ATTACHMENT A

ORDINANCE NO. 10120 (NEW SERIES)
02/01/2011 (2)

AN ORDINANCE AMENDING SECTIONS 21.102, 21.107, 21.1901, 21.2502, 21.2504 AND 21.2505 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO THE UNIFORM LICENSING PROCEDURE, FEES AND MEDICAL MARIJUANA COLLECTIVE FACILITIES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. On June 30, 2010, the Board of Supervisors for the County of San Diego added to the County Code of Regulatory Ordinances Title 2, Division 1, Chapter 25 relating to medical marijuana collective facilities. The regulatory codes therein adopted require that certain fees be charged by the Sheriff's Department to recover the cost of processing applications and compliance monitoring for medical marijuana facility operating certificates. This ordinance will amend the Code of Regulatory Ordinances to establish licensing procedures and set such fees. The Board of Supervisors finds and determines that the County Sheriff's Department will be the issuing authority for the medical marijuana operation certificate. The fee for the regulation and enforcement of this activity reflects the cost of administration for this program. The Board of Supervisors also finds that due to the advent of self-styled medical marijuana collective "delivery services" the operating requirements for collective facilities should be amended to add appropriate regulations. In addition, the Board of Supervisors finds that other miscellaneous sections should be amended to clarify or correct language in the sections. These amendments are reasonable and necessary to protect the public health, safety, and welfare of our community.

Section 2. Section 21.102 of the Code of Regulatory Ordinances is amended to read as follows:

The following activities require a license for which the Sheriff is the Issuing Officer:

(a) Amusement Establishment and Devices

(b) Amusement Ride Centers/Go-Cart Centers

(c) Bathhouses

(d) Carnivals and Circuses

(e) Casino Parties

(f) Entertainment Establishments

(g) Entertainment Managers

(h) Firearms Dealers

(i) Fortune Telling

(j) Holistic Health Practitioners

(k) Junk Yards and Motor Vehicle Wrecking Yards

(l) Massage Establishments

(m) Massage Technicians

(n) Massage Technician Trainees

(o) Medical Marijuana Operations Certificate

(p) Merchandise Coupons

(q) Off-Premises Massage

(r) Outdoor Assemblies

(s) Outdoor Assembly Managers

(t) Pawnbrokers and Second Hand Dealers

(u) Public Dances

(v) Shooting Ranges

(w) Solicitors

(1) License

(2) Identification Card

(x) Swap Meets

(y) Taxicab Operators and Taxicab Drivers

(1) Operator's License

(2) Driver's Identification Card

(z) Teen-age Dances

Section 3. Section 21.107 of the Code of Regulatory Ordinances is amended to read as follows:

(a) The Issuing Officer may investigate each application for a license required by this chapter to determine whether the applicant:

(1) Has completely and accurately furnished information on the application or in response to any other request for information made by the Issuing Officer or any other County employee or County department concerning the application.

(2) Meets all minimum age requirements under federal, State and County laws and regulations.

(3) Has been convicted of a crime. The Issuing Officer is authorized to obtain the applicant's fingerprints and transmit the fingerprints to the State Department of Justice and Federal Bureau of Investigation (FBI) to obtain the applicant's State and local federal criminal history information.

(4) Committed an act involving dishonesty, fraud or deceit with the intent to substantially benefit the applicant or another person or to injure another person, or

(5) Committed an act involving moral turpitude.

(b) The Issuing Officer, as part of the investigation, may:

(1) Request that any person or public entity provide information the Issuing Officer deems relevant and necessary to investigate the application.

(2) Determine whether the location at which the applicant intends to conduct the proposed activity complies with all federal, State and County laws and regulations.

(3) Post for 10 days in a conspicuous place where the Issuing Officer conducts business a notice stating: (A) the name and address of the applicant, (B) the location(s) where the applicant intends to conduct the activity for which a license is required, (C) the type of license applied for, (D) whether the application is for a new license or request for renewal, (E) that any person may submit relevant information to the Issuing Officer in connection with the application and (F) that any information must be submitted to the Issuing Officer no later than five days from the last day the notice will be posted.

Section 4. Section 21.1901 of the Code of Regulatory Ordinances is amended to read as follows:

The fees for the licenses, permits and registration certificates issued by the Sheriff and services provided by the Sheriff pursuant to this code shall be as follows:

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(a) LICENSES AND PERMITS

(1) Adult Entertainment Employee License: Initial fee $251, renewal fee $192.

(2) Adult Entertainment Establishment License: Initial fee $637, renewal fee $559.

(3) Alarm System Permit: Permit fee $118.

(4) Amusement Establishment License: Annual fee $457 plus $60 per device.

(5) Amusement Ride Cent or Go-cart Center Permit: Annual fee $457.

(6) Bath-house Permit: Initial fee $684, renewal fee $625.

(7) Bingo License: Annual fee $50.

(8) Blaster's ID Card: Annual fee $133.

(9) Blaster's Permit: Initial fee $479, renewal fee $459.

(10) Carnival or Circus License: Annual fee $438 plus $100per day.

(11) Casino Party License: Event fee $291.

(12) Charitable Solicitor Registration: No fee.

(13) Concealed Weapons License: Initial fee $ 63.14, renewal fee $21.52, in addition to fees to the State of California, the Department of Justice and the FBI. Any license amendment $10.

(14) Entertainment Establishment License: Annual fee $261.

(15) Entertainment Establishment Manager Registration: Annual fee $86.

(16) Explosives Permit: Initial fee $479, renewal fee $459.

(17) Firearms Dealer Permit: Initial fee $ 379, renewal fee $359.

(18) Fireworks Permit: Initial fee $232, renewal fee $212.

(19) Fortune Telling License: Initial fee $251, renewal fee $231.

(20) Holistic Health Practitioner: Registration fee $204.

(21) Junk Yards or Motor Vehicle Wrecking Yards License: Annual fee $465.

(22) Massage Establishment License: Initial fee $398, renewal fee $379.

(23) Massage Technician or Massage Technician Trainee Permit: Initial fee $273, renewal fee $106.

(24) Medical Marijuana Operation Certificate: Annual fee $11,017.

(25) Merchandise Coupon Distributor: Annual fee $118.

(26) Off-Premises Massage License: Initial fee $273, renewal fee $106.

(27) Outdoor Assembly License: Event license $534.

(28) Outdoor Assembly Manager Registration: Manager event registration $86.

(29) Pawnbroker or Second Hand Dealer License: Initial fee $398, renewal fee $379.

(30) Public Dance License: Initial fee $261, renewal fee $241.

(31) Public Dance Manager Registration: Annual fee $86.

(32) Shooting Range Permit: Initial fee $334, renewal fee $255.

(33) Solicitor's License: Initial fee $165, renewal fee $106.

(34) Solicitor's ID Cards: Initial fee $106, renewal fee $86.

(35) Swap Meets License: Initial fee $220 plus $24 per stall, renewal fee $ 200 plus $24 per stall.

(36) Taxicab Operator's License: Initial fee $283 plus $64 per cab, renewal fee $194 plus $64 per cab.

(37) Taxicab Drivers Identification Card: Initial fee $83, renewal fee $64. Fee for changes to card between renewals: $29.

(38) Teenage Dance License: Initial fee $261, renewal fee $192.

(39) Transportation Tags or Christmas Trees: No fee.

(b) SERVICES

(1) Copies of Reports: $20.

(2) Records Search/Criminal History Copies: $14.

(3) Good Conduct Letters: $39.

(4) Fingerprint Service by License Division: $22.

(5) Fingerprint Service by Crime Lab: $117.

(6) Copies of Evidence Photos: $25.

(7) Copies of Crime Lab Reports: $14.

Section 5. Section 21.2502, subdivision (d), of the Code of Regulatory Ordinances is amended to read as follows:

(d) "Medical Marijuana Collective Facility" or "Collective Facility" means any location at which members of a medical marijuana collective collectively or cooperatively cultivate, store or exchange marijuana among themselves or reimburse each other or the medical marijuana collective for cultivation, overhead costs and operating expenses. "Medical Marijuana Collective Facility" or "Collective Facility" does not mean or include the following facilities licensed pursuant to the following provisions of Division 2 of the Health and Safety Code:

(1) A clinic licensed pursuant to Chapter 1;

(2) A health facility licensed pursuant to Chapter 2;

(3) A residential care facility for persons with chronic, life-threatening illnesses licensed pursuant to Chapter 3.01;

(4) A residential care facility for the elderly licensed pursuant to Chapter 3.2; or

(5) A residential hospice or a home health agency licensed pursuant to Chapter 8.

Section 6. Section 21.2504 of the Code of Regulatory Ordinances is amended to read as follows:

(a) Alarms, Closed Circuit Television.

(1) A Sheriff Department-licensed, 24-hour centrally monitored alarm system is required.

(2) Closed Circuit Television (CCTV) video monitoring shall be installed that meets the following criteria:

(A) Continuous 24-hour operation and recording with minimum archival period of 14 days.

(B) Sufficient cameras, angles of observation and lighting to allow facial feature identification of persons in interior and exterior areas where marijuana is present at any time.

(C) Sufficient cameras, angles of observation and lighting to allow facial feature identification of persons in the immediate exterior areas of doors, windows or other avenues of potential access.

(D) All CCTV recordings shall be accessible to law or code enforcement officers at all times during operating hours and otherwise upon reasonable request. All CCTV recording systems shall have the capability of producing tapes, DVDs or other removable media of recordings made by the CCTV system.

(E) To prevent tampering, the recorder shall be kept in a secure location and all recordings shall be date and time stamped.

(b) Windows.

(1) Windows and glass panes shall have vandal-resistant glazing, shatter-resistant film, glass block, or bars installed equipped with latches that may be released quickly from the inside to allow exit in the event of emergency.

(2) Windows vulnerable to intrusion by a vehicle must be protected by bollards or landscaping grade separation reasonably sufficient to prevent such intrusion.

(c) Roofs, roof hatches, sky lights, ceilings.

For buildings in which a Collective Facility is located:

(1) All means of gaining unauthorized access to the roof shall be eliminated. Exterior roof ladders shall be secured with locked ladder covers.

(2) Roof hatches and skylights shall be secured so as to prevent intrusion.

(3) Where a Collective Facility is located in a building with other tenants, the Collective Facility shall be secured against unauthorized access from other tenant spaces or common areas, including access through crawl spaces, ceiling spaces, ventilation systems or other access points concealed from the common areas.

(d) Visibility.

(1) No marijuana may be visible from any location off the property on which a Collective Facility is located.

(2) Exterior landscaping within 10 feet of any building in which a Collective Facility is located shall be free of locations which could reasonably be considered places where a person could conceal themselves considering natural or artificial illumination.

(3) Exterior building lighting and parking area lighting must be in compliance with County of San Diego Light Pollution Code (Sections 51.201-51.209 of the San Diego County Code), County of San Diego Zoning Ordinance (Sections 6322 - 6326), and California Energy Code (Title 24-Chapter 6 of the California Code of Regulations). Lighting must be of sufficient foot-candles and color rendition, so as to allow the ready identification of any individual committing a crime on site at a distance of no less than forty feet.

(e) Fire suppression system: An approved automatic fire sprinkler system, designed in compliance with NFPA 13, shall be provided in buildings and portions thereof used as a Collective Facility.

(f) Parking

A Collective Facility shall conform to the requirements of Zoning Ordinance Section 6762 and shall be considered an "Office" occupancy type for purposes of that Section.

(g) Entrances, exits, doors.

(1) A Collective Facility shall have a single plainly identified primary entrance/exit site that is visible from public or common areas.

(2) Any exit or entrance that is not visible from a public or common area shall be plainly marked as an emergency exit only. Such emergency exists shall be self-closing, self-locking, equipped with an alarm and not used except in an emergency.

(3) Any aluminum door shall be fitted with steel inserts at the lock receptacles.

(4) Any outward opening doors shall be fitted with hinge stud kits, welded hinges or set-screw hinge pins.

(5) Panic exit hardware shall be "push-bar" design.

(6) Double doors shall be fitted with three-point locking hardware and push-bars consistent with fire agency regulations or requirements.

(7) All emergency exits shall be solid core doors featuring hinge-pin removable deterrence. Emergency exit doors shall have latch guards at least 12 inches in length protecting the locking bolt area. Latch guards shall be of minimum 0.125-inch thick steel, affixed to the exterior of the door with non-removable bolts, and attached so as to cover the gap between the door and the doorjamb for a minimum of six inches both above and below the area of the latch.

(8) All glass doors or doors with glass panes shall have shatter-resistant film affixed to prevent glass breakage.

(h) The provisions of this section do not apply to the following Collective Facilities:

(1) A Collective Facility operated by a Qualified Patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single Qualified Patient under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

(2) A Collective Facility operated by a Primary Care Giver where the amount of marijuana at no time exceeds the amount allowed by state law for a single Primary Care Giver under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

Section 7. Section 21.2505 of the Code of Regulatory Ordinances is amended to read as follows:

SEC. 21.2505. OPERATING REQUIREMENTS FOR COLLECTIVE FACILITIES.

(a) The hours of operation of a collective facility shall be no earlier than 8 a.m. and no later than 8 p.m., seven days a week.

(b) No persons under the age of eighteen are allowed at, in or on a collective facility, unless such individual is a qualified patient and accompanied by their licensed attending physician, parent or documented legal guardian.

(c) In order to facilitate verification that a collective facility is operating pursuant to state and local laws, the following records must be maintained at the collective facility at all times and available for inspection by the Sheriff's Department:

(1) A record identifying all current qualified patient members of the collective associated with the collective facility. The record shall identify each qualified patient's designated primary caregiver, the name of the physician providing the recommendation for medical marijuana and shall reflect whether the recommendation is written or oral. The record shall identify the city and county of residence for each qualified patient and his or her primary caregiver.

(2) A record identifying all current primary caregiver members of the collective associated with the collective facility, and the persons for whom they are the designated primary caregiver. The record will show the city and county of residence for all qualified patients and primary caregivers.

(3) A current record of caregiver events for each member of the collective associated with the collective facility. Such record should include, at a minimum, the dates, times, duration, participants and nature of the caregiver event(s). Such record shall not include information protected by federal or state medical information privacy laws.

(4) A record identifying the source or sources of all marijuana currently on the premises of the collective facility or that has been on the premises during the two-year period preceding the current date. The record shall reflect the grower and the address and location of cultivation of the identified marijuana.

(5) All marijuana at the collective facility must at all times be physically labeled with information which, used in conjunction with the record required by section 21.2505(c)(4), will allow for ready identification of the specific collective member who is the source of the marijuana.

(6) All marijuana at the collective facility must at all times be physically labeled with the monetary amount to be charged (or "price" for purposes of this subparagraph only) to a collective member as reimbursement for cost of cultivation, overhead and operating expenses. Marijuana that is stored in bulk, and which is distributed by requested weight amount, shall be labeled with the price-per- ounce. Marijuana that is stored and distributed in fixed weight packages shall be labeled with the price and weight of the marijuana in the package.

(7) Current records of all transactions involving money and/or marijuana occurring in connection with the operation and activities of the collective or the collective facility during the two-year period preceding the current date. Such records must include at a minimum the following information: (a) The names of the persons involved, the person's membership status in the collective associated with the collective facility, and whether they are a qualified patient or a primary caregiver; (b) the amount of cash involved, if any, (c) the amount of marijuana involved, if any, (d) the method of payment if not by cash, and (d) if marijuana was involved, the collective member who was the source of the marijuana.

(8) An agreement, signed by each member of the collective associated with the collective facility and who is a source of marijuana to the collective facility as identified by sections 21.2505(c)(4) and 21.2505(c)(5), that:

(A) within seven days of request by the Sheriff's Department, the member will produce for inspection by law enforcement a record, current to within 48 hours, of costs of cultivation, overhead and operating expenses; and

(B) the location of the cultivation of the marijuana supplied by the member shall be subject to inspection for physical verification by appropriate law enforcement or fire agencies.

The form of the agreement required by this subdivision shall be determined by the Sheriff's Department, and shall require as a minimum the full name, home address, cultivation site address, home and emergency telephone numbers and the agreement required by this section.

(9) A record showing the identification of the responsible persons for the collective by name, home address and telephone number.

(10) A clearly-visible, posted document identifying the names of the responsible persons and their emergency contact telephone numbers.

(d) The total quantity of marijuana located at any collective facility shall not exceed the maximum quantity limits set by state law, as established by statute and court decisions, in relation to the number of qualified patients and primary caregivers that are members of the collective.

(e) All marijuana at a collective facility must have been cultivated at that collective facility or have as its source a member or members of the collective with which the collective facility is associated.

(f) Only marijuana as herein defined is allowed at the collective facility. No food or drink containing marijuana is allowed.

(g) No smoking or any other consumption or ingestion of marijuana is allowed at a collective facility.

(h) Only persons who are members of the collective that is associated with a collective facility shall collectively or cooperatively cultivate, store or exchange marijuana among themselves, or reimburse each other or the medical marijuana collective for cultivation, overhead costs and operating expenses, at the collective facility.

(i) All transactions between or among members of a Collective involving the exchange of marijuana and money, the exchange of marijuana and any other thing of value, the exchange of marijuana, or the provision of marijuana by one collective member to another Collective member shall occur at the Collective Facility operated by the Collective to which the members belong, except as follows: To the extent allowed by Health & Safety Code § 11362.71 and Health & Safety Code § 11362.765, a member of a Collective may transport medical marijuana from the Collective Facility of the Collective to which the member belongs and deliver the medical

marijuana to another member of the same Collective and may, upon delivery, accept money on behalf of the Collective in exchange for the medical marijuana.

(j) Collective facilities shall be available for inspection by the Sheriff, the Director of Planning and Land Use, the fire authority having jurisdiction or their respective authorized representatives, at all times during operating hours and upon reasonable notice during non-operating hours.

(k) A collective facility shall have on its premises, posted in a prominent location, a copy of its Operating Certificate and a document that provides the names, home addresses, home telephone numbers and 24-hour emergency telephone numbers of its operators.

(l) A licensed, uniformed security guard shall be present at a collective facility at all times during hours of operation pursuant to section 21.2505(a).

(m) The provisions of this section do not apply to the following collective facilities:

(1) A collective facility operated by a qualified patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single qualified patient under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

(2) A collective facility operated by a primary care giver where the amount of marijuana at no time exceeds the amount allowed by state law for a single primary care giver under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

Section 8. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL
BY
William L. Pettingill, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 1st day of February, 2011.

BILL HORN
Chairman, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, Slater-Price, Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 1st day February, 2011.

THOMAS J. PASTUSZKA
Clerk of the Board of Supervisors

By
Nancy Vizcarra, Deputy

Ordinance No. 10120 (N.S.)

02-01-2011 (2)