



## CITY COUNCIL STAFF REPORT

DATE: FEBRUARY 3, 2010

LEGISLATIVE

SUBJECT: SECOND READING AND ADOPTION OF PROPOSED ORDINANCE NO. 1766, ZONING CODE AMENDMENT RELATED TO THE STANDARDS AND REGULATIONS OF MEDICAL CANNABIS COLLECTIVES AND COOPERATIVES AND CONSIDERATION OF AN INTERIM URGENCY ORDINANCE

FROM: David H. Ready, City Manager

BY: Office of the City Clerk

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### SUMMARY

The City Council will consider the adoption of Ordinance No. 1766, a zone text amendment pertaining to Medical Cannabis Cooperatives and Collectives; and consider the adoption of an Interim Urgency Ordinance to alleviate a current and actual threat to the public health, safety, and welfare pursuant to City Charter §312 and Cal. Gov. Code §65858.

### RECOMMENDATION:

1. Waive further reading and adopt Ordinance No. 1766, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTIONS 93.22.00.C AND 93.22.00.E OF, AND REPEALING PARAGRAPH 6 OF SUBSECTION 93.22.00.H OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO APPROVAL OF ADMINISTRATIVE MODIFICATIONS TO CERTAIN THE STANDARDS AND REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES AS PERMITTED USES IN THE M-1 AND M-2 ZONES."
2. Waive reading and adopt Ordinance No. 1769, "AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTIONS 93.22.00.C AND 93.22.00.E OF, AND REPEALING PARAGRAPH 6 OF SUBSECTION 93.22.00.H OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO APPROVAL OF ADMINISTRATIVE MODIFICATIONS TO CERTAIN THE STANDARDS AND REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES AS PERMITTED USES IN THE M-1 AND M-2 ZONES, TO ALLEVIATE A CURRENT AND ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE."  
**(4/5THS VOTE REQUIRED.)**

Item No. **3.A.**

STAFF ANALYSIS:

At its January 20, 2010, meeting proposed Ordinance No. 1766 was introduced by the following:

**ACTION:** 1) Waive the reading of the full text of the Ordinance, and introduce by title only; and 2) Introduce for first reading Ordinance No. 1766, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTIONS 93.22.00.C AND 93.22.00.E OF, AND REPEALING PARAGRAPH 6 OF SUBSECTION 93.22.00.H OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO APPROVAL OF ADMINISTRATIVE MODIFICATIONS TO CERTAIN THE STANDARDS AND REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES AS PERMITTED USES IN THE M-1 AND M-2 ZONES." **Motion Councilmember Foat, seconded by Mayor Pro Tem Hutcheson and carried 4-1 on a roll call vote.**

**AYES:** Councilmember Foat, Councilmember Mills, Mayor Pro Tem Hutcheson, and Mayor Pougnet.

**NOES:** Councilmember Weigel.

This report provides for the City Council to waive further reading and adopt the ordinance. The ordinance shall be effective 30-days from adoption.

Additionally, the City Attorney has prepared an Interim Urgency Ordinance and requisite findings pursuant to City Charter §312 and Cal. Gov. Code §65858 that mirrors the provisions of the permanent zone text ordinance that will allow the City Council to conclude its review of the final applications, and select two collectives to commence legal operation(s) at the earliest feasible date, and thereby reduce the potential public health and safety threat.



DOUGLAS HOLLAND, City Attorney



DAVID H. READY, City Manager

Attachment:

Ordinance No. 1766

Proposed Interim Urgency Ordinance

PROPOSED ORDINANCE NO: 1766

AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTIONS 93.22.00.C AND 93.22.00.E OF, AND REPEALING PARAGRAPH 6 OF SUBSECTION 93.22.00.H OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO APPROVAL OF ADMINISTRATIVE MODIFICATIONS TO CERTAIN THE STANDARDS AND REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES AS PERMITTED USES IN THE M-1 AND M-2 ZONES

**City Attorney Summary**

*The existing provisions of the Palm Springs Municipal Code establish several standards and regulations pertaining to medical cannabis cooperatives and collectives. This Ordinance allows the City Council to approve administrative modifications to certain specific standards and regulations for medical cannabis cooperatives and collectives.*

**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:**

**SECTION 1.** Subsection 93.22.C of the Palm Springs Municipal Code is amended to read:

C. No Medical Cannabis Cooperative or Collective shall be established, developed, or operated within five hundred (500) feet of a school, public playground or park, or any residential zone property, child care or day care facility, youth center, or church, or within one thousand (1000) feet of any other Medical Cannabis Cooperative or Collective, and shall not be located on any property that is occupied with a commercial retail use where such use is the primary use on such property. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Medical Cannabis Cooperative or Collective is, or will be located, to the nearest property line of those uses describe in this Subsection. Administrative modifications for this standard may be granted by the City Council pursuant to Section 94.06.01.B.

**SECTION 2.** Section 93.22.00.E is hereby amended to read:

E. A Medical Cannabis Cooperative or Collective shall be parked at a rate of 1 space for every 250 gross square feet of office space, and 1 space for every 800 square feet of warehouse / cultivation space. Administrative modifications for this standard may be granted by the City Council pursuant to Section 94.06.01.B.

**SECTION 3.** Paragraph 6 of Subsection 93.22.00.H of the Palm Springs Municipal Code is repealed.

**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 the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
Stephen P. Pougnet  
Mayor

ATTEST:

\_\_\_\_\_  
James Thompson, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Douglas Holland, City Attorney

### CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. \_\_\_\_\_ is a full, true and correct copy, and was introduced at a regular meeting of the Palm Springs City Council on \_\_\_\_\_ and adopted at a regular meeting of the City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2010 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
James Thompson, City Clerk  
City of Palm Springs, California

AN INTERIM URGENCY ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SUBSECTIONS 93.22.00.C AND 93.22.00.E OF, AND REPEALING PARAGRAPH 6 OF SUBSECTION 93.22.00.H OF, THE PALM SPRINGS MUNICIPAL CODE, RELATING TO APPROVAL OF ADMINISTRATIVE MODIFICATIONS TO CERTAIN THE STANDARDS AND REGULATIONS FOR MEDICAL CANNABIS COOPERATIVES AND COLLECTIVES AS PERMITTED USES IN THE M-1 AND M-2 ZONES, TO ALLEVIATE A CURRENT AND ACTUAL THREAT TO THE PUBLIC HEALTH, SAFETY, AND WELFARE. (4/5THS VOTE REQUIRED.)

***City Attorney Summary***

*This is an interim urgency ordinance that will amend existing provisions of the Palm Springs Municipal Code that establish several standards and regulations pertaining to medical cannabis cooperatives and collectives. Adoption of this Ordinance would allow administrative modifications to certain specific standards and regulations for medical cannabis cooperatives and collectives to become effective immediately. This Ordinance will be in effect for forty-five days or until Ordinance 1766 goes into effect, whichever occurs first.*

**THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDAINS:**

SECTION 1. This interim urgency ordinance is adopted pursuant to Section 312 of the Charter of the City of Palm Springs. This interim urgency ordinance is also adopted pursuant to Section 65858 of the California Government Code.

SECTION 2. The City Council hereby finds, determines, and declares that this interim urgency ordinance is necessary because:

A. In 1996 the voters of the state of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 *et. seq.* and entitled "The Compassionate Use Act") to exempt seriously ill patients and their primary caregivers from criminal liability for possession and cultivation of marijuana for medical purposes.

B. The intent of Compassionate Use Act was to enable seriously ill Californians to legally possess, use, and cultivate marijuana for medical use under state law although the possession and sale of marijuana remain illegal under both state and federal law.

C. The Compassionate Use Act provides for the association of primary caregivers and qualified patients to cultivate marijuana for specified medical purposes and also authorizes local governing bodies to adopt and enforce laws consistent with its provisions.

D. On March 4, 2009, the City Council adopted a comprehensive Medical Cannabis Ordinance ("MCO") that established standards and regulations for the location and operation of medical cannabis cooperatives or collectives in the City. The MCO

provided for a process for submitting applications for City Council review and consideration and the ultimate selection of no more than two establishments that would satisfy the requirements of MCO and provide the highest level of service and opportunities for residents of Palm Springs.

E. Medical cannabis that has not been collectively or personally grown constitutes a unique health hazard to the public because, unlike all other ingestibles, cannabis is not regulated, inspected, or analyzed for contamination by state or federal government and may, as with samples recently tested by a U.S. Food and Drug Administration laboratory, contain harmful chemicals that could further endanger the health of persons who are already seriously ill and have impaired or reduced immunities.

F. The City of Palm Springs has a compelling interest in ensuring that cannabis is not distributed in an illicit manner, in protecting the public health, safety and welfare of its residents and businesses, in preserving the peace and quiet of the neighborhoods in which medical marijuana collectives operate, and in providing compassionate access to medical marijuana to its seriously ill residents.

G. On or about the time the City Council adopted the MCO, several marijuana dispensaries, without complying with the provisions of the MCO, commenced operation in the City. Code enforcement actions have been initiated against each of these establishments. At least four dispensaries remain open and are currently operating in the City, waiting for hearing dates before the Riverside Superior Court. These operating dispensaries may be dispensing cannabis that could contain harmful chemicals that could endanger the health of Palm Springs residents as discussed in Recital E above.

H. In December of 2009, the City Council determined that the MCO regulations and development standards as originally established provided little flexibility for the City Council to take into consideration "on the ground" conditions relating to medical cannabis collectives or cooperatives. The City Council initiated, introduced, and adopted an amendment to the MCO to provide more flexibility in considering the various applications that are pending before the City Council.

I. This interim urgency ordinance mirrors the provisions of the permanent ordinance generally described in Recital H and its adoption will allow the City Council to conclude its review of the final four applications, select two, and allow the selected collectives or cooperatives to commence legal operation in the City at the earliest feasible date and thereby reduce the potential public health and safety threat that exists in the City.

SECTION 3. Subsection 93.22.C of the Palm Springs Municipal Code is amended to read:

C. No Medical Cannabis Cooperative or Collective shall be established, developed, or operated within five hundred (500) feet of a school, public playground or

park, or any residential zone property, child care or day care facility, youth center, or church, or within one thousand (1000) feet of any other Medical Cannabis Cooperative or Collective, and shall not be located on any property that is occupied with a commercial retail use where such use is the primary use on such property. All distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the Medical Cannabis Cooperative or Collective is, or will be located, to the nearest property line of those uses describe in this Subsection. Administrative modifications for this standard may be granted by the City Council pursuant to Section 94.06.01.B.

**SECTION 4.** Section 93.22.00.E is hereby amended to read:

E. A Medical Cannabis Cooperative or Collective shall be parked at a rate of 1 space for every 250 gross square feet of office space, and 1 space for every 800 square feet of warehouse / cultivation space. Administrative modifications for this standard may be granted by the City Council pursuant to Section 94.06.01.B.

**SECTION 5.** Paragraph 6 of Subsection 93.22.00.H of the Palm Springs Municipal Code is repealed.

**SECTION 6.** This interim urgency ordinance shall take effect immediately upon its adoption by a four-fifths (4/5) vote of the City Council. This interim urgency ordinance shall continue in effect for forty-five (45) days from the date of its adoption or the effective date of Ordinance No. 1766, whichever event occurs first, and shall thereafter be of no further force and effect unless, after notice pursuant to California Government Code Section 65090 and a public hearing, the City Council extends this interim urgency ordinance for an additional period of time pursuant to California Government Code Section 65858.

PASSED, APPROVED, AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
Stephen P. Pougnet  
Mayor

ATTEST:

\_\_\_\_\_  
James Thompson, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Douglas Holland, City Attorney

CERTIFICATION

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss  
CITY OF PALM SPRINGS )

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. \_\_\_\_\_ is a full, true and correct copy, and was introduced, adopted, and passed AS AN URGENCY ORDINANCE at a regular meeting of the Palm Springs City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2010 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
James Thompson, City Clerk  
City of Palm Springs, California