



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Ordinance No. 1843 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – by Adding Chapter 9.30, 'Medical Marijuana Dispensaries'"

MEETING DATE: March 2, 2011

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1843.

BACKGROUND INFORMATION: Ordinance No. 1843 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – by Adding Chapter 9.30, 'Medical Marijuana Dispensaries,'" was introduced at the regular City Council meeting of February 16, 2011.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**
This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/jmr
Attachment

APPROVED: 

Konradt Bartlam, City Manager

ORDINANCE NO. 1843

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LODI AMENDING LODI MUNICIPAL CODE
TITLE 9 – PUBLIC PEACE, MORALS, AND WELFARE –
BY ADDING CHAPTER 9.30, “MEDICAL MARIJUANA
DISPENSARIES”

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 9 – Public Peace, Morals, and Welfare – is hereby amended by adding Chapter 9.30, “Medical Marijuana Dispensaries,” to read as follows:

CHAPTER 9.30

MEDICAL MARIJUANA DISPENSARIES

SECTIONS:

- 9.30.010 Definitions
- 9.30.020 Establishment and Operation of Medical Marijuana Dispensaries Prohibited
- 9.30.030 Public Nuisance
- 9.30.040 Civil Penalties

Section 9.30.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

A. “Medical Marijuana” is marijuana authorized in strict compliance with Health and Safety Code Section 11362.5, et seq.

B. “Medical Marijuana Dispensary” means any facility or location, whether fixed or mobile, where medical marijuana is cultivated or by any means made available to, distributed by, or distributed to two (2) or more of the following: a qualified patient, a person with an identification card, or a primary caregiver in strict accordance with Health and Safety Code Sections 11362.5, et seq., and 11362.7, et seq.

A medical marijuana dispensary shall not include the following uses, so long as such uses comply with this code, Health and Safety Code Section 11362.5 et seq., and other applicable law:

1. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
2. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
3. 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.

4. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.

5. A hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

C. "Person with an identification card" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

D. "Primary caregiver" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

E. "Qualified patient" shall have the meaning as set forth in Health and Safety Code Section 11362.7, and as may be amended.

Section 9.30.020 Establishment and Operation of Medical Marijuana Dispensaries Prohibited.

No person shall establish, operate, or permit the establishment or operation of a medical marijuana dispensary in or upon any premises in the City of Lodi.

Section 9.30.030 Public Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Chapter 9.30 shall be; and hereby is declared to be a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure Section 731.

Section 9.30.040 Civil Penalties.

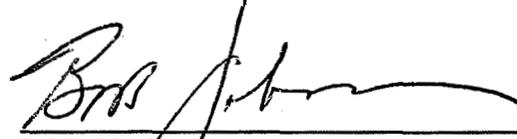
In addition to any other enforcement permitted by this Chapter 9.30, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Chapter 1.10 of this code against any person or entity that violates this Chapter 9.30. In any civil action brought pursuant to this Chapter 9.30, a court of competent jurisdiction may award reasonable attorneys fees and costs to the prevailing party.

SECTION 2. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this 2nd day of March, 2011.


BOB JOHNSON
Mayor

Attest:


RANDI JOHL, City Clerk

State of California
County of San Joaquin, ss.

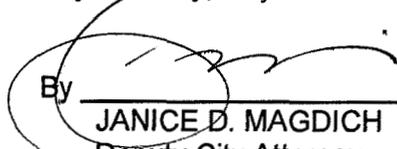
I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1843 was introduced at a regular meeting of the City Council of the City of Lodi held February 16, 2011, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held March 2, 2011, by the following vote:

- AYES: COUNCIL MEMBERS – Katakian, Nakanishi, and Mayor Johnson
- NOES: COUNCIL MEMBERS – None
- ABSENT: COUNCIL MEMBERS – Hansen and Mounce
- ABSTAIN: COUNCIL MEMBERS – None

I further certify that Ordinance No. 1843 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.


RANDI JOHL
City Clerk

Approved as to Form:
D. STEPHEN SCHWABAUER
City Attorney, City of Lodi

By 
JANICE D. MAGDICH
Deputy City Attorney