

Medical Marijuana Regulation and Safety Act¹ What Cities Need to Know About the New Law



Overview -- Here's what you need to know:

- **Local prohibition or regulation:** Cities may prohibit or regulate medical marijuana businesses within their jurisdictions. **Local authority remains intact under the new law.**
- **State license required:** All medical marijuana businesses – dispensary sales, delivery service, cultivation, or transport – must have a State license².
- **State license not enough:** A medical marijuana business in any city may only operate if it has permission from the State **and** permission from the city (“dual licensing”).
- **Enforcement:** Revocation of local permission to operate means a medical marijuana business must terminate operation because the new law requires dual licensing. Upon approval of the State, a city may enforce State law.
- **State law penalties for unlicensed activity:** There are civil penalties and criminal penalties for operating without a State license.

Cultivation -- Here's what you need to know:

If your city does **not** have a land use ordinance in place regulating or prohibiting the cultivation of marijuana, *either expressly or otherwise under the principles of permissive zoning*, or chooses not to administer a conditional permit program, then commencing **March 1, 2016**, the State Department of Food and Agriculture will be the sole licensing authority for medical marijuana cultivation applicants.

Cultivation -- Here's what you need to do:

Determine if your city fits within City #1 or City #2 as described below:

- **City #1:** Municipal Code that does not expressly prohibit nor expressly regulate cultivation of medical marijuana and is not a “permissive zoning” code. **Need to take action.**

ACTION REQUIRED: Adopt a land use ordinance regulating or prohibiting the cultivation of medical marijuana. The ordinance must be effective by February 28, 2016. The ordinance may be adopted as an “urgency ordinance,” or second reading must occur on or before January 29, 2016.

- **City #2:** Municipal Code that is a “permissive zoning” code and does not enumerate cultivation of medical marijuana as a permitted or conditional use. **Need to take action.**

¹ AB 266 (Bonta, Cooley, Jones-Sawyer, Lack, Wood); AB 243 (Wood); and SB 643 (McGuire). Effective 1/1/2016.

² The Department of Consumer Affairs estimates it will begin issuing State licenses in January 2018. The Department of Food and Agriculture and the Department of Public Health also have licensing authority under the new law. Businesses operating in compliance with local ordinances will get priority in the State licensing application process.

ACTION REQUIRED: (1) Check and confirm that your city's zoning code is adopted and implemented under the principles of permissive zoning. If not, take action recommended for City #1. (2) If confirmed, adopt a resolution that includes the following provisions:

- States that Health & Safety Code section 11362.777(b)(3) provides that the Department of Food and Agriculture may not issue a State license to cultivate medical marijuana within a city that prohibits cultivation under principles of permissive zoning;
- Re-affirms and confirms that the Zoning Code is adopted and operates under the principles of permissive zoning;
- States this means that cultivation of marijuana is not allowed within City #2 because it is not expressly permitted; and
- Therefore, the State is not allowed to issue a license for the cultivation of medical marijuana within City #2.

Delivery -- Here's what you need to know:

If a city does not expressly prohibit the delivery of medical marijuana within its jurisdiction, delivery will be allowed (with a State dispensary license). This means that if your city wishes to prohibit the delivery of medical marijuana within its jurisdiction, the city must adopt an ordinance expressly prohibiting delivery services and mobile dispensaries.

Delivery -- Here's what you need to do:

- Determine whether your city currently bans delivery services for medical marijuana.
- If you have a ban, determine whether it is an affirmative ban, or a ban enacted via permissive zoning (i.e., it is not listed in your zoning or other codes as a permitted activity within the city limits).
- If you have an affirmative ban specifically identifying marijuana deliveries as a prohibited activity, you do not need to take further action.
- If you wish to prohibit delivery services but do not have an express ban, **you need to take further action.**

ACTION REQUIRED: Adopt an ordinance expressly banning deliveries within your jurisdiction. If you do not adopt an express ban ordinance before the State begins issuing any State licenses, a State-licensed dispensary will be able to deliver medical marijuana within your jurisdiction. Therefore, any ordinance must be in place before the State begins issuing State licenses. The State currently estimates that it will begin issuing dispensary licenses in January 2018, but that could certainly happen sooner.

Be sure to consult with your city attorney before taking any of the actions recommended in this document.

Save the date!

5th Annual All Cities
HOLIDAY
RECEPTION

Thursday { 12.03.15 } 6:00 p.m.- 8:30 p.m.

Don't Miss This Festive Event of
Hors D'oeuvres, Cocktails & Merriment!

The Grand Long Beach
4101 E. Willow Street | Long Beach, CA 90815

No Cost for members of The League of California Cities,
California Contract Cities Association or Biz Fed.

\$35.00 for guests.

[Click here to register!](#)

Space is limited, please register early.

Attendance at this event by a public official will constitute acceptance of a reportable gift. The total amount for this gift is \$35.



— LEAGUE MEMBERS ONLY —

Informational Briefing on the Medical Marijuana Regulation & Safety Act

In a historic move, Gov. Jerry Brown has signed a comprehensive package of bills to establish a regulatory structure around the state's multi-billion dollar medical marijuana industry. For the first time since voters passed Proposition 215 in 1996, multiple stakeholders including local government, law enforcement, unions and portions of the industry, are agreed on what the regulatory structure should look like. Together, AB 266, AB 243, and SB 643 comprise the Medical Marijuana Regulation & Safety Act.

TOPICS WILL INCLUDE

- How Local Governments Can Prepare For Implementation of State Regulation & Licensing
- Cultivation Ordinances
- Taxation Issues
- Local Control Protections
- Patient Access
- Clean Up Legislation

— DATE —

Tuesday, January 26, 2016

9:00am – 12:00pm

**City of Burbank
Community Services Building**
City of Burbank - Community Services Building
150 N. Third Street, Community Room #104
Burbank, CA 91502

— WHO SHOULD ATTEND —

**Mayors • Council Members
City Managers/Assistant City Managers
Fiscal Officers • City Planners
City Attorneys • Law Enforcement**



League of California Cities
Legislative Representative

Tim Cromartie



California Police Chiefs Association
Legislative Affairs Manager

Lauren Michaels



California Police Chiefs Association
Gardena Chief of Police

Ed Medrano



Burke, Williams & Sorensen, LLP
Partner

Steve McEwen

Sponsored by



LIGHT BREAKFAST WILL BE PROVIDED. To register, please visit www.cacities.org/events. For questions, please contact Sarah Nowshiravan at 916-658-8204 or snowshiravan@cacities.org.