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CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

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To the Honorable, the City Council:

The following information is submitted in response to Policy Order O-2 of December 3, 2012, relative to the impact the recently passed medical marijuana referendum might have on Cambridge and provide any suggested zoning or local ordinance changes relevant to this new law.

Background

An initiative petition titled "Law for the Humanitarian Medical Use of Marijuana" (Petition #11-11) was approved by Massachusetts voters during the November 6, 2012 general election. The law will take effect January 1, 2013.

The new law defines a "medical marijuana treatment center," as a Massachusetts not-for-profit entity, registered under this new law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells distributes, dispenses or administers marijuana, products containing marijuana, related supplies or educational materials to qualifying patients or their personal caregivers. The new law enables the Massachusetts Department of Public Health (DPH) to register up to 35 such centers within the first year of enactment, with a minimum of one and a maximum of five located within each county. DPH is required to promulgate regulations for the registration and administration of such centers within 120 days of enactment, i.e., by May 1, 2013.

Thus far, the production and distribution of marijuana for medical use has been legalized in 18 states and the District of Columbia. Laws and regulations vary state by state, but in some places, experience has shown that medical marijuana production and distribution facilities have resulted in negative land use impacts. In some more densely populated cities such as Los Angeles and Berkeley, CA, and Denver, CO, clusters of medical marijuana "dispensaries" have proliferated in commercial areas, where they have impacted surrounding uses by attracting criminal activity or causing a general public nuisance. Attempts to regulate such uses after they have already been established have often been unsuccessful.

Recommendations

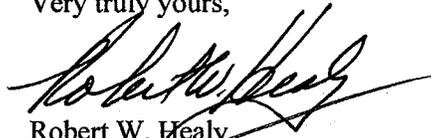
The history of legalized medical marijuana in the United States provides lessons that could help mitigate potential negative impacts of its implementation in Massachusetts in general and Cambridge in particular. However, given that the system for regulating medical marijuana treatment centers at the state level is not yet clear, and the City has not had the opportunity to study and discuss the public health, safety, general welfare and land use implications of the new law, it would be beneficial to establish an interim restriction on the establishment of such uses until the City can develop a rational framework for regulating these uses under the Cambridge Zoning Ordinance and through any other local regulations as may be appropriate. The

interim zoning amendment will allow the City's Public Health Department to review the state DPH's regulations once they are made available in the coming months. Also, this will provide time for City staff to take a closer look at recommended hygiene practices, communications strategies to area residents, and systems of accountability that should be put in place as the City weighs the options for the proposed medical marijuana treatment centers. A draft interim zoning amendment is attached for your consideration.

I recommend that the Public Safety Committee hold a meeting on the potential impacts on public health, safety and welfare the recently passed medical marijuana referendum might have on Cambridge. City staff will study and review potential impacts that may result from allowing medical marijuana treatment centers to be located in Cambridge, and will report on any such anticipated impacts at the Public Safety Committee meeting.

I further recommend that the attached proposed interim zoning amendment be referred to the Ordinance Committee, so that the proposed interim zoning amendment may be advertised prior to January 1 and hearings may be scheduled in accordance with Massachusetts Chapter 40A.

Very truly yours,



Robert W. Healy
City Manager

RWH/mec
Attachment

Proposed Zoning Amendment

Create the following new section in Article 11.000 – Special Regulations:

11.700 INTERIM REGULATIONS FOR MEDICAL MARIJUANA USES

11.701 *Purpose.* This section is intended to provide restrictions that will allow the City adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and, if so, where and under what conditions. Given that a law permitting the medical use of marijuana in the Commonwealth of Massachusetts shall be in effect beginning January 1, 2013, and that the Massachusetts Department of Public Health has yet to promulgate the regulations by which facilities that produce or dispense medical marijuana shall be registered and administered, a restriction on the establishment of such facilities in Cambridge shall provide the opportunity to study their potential impacts on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures.

11.702 *Definition.* A Medical Marijuana Treatment Center shall mean any medical marijuana treatment center, as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations.

11.703 *Exclusion of Other Marijuana Uses.* Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly registered and licensed in accordance with applicable state and local laws and regulations, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Medical Marijuana Treatment Center.

11.704 *Exclusion of Accessory Uses.* In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any use.

11.705 *Interim Restriction.* Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the City of Cambridge so long as this Section 11.700 is effective, as set forth in Section 11.706 below. Use variances shall be strictly prohibited.

11.706 Expiration. This Section 11.700 shall be effective for a period of nine (9) months beginning January 1, 2013, or until such future time that the Cambridge City Council enacts superseding zoning regulations that set forth the allowed locations, dimensional, parking and other requirements applicable to medical marijuana uses.
