



DATE: October 18, 2011
TO: Mayor and Members of the City Council
Chairman and Members of the Planning Commission
FROM: Denis Cook, City Planner

SUBJECT: Medical marijuana cultivation and sales regulations.
RECOMMENDATION: No action is requested as it is a study session only.
FISCAL IMPACTS: None

BACKGROUND:

The voters of California have previously passed the Compassionate Use Act of 1996 which provides a defense from prosecution for possession and cultivation of marijuana for medical patients and their primary care givers. As a result of the Compassionate Use Act, some residents of the City of Live Oak have been growing medical marijuana, which has prompted complaints from the residents of neighboring properties regarding the public nuisances caused by medical marijuana cultivation. At certain times of the year marijuana plants put out objectionable odors. Also, neighbors are concerned about their safety due to the trespass and potential violence issues in that others may attempt to steal marijuana from a grower. Further, there can be building code violations occurring due to use of significant amounts of lighting needed for indoor growing, which raises public safety issues. This ordinance is being proposed in order to regulate the nuisance and safety issues associated with cultivating and sale of medical marijuana.

STAFF COMMENTS:

The existing City ordinance prohibits the sale of medical marijuana within the City limits but is silent on the growing of medical marijuana. This draft ordinance continues the prohibition on the sale of medical marijuana within the city limits and also prohibits the growing of medical marijuana. But the draft ordinance also provides that if either part of the code that prohibits growing or sale is declared invalid by the courts, the ordinance provides an alternative that lists the conditions under which the growing and sale may occur.

If the prohibition on the growing of medical marijuana is determined to be invalid, the ordinance would regulate the growing of medical marijuana to residential areas, and only under criteria intended to reduce the nuisances and impacts on neighboring properties. In that sense growing marijuana is treated like other land use criteria intended to allow medical marijuana cultivation under criteria that protects the neighborhood from any adverse impacts that growing of medical marijuana can cause, such as smell. As proposed, the alternative part of the ordinance allows limited indoor cultivation of medical marijuana on properties on which a qualified patient resides, and with an approved zoning clearance in residential zoning districts (and the Urban Reserve Zone District by reference) if it meets the criteria provided in the Zoning Regulations.

If the prohibition on the sale of medical marijuana is determined to be invalid by the courts, the sale of medical marijuana would be limited to only a few commercial or employment areas within the City if a use permit is approved by the Planning Commission and a list of locational and use criteria is met.

While no action is to be taken during the study session, we are requesting that the City Council Members and Planning Commissioners each provide their thoughts on each proposal. We will make the necessary changes that are suggested at the meeting and bring the ordinance back to the Planning Commission in November to start the hearing process.

ENVIRONMENTAL REVIEW

This ordinance is exempt from environmental review pursuant to CEQA Guidelines 15305, Minor Alterations in Land use Limitations, and per the general rule (CEQA Guidelines 15061(3)) that it can be seen with certainty that there is no possibility that the activities resulting from this ordinance could have an impact on the environment.

Respectfully submitted,



Denis Cook
City Planner

Reviewed By 
Jim Goodwin, City Manager

ORDINANCE NO. 538

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LIVE OAK REGARDING THE CULTIVATION AND SALE OF
MEDICAL MARIJUANA WITHIN THE CITY LIMITS**

**THE CITY COUNCIL OF THE CITY OF LIVE OAK DOES HEREBY ORDAIN AS
FOLLOWS:**

SECTION 1. Table 17.02.020 of the Zoning Regulations is revised to add to the list of Residential Accessory Uses to read as follows:

Medical marijuana cultivation					Chapter 17.17
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SECTION 2. Table 17.03.020 of the Zoning Regulations is revised to modify the list of Commercial Uses to read as follows:

Medical marijuana dispensary			Chapter 17.17
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SECTION 3. A new Chapter 17.17 is hereby added to the Zoning Regulations to read as follows:

17.17 Standards for Medical Marijuana

17.17.010 Findings and Purpose

- A. The City Council hereby finds that the cultivation of medical marijuana significantly impacts, or has the potential to significantly impact, the City’s jurisdiction. These impacts include damage to buildings in which cultivation occurs, including improper and dangerous electrical alterations and use, inadequate ventilation, increased occurrences of home-invasion robberies and similar crimes and nuisance impacts to neighboring properties from the strong and potentially noxious odors from the plants and increased crime.
- B. It is acknowledged that the voters of the State of California have provided a criminal defense to the cultivation, possession and use of marijuana for medical purposes through the adoption of the Compassionate Use Act in 1996 pursuant to Proposition 215 and codified as Health and safety Code section 11362.5. The Compassionate Use Act (CUA) does not address the land use or other impacts that are caused by the cultivation of medical marijuana.
- C. The purpose of this Section is to adopt rules consistent with the CUA and the Medical Marijuana Program Act (MMPA) commencing with Health and Safety Code section 11362.7 to regulate medical marijuana in a manner that protects the public health, safety

and welfare of the community and prevents adverse impacts which such activities may have on nearby properties and residents, without interfering with the rights of qualified patients and their primary caregivers to possess or cultivate medical marijuana pursuant to state law.

- D. The CUA is limited in scope, in that it only provides a defense from criminal prosecution for possession and cultivation of marijuana to qualified patients and their primary caregivers. The scope of the MMPA is also limited in that it establishes a statewide identification program and affords qualified patients, persons with identification cards and their primary caregivers, an affirmative defense to certain enumerated criminal sanctions that would otherwise apply to transporting, processing, administering or distributing marijuana.
- E. The CUA and MMPA do not appear to have facilitated the stated goals of providing access to marijuana for patients in medical need of marijuana, but instead the predominant use of marijuana has been for recreational and not medicinal purposes. As the report issued by the California Chiefs Association on September 2009, entitled "California Chiefs Association Position Paper on Decriminalizing Marijuana" states, "[i]t has become clear, despite the claims of use by critically ill people that only about 2% of those using crude marijuana for medicine are critically ill. The vast majority of those using crude marijuana as medicine are young and are using the substance to be under the influence of THC [tetrahydrocannabinol] and have no critical medical condition." (California Chiefs Association's Position Paper on Decriminalizing Marijuana, available at the Planning Department.)
- F. Facilities purportedly dispensing marijuana for medicinal purposes are commonly referred to as medical marijuana dispensaries, medical marijuana cooperatives or medical marijuana collectives; however, these terms are not defined anywhere in the CUA or MMPA. Significantly, nothing in the CUA or MMPA specifically authorizes the operation and the establishment of medical marijuana dispensing facilities.
- G. Further, neither the CUA nor MMPA require or impose an affirmative duty or mandate upon local governments, such as the City of Live Oak, to allow, authorize or sanction the establishment and the operation and establishment of facilities dispensing medical marijuana within its jurisdiction. Moreover, the CUA did not create a constitutional right to obtain medical marijuana.
- H. It is critical to note that neither Act abrogates the City's powers to regulate for public health, safety and welfare. Health and Safety Code 11362.5(b)(2) provides that the Act does not supersede any legislation intended to prohibit conduct that endangers others. In addition, Health and Safety Code 11352.83 authorizes cities and counties to adopt and enforce rules and regulations consistent with the MMPA.
- I. On August 25, 2008, Edmond G. Brown, the California Attorney General, issued "Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use" ("the Attorney General Guidelines"), which sets regulations intended to ensure the security and non-diversion of marijuana grown for medical use by qualified patients. Health and Safety Code 11362.81(d) authorizes the Attorney General to "develop and

adopt appropriate guidelines to ensure the security and non-diversion of marijuana grown for medical use by patients qualified under” the CUA. Nothing in the Guidelines imposes an affirmative mandate or duty upon local governments, such as the City of Live Oak, to allow, sanction or permit the establishment or the operation of facilities dispensing medical marijuana within their jurisdictional limits.

- J. Marijuana remains an illegal substance under the Federal Controlled Substances Act, 21 U.S.C. 801, *et seq.* and is classified as a “Schedule I Drug” which is defined as a drug or other substance that has a high potential for abuse, that is no currently accepted medical use in treatment in the United States, and that has not been accepted as safe for its use under medical supervision. Furthermore, the Federal Controlled Substances Act makes it unlawful for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense marijuana. The Controlled Substances Act contains no statutory exemption for the possession of marijuana for medical purposes. The City does not wish to be in violation of federal law.
- K. Pursuant to the City of Live Oak’s police powers authorized in Article XI, Section 7 of the California Constitution, as well as under the City of Live Oak Municipal Code, the City has the power to regulate permissible land uses throughout the City and to enact regulations for the preservation of public health, safety and welfare of its residents and community. And, pursuant to Government Code 38771 the City also has the power through the City Council to declare actions and activities that constitute a public nuisance.
- L. The City Council finds that neither the CUA nor the MMPA preempts the City’s exercise of its traditional police powers in enacting land use and zoning regulations, as well as legislation for preservation of public health, safety and welfare, such as this zoning ordinance prohibiting the establishment and operation of medical marijuana cooperatives and collectives within the City.
- M. The City Council finds that the public health, safety and general welfare of the City and its residents necessitates and requires the adoption of this zoning ordinance, prohibiting the establishment and operation of medical marijuana cooperatives and collectives, in order to: (a) protect and safeguard against the detrimental secondary negative effects and adverse impacts of facilities dispensing medical marijuana; (b) preserve and safeguard the minors, children and students in the community from the deleterious impacts of medical marijuana facilities; and (c) preserve the City’s law enforcement services, in that monitoring and addressing the negative secondary effects and adverse impacts will likely burden the City’s law enforcement resources. The City Council further finds that due to negative secondary effects and adverse impacts of facilities dispensing medical marijuana, the establishment and operation of these facilities will negatively impact the City.
- N. The Zoning Regulations are consistent with the Live Oak 2030 General Plan in that the General Plan, its goals, objectives and policies do not permit or contemplate the establishment or operation of medical marijuana cooperatives, collectives or similar facilities that engage in dispensing of marijuana for medicinal purposes.

17.17.020 Applicability

- A. Nothing in this Chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution under the CUA.
- B. Nothing in this Chapter is intended, nor shall it be construed, to make legal any cultivation, sale or other use of medical marijuana that is otherwise prohibited under California law.
- C. Nothing in this Chapter is intended, nor shall it be construed, to preclude any landlord from limiting or prohibiting medical marijuana cultivation by tenants.
- D. Nothing in this Chapter is intended, nor shall it be construed, to exempt any activity related to the cultivation of medical marijuana from any applicable electrical, plumbing, land use or other building or land use standards or permitting requirements.
- E. All cultivation and sale of medical marijuana within the City shall be subject to the provisions of this Chapter.

17.17.030 Definitions

The following definitions apply to this chapter:

- A. **Fully enclosed and secure structure:** A space within a building that complies with the California Building Code, as adopted in the City of Live Oak, or, if exempt from permit requirements, that has a complete roof enclosure supported by connecting walls extended from the ground to the roof, a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secure against unauthorized entry, and is accessible only through one or more lockable doors and accessible only to a primary caregiver or a qualified patient. Walls and roofs must be constructed of solid materials that cannot be easily broken through such as two inch by four inch or thicker studs overlaid with 3/8s inch or thicker plywood or the equivalent. Plastic sheeting regardless of gauge, or similar products do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, electrical and Fire Codes as adopted in the City of Live Oak.
- B. **Medical marijuana:** Marijuana used for medical purposes in accordance with California Health and Safety Code section 11362.5.
- C. **Medical marijuana collective, cooperative or dispensary:** A collective, cooperative, dispensary, operator, establishment, provider, association or similar entity that cultivates, distributes, delivers or processes marijuana for medical purposes relating to a qualified patient or primary caregiver, pursuant to the compassionate Use Act and Medical Marijuana Program Act.
- D. **Medical marijuana cultivation:** The planting, growing, harvesting drying or processing of marijuana plants or any part thereof.

E. Primary Caregiver: A primary caregiver as defined in Health and Safety Code section 11362.7.

F. Qualified patient: A qualified patient as defined in Health and Safety Code section 11362.7

17.17.040 Prohibition of Marijuana Cultivation

Marijuana cultivation by any person, including primary caregivers and qualified patients, collectives, cooperatives or dispensaries is prohibited in all zone districts within the City of Live Oak.

17.17.050 Separation of Section 17.17.040

If Section 17.17.040, or any subsection, sentence, clause, phrase or portion of Section 17.17.040 is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision and the following Section 17.17.060 shall apply in lieu of Section 17.17.040.

17.17.060 Cultivation in Residential Zone Districts for Personal Use

It is unlawful to cultivate medical marijuana in any residential zone district and in the UR zone district by reference, except as follows:

A. Indoor cultivation: Medical marijuana may be cultivated only in a fully enclosed and secure structure by a qualified patient or primary caregiver in a residential zone district if a zoning clearance is first secured and all of the following criteria are met:

1. The applicant must reside on the property and be either a qualified patient or primary caregiver.
2. The owner of the property, if other than the applicant, has consented in writing to the cultivation of marijuana on the property.
3. If the marijuana cultivation occurs within a residential accessory building or a garage, the location of the marijuana plants shall be at least 30 feet from any habitable structure on any adjacent property.
4. The location of the plants shall be at least 600 feet from any school property. The distance shall be measured in a straight line, without regard to intervening structures, from the closest property line of the property on which the marijuana is grown and the school property. The existence of city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this paragraph.
5. The area where marijuana is grown shall not exceed 50 square feet of floor area, regardless of how many qualified patients or primary caregivers live on the property.

- 6. The marijuana cultivation shall not be visible from any public or other private property.
 - 7. The cultivation of marijuana shall not take place in the kitchen, bathrooms or occupied bedrooms of the residence.
 - 8. The lighting used for cultivation shall not exceed 1,200 watts.
 - 9. The use of flammable or combustible products, including but not limited to, propane and butane, for cultivation and processing is prohibited.
- C. All medical marijuana cultivated pursuant to this Section shall be for the personal use only of a qualified patient residing on the property and may not be distributed to any other person, collective, cooperative or dispensary.
 - D. The cultivation of medical marijuana shall not be an allowed home occupation.
 - E. Cultivation of marijuana in any other zone district other than those listed in this Section is prohibited.

17.17.070 Medical Marijuana Collectives, Cooperatives and Dispensaries

Medical marijuana collectives, cooperatives and dispensaries are not permitted in any zone district within the City of Live Oak.

17.17.080 Separation of Section 17.17.070

If Section 17.17.070, or any subsection, sentence, clause, phrase or portion of Section 17.17.070 is held by a court of competent jurisdiction to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision and the following Section 17.17.090 shall apply in lieu of Section 17.17.070.

17.17.090 Medical Marijuana Dispensary

- A. Purpose:** To establish a comprehensive set of regulations applicable to the operation of medical marijuana dispensaries within the City to insure such operation in a manner consistent with the overall health, welfare and safety of the City and its populace and in compliance with the California Compassionate Use Act.
- B. Allowed zone districts:** Medical marijuana dispensaries are allowed in the Commercial-General (C-G), Commercial-Mixed Use (C-MU), Employment (E) and Industrial (M) Zone Districts, subject to an approved use permit in compliance with Sec. 17.35.030, and provided that all of the criteria provided below can be satisfied.
 - 1. The site is not within 1,000 feet of any public or private school for grades kindergarten through 12th, any preschool or licensed child care facility.

2. The site is not within 500 feet of any residential use, residential area or residential zone.
3. The site is not within 1,000 feet of any park, library or recreational area commonly used by minor children.
4. The site is not within 250 feet of any adult business which sells or provides in any manner drug paraphernalia.

C. Needed information: In addition to the information required by the City for any potential use permit application or any potential business license application, persons or entities making such application(s) for the establishment of a medical marijuana dispensary shall also provide the following information with the application(s).

1. The application must be signed by the owner, lessee or agent who is applying for the use permit or business license and the owner, lessee or agent shall specifically identify the individuals who will be conducting the business of the medical marijuana dispensary for the premises for which the permit or license is sought. In the case of a lessee of a property applying for a permit pursuant to this chapter, the property owner shall acknowledge on the application consent to the application for a use permit for a medical marijuana dispensary.
2. The applicant must demonstrate that the establishment is in compliance with state and federal law.
3. The application shall list the legal form of the applicant, e.g., individual, partnership, corporation.
 - a. If the applicant is an individual, the application shall list his or her legal name, any aliases and date of birth;
 - b. If the applicant is a partnership, the application shall list the full and complete name of the partnership, the legal names and addresses of all partners, dates of birth, all aliases used by all of the general partners and whether the partnership is general or limited; and
 - c. If the applicant is a corporation, the applicant shall list the full and complete corporate name, the date and status of its incorporation, evidence that the corporation is in good standing, the legal names and dates of birth and aliases used and the capacity of all officers, directors and principal stockholders (i.e., all stockholders with 10 percent or more of all outstanding shares, and the name and addresses of the registered officers for service of process.
3. The application must list whether, preceding the date of the application, the applicant or any individuals listed pursuant to subsection C.2. of this section has:
 - a. Other licenses and/or permits issued to and/or revoked from the applicant, in the three years prior to the year of the permit application, such other license and/or

permit relating to similar business activities as in the permit application. If the application lists such other licenses and/or permits, the list shall include the type, current status and issuing agency for each permit;

- b. Been a partner in a partnership or an officer, director or principal stockholder of a corporation which has had any other licenses and/or permits, relating to similar business activities as in the permit application, issued to and/or revoked in the three years prior to the year of the permit application. The type, current status, and issuing agency for each previously issued or revoked licenses and/or permits shall be listed on the application;
- c. Been found guilty of or pleaded nolo contendere within the last four years to a misdemeanor or a felony classified by the state as a drug or drug related offense.

D. Restrictions on use: The following restrictions/regulations/conditions shall apply to the operation of all medical marijuana dispensaries:

1. **Hours of operation:** Medical marijuana dispensaries shall be restricted to hours of operation between 6 a.m. and 10 p.m.
2. **Conviction of Crimes:** No operator and/or employee of a medical marijuana dispensary shall have been convicted of any felony under state or federal law, convicted of a crime in any other jurisdiction the commission of which would be a felony under California law, nor convicted of any crime of moral turpitude. All operators and/or employees of a medical marijuana dispensary shall be subject to verification by the Sutter County Sheriff's Department of the absence of any disqualifying conviction under this subsection prior to commencement of any such operation and/or employment and annually thereafter, pursuant to reasonable regulations pertaining thereto as established and promulgated by the Sheriff.
3. **Security system:** medical marijuana dispensaries shall be equipped with, and the operators of such dispensaries shall maintain in working order at all times burglary/robbery alarms in a manner compliant with the provisions of this code.
4. **Security Guard:** During all hours of operation there shall be, for each 1,000 square feet of occupied building space, or portion thereof, at least one licensed, uniformed security guard present and visible on the premises, i.e., one guard for zero to and including 1,000 square feet, two guards for 1,001 to and including 2,000 square feet, etc.
 - a. Such guards(s) shall be duly licensed by the State of California, Department of Consumer Affairs in a manor compliant with all applicable state and local laws. In particular, all security officers shall comply with the provisions of California Business and Professions Code Section 7582, et seq.
 - b. The presence and licensing of such guards shall be subject to proof thereof by operator(s), employee(s) or security guard(s) of such dispensary at all required times, upon reasonable demand by any state or federal police officer.

5. **Use on premises:** Use or consumption in any manner of marijuana is not permitted on premises of any medical marijuana dispensary at any time.
6. **Drug paraphernalia:** No medical marijuana dispensary may sell or display any drug paraphernalia on the premises at any time, including but not limited to cocaine and sniffing kits, glass mirrors for cutting cocaine, snorting spoons and tubes, strainers to sift cocaine, water pipes (bongs), everyday items with special removable tops that have been converted to conceal narcotics and drugs, including but not limited to beer cans, oil cans and plastic photograph film vials, roach clips (for holding marijuana cigarettes), cigarette paper or filters.
7. **Minors:** Persons under the age of 18 years of age are not permitted to be on the premises of any medical marijuana dispensary at any time.
8. **Alcohol:** No alcoholic beverage shall be sold, conveyed or consumed on the premises of any medical marijuana dispensary at any time.
9. **Under the influence:** No person shall be present on the premises of a medical marijuana dispensary while intoxicated and/or under the influence of alcohol or any controlled substance at any time, as defined in California Health and Safety Code Section 11007.
10. **Unobstructed view:** The interior of the dispensary shall be configured such that there is an unobstructed view, by use of the naked eye, and unaided by video, closed circuit cameras or any other means, of every public area of the premises by a manager. No public area shall be obscured by any door, curtain wall, two-way mirror or other device. A manager shall be in the public portion of the dispensary at all times it is in operation or open to the public in order to enforce all rules and regulations.
11. **Exterior painting:** Buildings and structures shall not be painted or surfaced with any design that would simulate a sign or advertising message and cannot be established or maintained such that the exterior appearance of the structure is substantially inconsistent with the external appearance of abutting properties.
12. **Displays:** Advertisements, displays of merchandise, signs or any other exhibit depicting activities of the dispensary placed within the interior of buildings of premises shall be arranged or screened to prevent public viewing from outside such building or premises.
13. **Loudspeakers:** Outdoor loudspeakers or other outdoor sound equipment advertising or directing attention to a dispensary, including but not limited to prerecorded or live music or sounds, are prohibited.
14. **Graffiti:** Upon order of the Sheriff's Department, graffiti appearing on any exterior surface of a building or premises of a dispensary, which graffiti is in public view, shall be removed and that surface shall be restored within 48 hours of notification to

the owner or person in charge of the premises or as may be specified in other ordinances of the City regulating graffiti removal.

- 15. Security cameras:** The operator of the medical marijuana dispensary shall be responsible for insuring that a video surveillance system on the premises complies with the following standards:
- a. Visually records and monitors all parking lot areas, rear alley areas immediately adjacent to the dispensary, the main building entrance(s) and exit(s), and any and all transaction areas for the dispensing of medical marijuana. The operator of the dispensary or his/her designated representative shall instruct the company or individual(s) installing the surveillance equipment at the dispensary to position cameras to maximize the quality of facial and body images and avoid backlighting and physical obstructions. The company or individual(s) installing the surveillance equipment for any medical marijuana dispensary shall be responsible for reasonable compliance with those instructions in installing such equipment at the dispensary.
 - b. Cameras shall have a minimum resolution of 500 lines per inch and a minimum light factor requirement of 0.7 LUX. Light sensitive lenses or the installation of additional lighting may be required to increase picture clarity and brightness. Cameras shall be calibrated and focused to maximize the quality of the recorded image.
 - c. The recorded device shall be defined as a “high density recorder” by manufacturer specifications. The device shall be a time-lapse recorder that displays a current date and time stamp on the videotape. Systems required to have more than one camera shall include a “quad” or “multiplexer” video display splitter. The recording equipment and all recorded video tapes kept in compliance with this section shall be secured in a locked area in which access is limited to the dispensary operator, the permit holder, and/or his/her designated representative(s).
 - d. A display monitor with a minimum screen size of 12 inches shall be connected to the video surveillance system at all times. If a “quad” video display splitter is utilized, the display monitor shall have a minimum screen size of 15 inches.
 - e. Video surveillance systems shall be maintained in good working order at all times. The owner of the dispensary shall instruct each employee, volunteer, agent, servant or other individual overseeing the functioning of the video system, to immediately report any malfunctioning of or technical problems whatsoever with surveillance equipment. Every three months, the operator of the dispensary or his/her designated representative shall inspect all cameras and video recorders to ensure proper operation and shall perform the following functions: the camera lenses shall be cleaned and the date and time stamp shall be calibrated to reflect true information; all wires connected to the camera and video recording device shall be inspected for wear and tear; and, a test recording shall be done to verify image quality and the date and time stamp. The operator of the dispensary or his/her designated representative shall keep a video surveillance maintenance log

documenting all inspections and repairs to the system. Any technical problems or inoperable equipment shall be repaired as soon as possible, not to exceed 15 days from the discovery of the problem. The video surveillance system and maintenance log are subject to periodic inspection by the Sheriff's Department, in order to ensure compliance with this section.

- f. The video surveillance system and recording device shall be in continuous operation from one full hour before to one full hour after the dispensary is open to the public, or any portion thereof. Videotapes of daily operations shall be kept a minimum of 30 days prior to reuse or destruction of such videotapes, and shall be provided to the Sheriff's Department as may be authorized by state and federal law. Such videotapes shall be clearly marked with the date the videotape was most recently recorded, and, in the event there are multiple tapes of the same date, each videotape shall be clearly marked in the sequential numerical order that it was so recorded.

16. Lighting

- a. **Interior:** The premises within which the dispensary is operated shall be equipped with and, at all times during which the dispensary is open to the public or any portion thereof, shall remain illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which members of the public or portions thereof are permitted access with an illumination of not less than two foot-candles as measured at the floor level.
- b. **Exterior:** The exterior of the premise upon which the dispensary is operated shall be equipped with and, at all times between sunset and sunrise, shall remain illuminated with fixtures of sufficient intensity and number to illuminate every portion of the property with an illumination level of not less than one-foot candle as measured at the ground level, including, but not limited to, landscape areas, parking lots, driveways, walkways, entry areas and refuse storage areas.

17. **Change of ownership:** If a dispensary operating with a permit pursuant to this chapter changes ownership, the current owner or operator shall notify the Sheriff's Department of the new owner's name and address within 10 days of the effective date of such change of ownership.

18. **Manager on premises:** All dispensaries shall have a responsible person who shall be at least 21 years of age and shall be on the premises to act as manager at all times during which the dispensary is open to the public or any portion thereof. The individual designated as the on-site manager shall be registered with the Sheriff's Department by the owner to receive all complaints and be responsible for all violations taking place on the premises.

19. **Records and inspection:** All dispensaries shall maintain sufficiently detailed written records regarding their verification that medical marijuana is dispensed only to qualified patients and primary caregivers under the California Compassionate Use Act, Health and Safety Code Section 11362.5 et. seq. These written records are

subject to periodic inspection by the Sheriff's Department, in order to ensure compliance with this section, as authorized by state and federal law.

20. Other conditions: The Planning Commission or City Council may add any conditions to the granting of a permit pursuant to this chapter, should the particular facts and/or circumstances of a propose use so justify.

E. Operator Responsible: The operator(s) of any medical marijuana dispensary is responsible for insuring at all times that employees, volunteers, agents or any other individuals having any charge over the functioning of the dispensary are acting in compliance with the provisions of this section.

F. Other regulations: The provisions of this section do not waive or modify any other provisions of this code with which medical marijuana dispensaries are required to comply. Nothing in this section is intended to authorize, legalize or permit the establishment, operation or maintenance of any facility, building or use which violates any City of Live Oak ordinance or California statute regarding public nuisances, medical marijuana or any federal regulations or statutes relating to the use of controlled substances.

G. Measure of Distance: All required minimum distances set forth in Subsection 17.17.090.B shall be measured from the nearest property line of one designated location to the nearest property line of the other designated location along a straight line extended between the two points without regard to intervening structures.

H. Prohibited in other zone districts: Medical marijuana dispensaries are prohibited in any other zone district other than those listed in this Section.

17.17.100 Nuisance and Civil Penalties

Any cultivation, processing or distribution of medical marijuana which takes place in violation of any provision of this Section is unlawful, and is hereby declared a public nuisance and is subject to all enforcement actions pursuant to Chapter 14.08 of the Live Oak Municipal Code.

SECTION 4. Separation of Section 17.17.040

If Section 17.17.040, or any subsection, sentence, clause, phrase or portion of Section 17.17.040 is held by a court of competent jurisdiction to be invalid or unconstitutional, Table 17.02.020 of the Zoning Regulations is revised to add to the list of Residential Accessory Uses to read as follows:

Medical marijuana cultivation	ZC	ZC	ZC	ZC	Chapter 17.17
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SECTION 5. Separation of Section 17.17.070

If Section 17.17.070, or any subsection, sentence, clause, phrase or portion of Section 17.17.070 is held by a court of competent jurisdiction to be invalid or unconstitutional, Table 17.03.020 of the Zoning Regulations is revised to modify the list of Commercial Uses to read as follows:

Medical marijuana dispensary	UP	UP	Chapter 17.17
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SECTION 6. Chapter 17.50 of the Zoning Regulations: the definition of “Medical marijuana dispensary” is hereby deleted.

SECTION 7: This Ordinance, following its adoption, shall be published as provided for by law and by its terms herein, shall become effective 30 days after its adoption and shall thereafter remain in full force and effect unless otherwise changed by an appropriate amending ordinance.

Introduced and the first reading waived at a regular meeting of the City Council of the City of Live Oak on the ___ day of _____, and passed and adopted after waiving the second reading at a regular meeting held on the ___ day of _____, 2011 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Gary A. Baland, Mayor

ATTEST:

Melissa Dempsey, City Clerk

APPROVED AS TO FORM:

Brant J. Bordsen, City Attorney