

ORDINANCE NO. 3465 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY
BANNING MEDICAL MARIJUANA DISPENSARIES WITHIN THE CITY OF
MONTEREY IN ALL ZONES

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

Monterey City Code Chapter 22 is hereby amended by adding Article 22 with a new section 22-39, to read as follows:

“22-39” Prohibiting Medical Marijuana Dispensaries, Marijuana Dispensaries and Marijuana Sales.

(a) Medical Marijuana Dispensaries Prohibited. Medical marijuana dispensaries are prohibited in the City of Monterey. No person shall locate, operate, own, suffer, allow to be operated or aid, abet, lease to or assist in the operation of any fixed or mobile medical marijuana dispensary within the City in any zone. The operation of a medical marijuana dispensary in the City of Monterey shall constitute a public nuisance.

“Medical Marijuana Dispensary” is defined as: Any facility, clinic, cooperative, club, business, group or location, whether fixed or mobile, where medical marijuana is made available to, exchanged, sold, or distributed to a qualified patient, a person with an identification card, and/or a primary caregiver as defined by state law. A Medical marijuana dispensary shall not include the following uses, as long as the location of such use is otherwise in accordance with this code and other applicable law:

- A. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
- B. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
- C. 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.
- D. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
- E. A hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq.

(b) Marijuana Dispensaries Prohibited. Marijuana dispensaries are prohibited in the City of Monterey. No person shall locate, operate, own, suffer, allow to be operated or aid, abet or

assist in the operation of any fixed or mobile marijuana dispensary within the City in any zone. The operation of a marijuana dispensary in the City of Monterey shall constitute a public nuisance.

"Marijuana Dispensary" is defined as: Any facility, clinic, cooperative, club, business, group or location, whether fixed or mobile, where marijuana is made available to, sold, exchanged, or distributed to any person. A Marijuana dispensary shall not include the following uses, as long as the location of such use is otherwise in accordance with this code and other applicable law:

- A. A clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code.
- B. A health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code.
- C. 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.
- D. A residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code.
- E. A hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code Section 11362.5 et seq."

(c) Marijuana Sales Prohibited.

- 1. No person shall grow, sell, exchange, or distribute marijuana within the City in any zone, or engage in any operation for this purpose.
- 2. No person shall make, sell or distribute any marijuana-infused product such as tinctures, baked goods or other consumable products, or participate in any operation for this purpose.
- 3. This section shall not limit cultivation in strict compliance with the Compassionate Use Act, codified at California Health and Safety Code Section 11362.5."

SECTION 3: If any provision of this Ordinance or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Ordinance, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Ordinance are severable.

SECTION 4: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

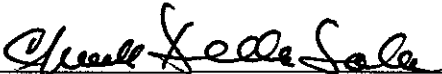
SECTION 5: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 6th day of September 2011 by the following vote:

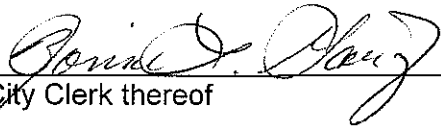
AYES:	3	COUNCILMEMBERS:	Downey, Selfridge, Della Sala
NOES:	2	COUNCILMEMBERS:	Haferman, Sollecito
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



Mayor of said City

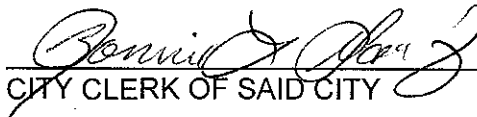


City Clerk thereof

STATE OF CALIFORNIA
COUNTY OF MONTEREY
CITY OF MONTEREY

I, CATHERINE A. RAYNOR, SENIOR ASSISTANT CITY CLERK OF THE CITY OF MONTEREY, AND EX-OFFICIO CLERK OF THE COUNCIL THEREOF, HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS DULY PASSED TO PRINT IN THE OFFICIAL NEWSPAPER OF SAID CITY BY THE COUNCIL THEREOF ON THE 16th DAY OF August, 2011, BY THE FOLLOWING VOTE:

AYES	3	COUNCILMEMBERS:	Downey, Selfridge, Della Sala
NOES:	2	COUNCILMEMBERS:	Haferman, Sollecito
ABSENT:	0	COUNCILMEMBERS:	None


CITY CLERK OF SAID CITY

PUBLICATION: August 17, 2011