



OFFICE OF THE CITY ATTORNEY
Long Beach, California

ORD-37

CHARLES PARKIN
City Attorney

MICHAEL J. MAIS
Assistant City Attorney

MONTE H. MACHIT
Assistant City Attorney

PRINCIPAL DEPUTIES

Gary J. Anderson
Charles M. Gale
Anne C. Lattime

DEPUTIES

C. Geoffrey Allred
Richard F. Anthony
William R. Baerg
LaTasha N. Corry
Haleh R. Jenkins
Monica J. Kilaita
Nicholas J. Masero
Dawn A. McIntosh
Barbara J. McTigue
Lauren E. Misajon
Katrina R. Pickett
Howard D. Russell
Arturo D. Sanchez
Victoria A. Silcox
Linda T. Vu
Amy R. Webber
Theodore B. Zinger

October 3, 2017

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Declare Ordinance amending the Long Beach Municipal Code by adding Section 5.90.300 related to the implementation of the State's Medical and Adult-Use Cannabis Regulation and Safety Act, read for the first time and laid over to the next regular meeting of the City Council for final reading. (Citywide)

DISCUSSION

Pursuant to your request on August 22, 2017, this Ordinance amending the Long Beach Municipal Code ("LBMC") by adding Section 5.90.300 related to the implementation of the State's Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA") has been prepared and is submitted for your consideration.

In order to remain compliant with the recently passed MAUCRSA, and per your aforementioned request, Section 5.90.300 shall be added to Chapter 5.90 ("Medical Marijuana Businesses") of the LBMC to add the following buffer zones:

1. The City shall require a 600-foot radius buffer requirement for "day care centers" for Medical Marijuana Businesses under Chapter 5.90 of the LBMC; however, all Medical Marijuana Business License applicants which have submitted applications prior to January 1, 2018, are exempt from said buffer as to those applications; and
2. The City shall apply a 0-foot radius buffer requirement for "youth centers" for Medical Marijuana Businesses under Chapter 5.90 of the LBMC due to the level of uncertainty inherent in the State-provided definition of a "youth center" and related challenges.

This Ordinance further seeks to add "clean-up" language so that Chapter 5.90 is consistent with MAUCRSA. Chapter 5.90, as currently written, refers to the former Medical Marijuana Regulation and Safety Act ("MMRSA") and its various provisions. In order to remain in line and compliant with MAUCRSA, and without amending the voter intent, such clean-up language is recommended.


SUGGESTED ACTION:

Approve recommendation.

Very truly yours,

CHARLES PARKIN, City Attorney

By



MONICA J. KILAITA
Deputy City Attorney

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING SECTION 5.90.300 RELATED TO THE IMPLEMENTATION OF THE STATE'S MEDICAL AND ADULT-USE CANNABIS REGULATION AND SAFETY ACT

WHEREAS, in 2015, the Governor signed into law the Medical Cannabis Regulation and Safety Act ("MCRSA"), which established the State's regulatory framework for the medical cannabis industry; and

WHEREAS, in 2016, the Control, Regulate and Tax Adult Use of Marijuana Act ("AUMA"), a voter initiative to legalize recreational marijuana and eventually license and regulate recreational marijuana businesses in California, passed and became law; and

WHEREAS, on June 27, 2017, the Governor signed into law the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which repealed MCRSA and included certain provisions of MCRSA in the licensing provisions of AUMA; and

WHEREAS, Chapter 5.90, "Medical Marijuana Businesses", of the Long Beach Municipal Code ("LBMC"), the result of a voter initiative, went into effect on December 23, 2016, and allows, in certain specified circumstances, for the operation and regulation of medical marijuana businesses, including dispensaries, cultivation, manufacturing, distribution, and testing, in the City of Long Beach; and

WHEREAS, Chapter 5.90 requires a medical marijuana business to be issued a City of Long Beach Business License prior to operation, in addition to other requirements such as issuance of a state license under MCRSA, when available; and

1 WHEREAS, since Chapter 5.90 references the former law MCRSA and its
2 provisions, the City must implement clean-up language to remain consistent and in
3 compliance with MAUCRSA; and

4 WHEREAS, MAUCRSA also establishes day care center and youth center
5 buffers for medical marijuana businesses that were not mandated under MCRSA or
6 Chapter 5.90 of the LBMC; specifically, no marijuana business may be located within a
7 600-foot radius of a day care center or youth center that is in existence at the time the
8 State license is issued, unless a licensing authority or a local jurisdiction specifies a
9 different radius; and

10 WHEREAS, MAUCRSA provides a clear definition for “day care center”
11 under Section 1596.76 of the Health and Safety Code and such establishments are easily
12 trackable; and

13 WHEREAS, MAUCRSA’s definition for “youth center” is provided in Section
14 11353.1 of the Health and Safety Code, a definition which is unclear and open-ended,
15 leaving “youth centers” burdensome to define and track; and

16 WHEREAS, due to the lack of clarity regarding “youth centers”, the City
17 seeks to set a 0-foot buffer for “youth centers” for medical marijuana businesses pursuant
18 to its authority under MAUCRSA; and

19 WHEREAS, the City further seeks to implement the State’s 600-foot buffer
20 for “day care centers” for medical marijuana businesses; however, to avoid undue burden
21 on medical marijuana business license applicants already involved in or planning to be
22 involved in the licensing process established under LBMC Chapter 5.90, the City wishes
23 to set an effective date of January 1, 2018, for said buffer, exempting all applicants that
24 have submitted applications prior to such date;

25 ///

26 ///

27 ///

28 ///

1 NOW, THEREFORE, the City Council of the City of Long Beach ordains as
2 follows:

3
4 Section 1. Section 5.90.300 is added to the Long Beach Municipal Code
5 to read as follows:

6 5.90.300 Implementation of the Medicinal and Adult-Use Cannabis
7 Regulation and Safety Act.

8 A. Replacement provisions.

9 1. Wherever this Chapter refers to the “Medical Marijuana
10 Regulation and Safety Act” or “MMRSA” or its provisions, it shall be
11 deemed to refer to the “Medicinal and Adult-Use Cannabis Regulation and
12 Safety Act” or “MAUCRSA”, enacted into law by the State of California on
13 June 27, 2017, and its provisions.

14 2. Wherever this Chapter refers to “California Business
15 and Professions Code section 19300.5” and any of its subsections, it shall
16 be deemed to refer to “California Business and Professions Code section
17 26001”.

18 3. With the exception of testing laboratory licenses,
19 wherever this Chapter refers to state license types, they shall be deemed to
20 bear the designation of an “M-license” for medicinal cannabis.

21 4. Wherever this Chapter refers to “Health and Safety
22 Code section 19346”, it shall be deemed to refer to “California Business and
23 Professions Code section 26120”.

24 5. Wherever this Chapter refers to a “Type 10A
25 Dispensary” license, it shall be deemed to refer to a “Type 10 Retailer”
26 license under MAUCRSA.

27 6. Wherever this Chapter refers to “Business and
28 Professions Code section 19335(a)”, it shall be deemed to refer to

1 “Business and Professions Code section 26067(a)”.

2 7. Wherever this Chapter refers to “Business and
3 Professions Code section 19322(6)”, it shall be deemed to refer to
4 “Business and Professions Code section 26051.5(a)(5)”.

5 B. Day Care Center Buffer.

6 1. Pursuant to its authority under Section 26054 of the
7 Business and Professions Code, the City hereby implements the State’s
8 600-foot radius buffer requirement for day care centers for Medical
9 Marijuana Businesses licensed under this Chapter.

10 2. Per Section 26001(o) of the Business and Professions
11 Code, “day care center” shall have the same meaning as in Section
12 1596.76 of the Health and Safety Code.

13 3. This Section shall only apply to Medical Marijuana
14 Business License applicants who have submitted an application for a
15 Medical Marijuana Business License under this Chapter on or after January
16 1, 2018. A Medical Marijuana Business License applicant who has
17 submitted a Medical Marijuana Business License application prior to
18 January 1, 2018, is exempt from the day care center buffer established by
19 this Section as to that application.

20 C. Youth Center Buffer.

21 Pursuant to its authority under Section 26054 of the Business
22 and Professions Code, the City hereby establishes a 0-foot radius buffer for
23 youth centers for Medical Marijuana Businesses licensed under this
24 Chapter.

25 Section 2. The City Clerk shall certify to the passage of this ordinance by
26 the City Council and cause it to be posted in three (3) conspicuous places in the City of
27 Long Beach, and it shall take effect on the thirty-first (31st) day after it is approved by the
28 Mayor.

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that the foregoing ordinance was adopted by the City Council of the City of Long Beach at its meeting of _____, 2017, by the following vote:

Ayes: Councilmembers: _____

Noes: Councilmembers: _____

Absent: Councilmembers: _____

City Clerk

Approved: _____
(Date)

Mayor