

**ORDINANCE NO. 2218**

**AN ORDINANCE AMENDING SECTION 40.01.010 (DEFINITIONS) AND ADDING SECTION 40.26.275 (MEDICAL MARIJUANA DISPENSARIES) OF CHAPTER 40 OF THE CITY OF DAVIS MUNICIPAL CODE TO ADDRESS CURRENT CONCERNS REGARDING LAND USE AND ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES WITHIN THE CITY OF DAVIS**

THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1. DEFINITIONS**

Section 40.01.010 (Definitions) of Chapter 40 of the Code of the City of Davis, as amended, is hereby amended to add the definition for medical marijuana dispensary as follows:

**Medical Marijuana Dispensary.** As used herein the term "Medical Marijuana Dispensary" or "Dispensary" means any facility or location where medical marijuana is made available to and/or distributed by or to two or more persons in the following categories: a primary caregiver, a qualified patient, or a person with an identification card, in strict accordance with California Health and Safety Code Section 11362.5 et seq. A "medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this Code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, 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, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential 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. and the City of Davis Municipal Code, including but not limited to the City's Zoning Code.

**SECTION 2. PROHIBITION OF MEDICAL MARIJUANA DISPENSARIES**

Section 40.26.275 (Medical Marijuana Dispensaries) is hereby added to Chapter 40 of the Code of the City of Davis as follows:

Medical marijuana dispensaries are prohibited in all zoning districts, including without limitation to all planned development districts.

**SECTION 3. FINDINGS**

The City Council hereby finds as follows:

1. Find that the proposed zoning amendment will comply with federal laws regarding marijuana and its use; and adoption of this ordinance is consistent with several city's

General Plan policies and goals, including "Goal POLFIRE .2.1 Provide for an emotionally and physically safe environment where the people of Davis are able to live without fear of violence or other forms of abuse." This goal assures that a safe environment is accorded to the people of Davis where they will not be afraid, such as the fear from involvement in the medical marijuana dispensary business with the potential law enforcement action and legal sanctions due to federal laws.

2. Find that the proposed zoning amendment will be consistent with the Zoning Ordinance, as the purpose of the Zoning Ordinance is to provide a "precise and detailed plan for the use of land in the city based on the master plan for the city and is enacted in order to promote the public health, safety, morals, comfort and general welfare throughout the city." Given that this amendment is being proposed so as to avoid potential hardship to prospective entrepreneurs resulting from the conflict between state and federal laws on medical marijuana dispensaries, this amendment is appropriate and consistent with the purpose of the zoning ordinance cited herein.
3. Find that public necessity, convenience and general welfare require adoption of the proposed amendment, given that the amendment promotes public health, safety, morals, comfort and general welfare throughout the city.
4. Find that proposed amendment is categorically exempt from CEQA Guidelines Section 15321(b) as law enforcement activities by peace officers acting under any law that provides a criminal sanction. No environmental impact report (EIR) is needed.

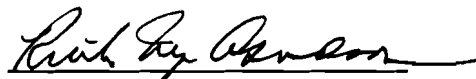
**SECTION 4. EFFECTIVE DATE**

This ordinance shall become effective on and after the thirtieth (30th) day following its adoption.


INTRODUCED on the 26th day of July, 2005, and PASSED and ADOPTED by the City Council of the City of Davis this 1st day of August, 2005, by the following vote:

AYES: GREENWALD, PUNTILLO, SAYLOR, SOUZA, ASMUNDSON.

NOES: NONE.

  
RUTH UYASMUNDSON  
Mayor

ATTEST:

  
BETTE E. RACKI  
City Clerk