



Legislation Details (With Text)

File #: 15-1270 **Version:** 4 **Name:** CA - Medical Marijuana
Type: Ordinance **Status:** Withdrawn
File created: 11/30/2015 **In control:** City Council
On agenda: 2/9/2016 **Final action:** 2/9/2016
Title: WITHDRAWN
Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 21.66; and by repealing Chapter 5.89, all relating to Medical Marijuana; declaring the urgency thereof and declaring that this ordinance shall take effect immediately, read and adopted as read. (Citywide)
Sponsors: City Attorney
Indexes:
Code sections: 5.89 - Medical Marijuana Dispensaries, 5.89.010 - Purpose and intent., 5.89.020 - Definitions., 5.89.030 - Medical marijuana dispensary prohibited., 5.89.040 - Establishment, maintenance, or operation of medical marijuana dispensaries declared a public nuisance., 5.89.050 - Existing medical marijuana dispensary operations., 5.89.055 - Temporary exemption., 5.89.060 - Penalties for violation., 5.89.070 - Severability.
Attachments: 1. 120815-H-2sr&att.pdf, 2. 120815-H-2_Map_Eligible Areas.pdf, 3. 120815-H-2 Maps.pdf, 4. 120815-H-2_Map_Buffers.pdf, 5. 120815-H-2 Blue Slip.pdf, 6. 121515-ORD-21att.pdf, 7. 020216-H-1sr&att.pdf, 8. 020216-H-1 Blue Slip.pdf, 9. 020916-ORD-19att.pdf

| Date | Ver. | Action By | Action | Result |
|------------|------|--------------|---------------------------|--------|
| 2/9/2016 | 4 | City Council | withdrawn | |
| 2/2/2016 | 3 | City Council | approve substitute motion | Pass |
| 12/15/2015 | 2 | City Council | withdrawn | |
| 12/8/2015 | 1 | City Council | approve substitute motion | Pass |

WITHDRAWN

~~Recommendation to declare ordinance amending the Long Beach Municipal Code by adding Chapter 21.66; and by repealing Chapter 5.89, all relating to Medical Marijuana; declaring the urgency thereof and declaring that this ordinance shall take effect immediately, read and adopted as read. (Citywide)~~

On December 8, 2015, the City Council requested the City Attorney to prepare a revised draft of a proposed Medical Marijuana regulatory ordinance. As requested, the attached draft Ordinance would permit:

- (1) Up to four (4) medical marijuana businesses in the City providing delivery service only, with no on-site sales;
- (2) To be located in all zones, except those zoned exclusively for residential use; and
- (3) Located no more than one (1) per Council District;

The draft Ordinance also requires City staff to report back to the City Council six (6) months

after the first of the four (4) potential "delivery only" medical marijuana businesses becomes operational. At that time, City staff will report on tax revenues collected during the six (6) month operational period, the fiscal impact to the City in terms of enforcement costs, and any public safety issues that have arisen during the initial operational period. After consideration of the staff report, the draft Ordinance requires Council to consider allowing the approved medical marijuana "delivery only" businesses to apply to convert their operations to "storefront" or cultivation facilities, in addition to the medical marijuana delivery services. Six (6) months after the first storefront or cultivation facility becomes operational, City staff will again report to Council regarding the 8fprementioned issues and fiscal impacts. Council will then consider adding up to three (3) more medical marijuana businesses in the City for a total of seven (7) (no more than one per Council district).

The Draft Ordinance remains consistent with the newly enacted State legislation known as the Medical Marijuana Regulation and Safety Act ("MMRSA"); and, if enacted by the Council, would also be subject to buffers of:

1,500 feet from a public or private high school;

1,000 feet from a public or private kindergarten, elementary, middle, or junior high school;

1,000 feet from a public park;

1,000 feet from a State licensed child care facility located on a commercial corridor; 1,000 feet from a location identified by the Police Department to be a "human trafficking high crime corridor" (which has now been identified as Pacific Coast Highway between Santa Fe Avenue and Redondo Avenue, Anaheim Street between the 710 Freeway and Redondo Avenue, and Long Beach Blvd. between Victoria Street and the north City limits);

1,000 feet from a public library; and

1,000 feet from any other medical marijuana business.

The draft Ordinance requires that permitted operators have in place a "labor peace" agreement prior to commencing operations, and that a medical marijuana business apply for and obtain a Conditional Use Permit (CUP) and Business License before engaging in a medical marijuana delivery business in the City. The Ordinance is structured in such a way that an applicant/permittee would be required to obtain all necessary State licenses and permits when the new State regulations are fully implemented, which likely will not occur before March 2018. Failure to obtain required State licensing would subject a City permitted facility to a City initiated suspension or revocation procedure.

The draft Ordinance provides for certain minimum operational standards in order to protect the public from nuisance related activities in and around a licensed medical marijuana premise. These provisions include a requirement to provide a "Neighborhood Safety and Responsibility Plan," a limit on the hours of operation from 8:00 a.m. to 7:00 p.m. (although

delivery services could extend to 9:00 p.m.), the presence of security guards during normal business hours, a requirement for worker's compensation and public liability insurance, limitations on both on-site and off-site advertising, requirements related to odor elimination through ventilation requirements, requirements related to the testing of all medical marijuana products to ensure they are pesticide and mold free, and otherwise uncontaminated, video recording systems to deter crime and assist the City in its tax collection efforts, a requirement that a business manager be on the premises during normal business hours, limits on the size of a medical marijuana business (dispensary or delivery site 2,000 square feet or less; cultivation site 5,000 square feet or less),

packaging and labeling requirements for medical marijuana products, a requirement to provide fire and security alarm systems, and certain record keeping requirements.

The draft Ordinance establishes a "Priority Point System" to ensure the best possible operators in the City. City staff will evaluate, score, and rank those who submit a complete application during a specified application period. Those receiving the highest ranking will have their application processed first until all four (4) CUPs have been allocated. The Priority Point System has twenty (20) separate categories for which points can be awarded. The categories include such items as proximity to transportation hubs, exceedance of minimum buffer requirements, a superior security plan, a superior business plan, the lack of a criminal history by applicants, demonstration of service to the community, superior odor elimination systems, separation from residential areas, and staffing plans that will ensure safe delivery or dispensing, theft prevention and maintenance of confidential information, and demonstration that the Applicant was a successful lottery entrant in the City's September 2010 medical marijuana lottery. In the event of a tie between applicants, priority processing will be determined by lottery.

The draft Ordinance also allows a CUP holder to provide delivery service both in the City of Long Beach and outside of the City, provided those cities outside of Long Beach do not specifically prohibit such activities within their jurisdictions. Delivery service can be made between 8:00 a.m. and 9:00 p.m. daily, and the permitted operator must verify that the delivery is being made to someone over the age of 21 and that the person requesting the delivery service has a valid doctor's recommendation.

The Ordinance is structured in such a way that if Council exercises its discretion to permit full retail storefront or cultivation operations after six (6) months, all of the necessary regulations and public safety protections are already in place. The Ordinance has been prepared as an "urgency ordinance" because of a provision in the new State law that would essentially "default" to State cultivation regulations if a local government does not have a regulatory ordinance in place by March 1, 2016.

If the attached regulatory Ordinance is passed, it includes a provision that will repeal Chapter 5.89 of the Municipal Code, which was adopted by the City Council in 2012, banning medical marijuana facilities in the City.

Approve recommendation.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LONG BEACH AMENDING THE LONG BEACH MUNICIPAL CODE BY ADDING CHAPTER 21.66; AND BY REPEALING CHAPTER 5.89, ALL RELATING TO MEDICAL MARIJUANA; DECLARING THE URGENCY THEREOF AND DECLARING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY

CHARLES PARKIN
CITY ATTORNEY

BY:
MICHAEL J. MAIS
ASSISTANT CITY ATTORNEY