (3) BEARD, PHAN, NGUYEN  
NOES: COUNCIL MEMBERS: (0) NONE  
ABSENT: COUNCIL MEMBERS: (2) BUI, JONES

  
\_\_\_\_\_  
KATHLEEN BAILOR, CMC  
CITY CLERK