
ORDINANCE NO. 2005 - 6**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELMA
AMENDING TITLE VI OF THE SELMA MUNICIPAL CODE
REGARDING MEDICAL MARIJUANA DISPENSARIES AND THE
CULTIVATION OF MEDICAL MARIJUANA**

THE CITY COUNCIL OF THE CITY OF SELMA DOES ORDAIN AS FOLLOWS:

SECTION 1: AMENDMENT OF CODE: PUBLIC WELFARE (MEDICAL
MARIJUANA CULTIVATION).

Chapter 26, of Title VI, of the Selma Municipal Code is added to read as follows:

Chapter 26**CULTIVATION OF MEDICAL MARIJUANA****Section 6-26.01 Purpose and Intent**

It is the purpose and intent of this ordinance to promote the health, safety, morals, and general welfare of the residents and businesses within the City by regulating the cultivation of medical marijuana.

Section 6-26.02 Definitions

For purposes of this Chapter, the following definitions shall apply:

"Medical Marijuana" is defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

"Cultivation of medical marijuana" means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

"Collective or cooperative cultivation" means the association within California of qualified patients, persons with valid identification cards, and designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

Section 6-26.03 Regulations Applicable to Cultivation of Medical Marijuana

To the extent that the City is required to allow the cultivation of medical marijuana under State law, the following rules shall apply:

(A) The cultivation of medical marijuana shall at all times occur in a secure, locked, and fully enclosed structure.

(B) The individual, collective, or cooperative cultivation of more than 100 marijuana plants, whether mature or immature, is a prohibited use in all zones of the City.

(C) For qualified patients and persons with identification cards, the following shall apply: each qualified patient and person with an identification card may cultivate in any zone 6 mature or 12 immature marijuana plants, or as otherwise recommended by a doctor in accordance with Section 11362.77, up to the maximum limit specified in this section.

(D) For primary care givers, the following shall apply: (a) each primary care giver may cultivate in any zone 6 mature or 12 immature marijuana plants, or as otherwise recommended by a doctor, for up to two (2) qualified patients in accordance with Section 11362.77, up to the maximum limit specified in this section; (b) any additional cultivation by a primary care giver shall be confined to the M-1 and M-2 zone districts within the City.

(E) For the collective or cooperative cultivation, the following shall apply: such cultivation shall be confined to the M-1 and M-2 zone districts within the City.

(F) Nothing in this section shall be interpreted to permit Medical Marijuana Dispensaries otherwise prohibited by Title VI, Chapter 25 of this Code or the City's Unchaptered Health, Safety, and Welfare Ordinance pertaining to Medical Marijuana Dispensaries.

SECTION 2: UNCHAPTERED AMENDMENT OF CODE.

If for any reason Chapter 26, of Title VI, of the Selma Municipal Code adopted by this Ordinance is declared unlawful or unenforceable in any material respect by a court of law, the regulations set forth herein shall become effective pending the adoption of a revised ordinance by the City Council.

Unchaptered Health, Safety, and Welfare Ordinance

MEDICAL MARIJUANA DISPENSARIES

Section 101. Findings.

- A. In 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code section 11362.5 and entitled "The Compassionate Use

Act of 1996"). The intent of Proposition 215 was to enable persons who are in need of marijuana for medical purposes to be able to obtain and use it without fear of criminal prosecution under limited, specified circumstances.

- B. Effective January 1, 2004 the State Legislature enacted Senate Bill ("SB") 420 to clarify the scope of the Compassionate Use Act of 1996 and to allow cities and other governing bodies to adopt and enforce rules and regulations consistent with SB 420.
- C. To protect the public health, safety, and welfare, it is the desire of the City Council to adopt regulations consistent with SB 420 regarding the location and operation of medical marijuana dispensaries.
- D. It is the City Council's intention that nothing in this Ordinance shall be deemed to conflict with federal law as contained in the Controlled Substances Act, 21 U.S.C. section 841, or to otherwise permit any activity that is prohibited under that Act. It is further the City Council's intention that nothing in this Ordinance shall be construed to: (1) allow persons to engage in conduct that endangers others or causes a public nuisance; (2) allow the use of marijuana for non-medical purposes; or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal.
- E. Pursuant to Health and Safety Code section 11362.7 et seq., the State Department of Health is responsible for establishing and maintaining a voluntary identification card program; and Health and Safety Code section 11362.71(b) requires every county health department, or its designee, to implement a procedure to accept and process applications from those seeking to join the identification program in the manner set forth in Health and Safety Code section 1136.71 et seq.

Section 102. Purpose and Intent.

It is the purpose and intent of this ordinance to regulate Medical Marijuana Dispensaries in order to promote the health, safety, and general welfare of the residents and businesses within the City.

Section 103. Definitions.

All definitions set forth in Health & Safety Code section 11362.5 and 11362.7 et seq., as may be amended, including but not limited to the terms "attending physician", "person with an identification card", "primary caregiver", "qualified patient", "identification card", and "serious medical condition", shall apply under this Ordinance in addition to the definitions set forth as follows:

(a) "Applicant" means a person who is required to file an application for a permit under this Ordinance.

(b) "City" means the City of Selma.

(c) "City Manager" means the City Manager of the City of Selma or his or her designee.

(d) "Medical Marijuana Dispensary" or "Dispensary" means any facility or location where medical marijuana is made available to or distributed by or to the following: a primary caregiver, a qualified patient, or a person with an identification card in strict accordance with Health and Safety Code section 11362.5 and 11362.7 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 & Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health & Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of the Health & Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health & Safety Code Section 11362.5 and 11362.7 et seq.

(e) "Police Chief" means the Police Chief of the City of Selma or his or her designee.

Section 103. Permit Required.

No person or entity shall operate a Medical Marijuana Dispensary within the City of Selma without first obtaining a Medical Marijuana Dispensary permit. The applicant shall also apply for and maintain a general City business license. Medical Marijuana Dispensaries shall be located only in permitted zoning districts and in accordance with the conditions of the zoning ordinance.

Section 104. Applications.

(a) Applications for permits shall be filed with the City Manager under penalty of perjury and include the information set forth herein. For partnerships, limited liability companies, and corporations, the applicant shall be deemed the managing partners, president, and other persons with primary responsibility for operation of the Medical Marijuana Dispensary. The City Manager may request such information he or she deems necessary to determine who the applicant is.

1. The full name, present address, and telephone number of the applicant.
2. The address to which notice of action on the application is to be mailed.

3. Previous addresses for the five (5) years immediately preceding the present address of the applicant.
4. Written proof that the applicant is over the age of eighteen (18) years of age.
5. The applicant's height, weight, color of eyes and hair.
6. Photographs for identification purposes (photographs shall be taken by the police department).
7. All business, occupation, or employment of the applicant for the five (5) years immediately preceding the date of the application.
8. The Medical Marijuana Dispensary business license history of the applicant, including whether the applicant while previously operating in this or another city, county or state under license has had such license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation.
9. The name or names of the person or persons having the management or supervisory responsibilities for the applicant's business.
10. Whether the person or persons having the management or supervisory responsibilities for the applicant's business have been convicted of a crime, the nature of such offense, and the sentence received therefore.
11. The names of all employees, independent contractors, and other persons who will work at the Medical Marijuana Dispensary.
12. The proposed security arrangements for insuring the safety of persons and to protect the premises from theft.
13. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the Medical Marijuana Dispensary. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
14. An accurate straight-line drawing prepared within thirty (30) days prior to the application depicting the building and the portion thereof to be occupied by the Medical Marijuana Dispensary and the property line of any sensitive use as set forth in Section 117.

15. Such other identification and information as deemed necessary by the City Manager.
16. Authorization for the City, its agents and employees to seek verification of the information contained within the application.

(b) If the applicant has completed the application improperly, or if the application is incomplete, the City Manager shall, within ten (10) days of receipt of the original application, notify the applicant of such fact

(c) The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining a Medical Marijuana Dispensary permit.

Section 105. Fees.

Every application for a permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution of City Council. This fee shall be in addition to any other business license fee or permit fee imposed by this Code or other governmental agencies. The fee shall include an amount to cover the costs of fingerprinting, photographing, background checks as well as general review and processing of the application.

Section 106. Investigation and Action on Application.

Upon the filing of a properly completed application and the payment of the fee, the City Manager shall cause the Police Chief to conduct an investigation of the application, including a background check of the applicant and all employees. After the background checks and investigation are complete, and in no case later than forty-five (45) days after receipt of a properly completed application, the City Manager shall either grant or deny the permit in accordance with the provisions of this Chapter. The City Manager may grant the permit subject to conditions he or she deems reasonable under the circumstances to protect the public health, safety, and welfare of the community.

Section 107. Term of Permits and Renewals.

Permits issued under this Chapter shall expire one (1) year following the date of issuance. The City Manager may renew annual permits for additional one year periods upon application by the permittee, unless the permit is suspended or revoked. Applications for renewal shall be made at least forty-five (45) days prior to the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in this Chapter. When made less than forty-five (45) days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on similar to applications for permits.

Section 108. Grounds for Denial of Permit.

The grounds for denial of a permit shall be one or more of the following:

(a) The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule or regulation.

(b) The applicant has violated any local or state law, statute, rule or regulation relating to medical marijuana business.

(c) The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

(d) The applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(e) The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

(f) The applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocation of a permit.

(g) An applicant is under eighteen (18) years of age.

(h) The Medical Marijuana Dispensary does not comply with the zoning ordinance standards of the City of Selma Municipal Code or the development standards set forth in this Chapter.

(i) The required application or renewal fees have not been paid.

Section 109. Notice of Decision and Appeal.

(a) The City Manager shall cause a written notice of his or her decision to issue or deny a permit to be personally delivered or mailed to the applicant by certified U.S. mail, postage prepaid. An applicant aggrieved by the City Manager's decision may appeal such decision to the City Council by filing a written notice with the City Clerk within ten (10) calendar days of service of the City Manager's decision. If an appeal is not taken within such time, the City Manager's decision shall be final.

(b) Upon the filing of a timely appeal, the permit application shall be scheduled by the City Clerk for a public hearing within forty-five (45) calendar days.

(c) Notice of the hearing shall be given by the posting of notice on the premises where the activity is to be conducted for a period of not less than ten (10) days prior to the date of the hearing. In addition, a copy of the notice of hearing shall be mailed to the applicant at least ten calendar (10) days in advance of the hearing. The Council may give such additional notice of hearing as it deems appropriate in a particular case.

(d) Following public hearing, the Council may grant the permit subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community or it may deny the issuance of the permit for any of the grounds specified in this Chapter. The decision of the Council shall be final.

Section 110. Registration of new employees.

(a) As a condition of approval of every Medical Marijuana Dispensary permit issued pursuant to this Chapter, the permittee shall register every employee with the police department within five (5) calendar days of the commencement of the employee's employment at the Medical Marijuana Dispensary.

(b) Each employee shall be required to provide two (2) recent color passport-quality photographs and, at the discretion of the Police Chief, shall allow himself or herself to be fingerprinted by the police department for purposes of identification. In addition, each new employee shall provide the following information on a form provided by the police department:

1. Name, current resident address, and telephone number.
2. Date of birth.
3. Height, weight, color of eyes, and hair.

(c) The information provided for purposes of this section shall be maintained by the police department as confidential information and shall not be released to the public except pursuant to subpoena or court order.

(d) Each permittee shall maintain a current register of the names of all employees employed by the Medical Marijuana Dispensary, and shall disclose such registration for inspection by any police officer for purposes of determining compliance with the requirements of this section.

(e) Failure to register each new employee within five (5) days of the commencement of employment or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

Section 111. Suspension or Revocation.

(a) The City Manager may suspend or revoke a permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

1. Any act which would be considered a ground for denial of the permit in the first instance.
2. Violates any other provision of this Chapter or any local or State law, statute, rule or regulation relating to his or her permitted activity.
3. Engages in or permits misconduct substantially related to the qualifications, functions or duties of the permittee.
4. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
5. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business.
6. Violates or fails to comply with the terms and conditions of the permit.

(b) Prior to suspension or revocation, the City Manager shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid.

(c) Any permittee aggrieved by the decision of the City Manager in suspending or revoking a permit may, within ten (10) calendar days, appeal to the City Council by filing a written notice with the City Clerk. During the pendency of the appeal to the Council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the City Manager shall be final. If an appeal is timely filed, the appeal shall be held in accordance with the procedures for considering the appeal of the denial of a permit. The Council may suspend or revoke the permit for any of the grounds specified in this Chapter. The Council's decision shall be final.

(d) If any permittee or person acting under the authority of a permittee is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the City Manager may immediately revoke the permit without any further action, other than giving notice of revocation to the permittee. The permittee may appeal the decision in the manner set forth herein, however the permit will not remain in effect during the pendency of the appeal.

Section 115. Effect of Denial or Revocation.

When the City Manager shall have denied or revoked a permit and the time for appeal to the Council shall have elapsed, or, if after appeal to the Council, the decision of the City Manager has been affirmed by the Council, no new application for a permit shall be accepted from the applicant and no permit shall be issued to such person or to any corporation in which he shall have any beneficial interest for a period of one (1) year after the action denying or revoking the permit.

Section 116. Operating requirements.

(a) A Medical Marijuana Dispensary shall be open for business only between the hours of 9:00 a.m. and 5:00 p.m. on any particular day.

(b) A Medical Marijuana Dispensary shall maintain a current register of the names of all employees employed by the Dispensary.

(c) A Medical Marijuana Dispensary shall maintain records of all patients and primary caregivers using only the identification card number issued by the county, or its agent, pursuant to California Health and Safety Code Section 11362.7 et seq., as a protection of the confidentiality of the cardholders, or a copy of the written recommendation from a physician stating the need for medical marijuana.

(d) The building entrance to a Medical Marijuana Dispensary shall be clearly and legibly posted with a notice indicating that person under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.

(e) A Medical Marijuana Dispensary may possess no more than eight (8) ounces of dried marijuana per qualified patient or primary caregiver. However, if a qualified patient or primary caregiver has a doctor's recommendation that this quantity does not meet the qualified patient's medical needs, the Dispensary may possess an amount of marijuana consistent with the patient's needs.

(f) No marijuana shall be smoked, ingested or otherwise consumed on the premises of the Dispensary. The term "premises" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a Medical Marijuana Dispensary shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the Dispensary is prohibited.

(g) No marijuana shall be grown or cultivated on the premises of the Dispensary.

(h) No Medical Marijuana Dispensary shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the Dispensary.

(i) No Medical Marijuana Dispensary shall conduct or engage in the sale of any product, good or service other than medical marijuana on terms and conditions consistent with this Chapter and applicable law.

(j) No Medical Marijuana Dispensary shall sell or display any drug paraphernalia or any implement that may be used to administer medical marijuana.

(k) A Medical Marijuana Dispensary shall provide adequate security on the premises, including lighting and alarms, to insure the safety of persons and to protect the premises from theft.

(l) A Medical Marijuana Dispensary shall provide the Police Chief with the name, phone number and facsimile number of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the Dispensary. The Dispensary shall make every good faith effort to encourage residents to call this person to try to solve operating problems, if any, before any calls or complaints are made to the police or planning departments.

(m) A Medical Marijuana Dispensary shall provide litter removal services each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.

(n) A Medical Marijuana Dispensary shall not cultivate, distribute or sell medical marijuana for a profit. A Dispensary may receive compensation for its actual expenses, including reasonable compensation for services provided, or for payment of out-of-pocket expenses incurred in providing those services. However, any such Dispensary must pay applicable sales tax on such sales or services and maintain the applicable sellers permit or similar permit from the State Franchise Tax Board or other applicable agency.

(o) A Medical Marijuana Dispensary shall meet all the operating criteria for the dispensing of medical marijuana as required pursuant to California Health and Safety Code Sections 11362.5. and 11362.7 et seq.

(p) Each Medical Marijuana Dispensary shall allow the City Manager and Police Chief to have access to the Dispensary's books, records, accounts, and any and all data relevant to its permitted activities for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data will be produced no later than 24 hours after receipt of the City Manager or Police Chief's written request(s).

(q) The Medical Marijuana Dispensary shall meet any additional operating procedures and measures as may be imposed as conditions of approval by the City Manager to ensure that operation of the Dispensary is consistent with protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

(r) The building in which the Medical Marijuana Dispensary is located shall comply with all applicable local, state and federal rules, regulations, and laws including, but not limited to, building codes and the Americans with Disabilities Act, as certified by the Building Official of the City.

(s) A Dispensary that provides marijuana in the form of food or other comestibles shall obtain and maintain the appropriate licenses from the County Health Department for the provision of food or other comestibles.

Section 117. Development Standards.

(a) Medical Marijuana Dispensaries may only be located in the M-1 or M-2 zone districts. In addition, no Medical Marijuana Dispensary shall be located:

1. Within 500 feet of any residential zone district; or
2. Within 1,000 feet of another Medical Marijuana Dispensary, an elementary school, middle school, high school, public library, or public park; or
3. Within 1,000 feet of a youth-oriented establishment characterized by either or both of the following: (a) the establishment advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors; or (b) the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

(b) The uses and zones set forth in this section shall be collectively known as "sensitive uses." The distance between a Medical Marijuana Dispensary and a "sensitive use" shall be measured in a straight line, without regard to the intervening structures or objects, from the closest exterior wall of the building or structure to the property line in which the "sensitive use" occurs or is located.

(c) A Medical Marijuana Dispensary is not and may not be approved as an accessory use to any other use permitted by this Code.

(d) No more than one Medical Marijuana Dispensary may operate out of a single building.

(e) The closure or cessation of a nonconforming use for a period of six (6) consecutive months shall terminate its legal nonconforming status, and any person or entity that intends to resume operations of the nonconforming use must first obtain a permit as required under this Chapter.

(f) Any alteration or expansion of the nonconforming use involving more than ten (10) percent of its gross floor area shall subject the nonconforming use to the requirements of this Chapter and the appropriate permit must be obtained prior to alteration or expansion.

Section 118. Minors.

(a) It shall be unlawful for any permittee, operator, or other person in charge of any Medical Marijuana Dispensary to employ any person who is not at least eighteen (18) years of age.

(b) Persons under the age of eighteen (18) shall not be allowed on the premises of a Medical Marijuana Dispensary unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or guardian.

Section 119. Display of permit.

Every Medical Marijuana Dispensary shall display at all times during business hours the permit issued pursuant to the provisions of this Chapter in a conspicuous place so that the same may be readily seen by all persons entering the Medical Marijuana Dispensary.

Section 120. Transfer of permits.

(a) A permittee shall not operate a Medical Marijuana Dispensary under the authority of a Medical Marijuana Dispensary permit at any place other than the address of the Medical Marijuana Dispensary stated in the application for the permit.

(b) A permittee shall not transfer ownership or control of a Medical Marijuana Dispensary or transfer a Medical Marijuana Dispensary permit to another person unless and until the transferee obtains an amendment to the permit from the City Manager stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Manager in accordance with this Chapter and accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the City Manager determines that the transferee would be entitled to the issuance of an original permit.

(c) No permit may be transferred when the City Manager has notified the permittee that the permit has been or may be suspended or revoked.

(d) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

Section 121. Violations of Chapter Enforcement.

(a) Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

(b) Any use or condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to the City of Selma Municipal Code.

(c) Any person who violates, causes, or permits another person to violate any provision of this Chapter commits a misdemeanor.

(d) The violation of any provision of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

(e) In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this Chapter may be subject to administrative remedies as set forth by City ordinance.

Section 122. Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter.

Section 123 Judicial review

Judicial review of a decision made under this Chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provisions of the California Code of Civil Procedure Section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure Section 1994.6, which shall be applicable for such actions.

SECTION 3: CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The City Council having considered the Staff Report and all public comments, has determined that the amendment is categorically exempt from environmental review pursuant to CEQA Guidelines Section 15601(b)(3).

SECTION 4: SEVERABILITY:

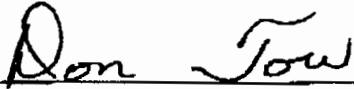
If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases have been declared invalid or unconstitutional.

SECTION 5: EFFECTIVE DATE:

This Ordinance No. 2005- 6 shall take effect thirty (30) days after its adoption by the City Council of the City of Selma.

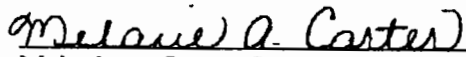
I, Melanie A. Carter, City Clerk of the City of Selma, do hereby certify that the foregoing Ordinance was introduced at the April 4, 2005, regular City Council meeting and duly adopted at a regular meeting held on April 18, 2005, by the following vote, to wit:

AYES:	5	COUNCIL MEMBERS:	Niswander, Lujan, Avalos, Derr, Tow
NOES:	0	COUNCIL MEMBERS:	None
ABSTAIN:	0	COUNCIL MEMBERS:	None
ABSENT:	0	COUNCIL MEMBERS:	None



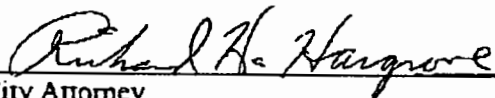
 Don Tow
 Mayor of the City

ATTEST:



 Melanie A. Carter, CMC
 City Clerk of the City of Selma

APPROVED AS TO FORM:



 City Attorney

ORDINANCE NO. 2005 - 5**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELMA
AMENDING CHAPTER 1 OF TITLE XI OF THE
SELMA MUNICIPAL CODE
REGARDING MEDICAL MARIJUANA DISPENSARIES**

THE CITY COUNCIL OF THE CITY OF SELMA DOES ORDAIN AS FOLLOWS:

SECTION 1: AMENDMENT OF CODE: PLANNING AND ZONING

Section 11-1-8, of Chapter 1 of Title XI of the Selma Municipal Code is added to read as follows:

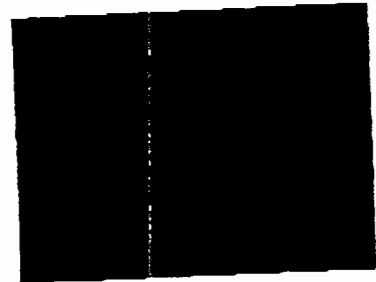
Sec. 11-1-18 Uses Expressly Prohibited

(a) Specific uses of land, buildings, and structures listed as prohibited in each district are hereby declared to be detrimental to public health, safety, and welfare and are, for such reasons, expressly prohibited.

(b) The enumeration of prohibited uses shall not by implication enlarge the scope of permitted uses; they are for purposes of clarity only.

(c) In addition to the specific uses of land, buildings, and structures listed as prohibited in each district, the following uses shall be prohibited in all zone districts and there shall be no director review and approval, conditional use permit, or other permit issued for each such use:

1. Medical marijuana dispensaries where medical marijuana is distributed by, distributed to, or made available to any combination of three or more qualified patients, persons with an identification card, or primary caregivers as set forth in Section 6-25-03 of the Municipal Code.
2. The individual, collective, or cooperative cultivation of more than 100 marijuana plants for medical purposes, whether mature or immature, as set forth in Section 6-26-03 of the Municipal Code.



SECTION 2: CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The City Council having considered the Staff Report and all public comments, has determined that the amendment is categorically exempt from environmental review pursuant to CEQA Guidelines Section 15601(b)(3).

SECTION 3: SEVERABILITY:

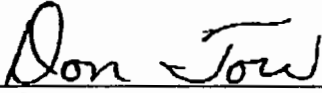
If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases have been declared invalid or unconstitutional.

SECTION 4: EFFECTIVE DATE:

This Ordinance No. 2005- 5 shall take effect thirty (30) days after its adoption by the City Council of the City of Selma.

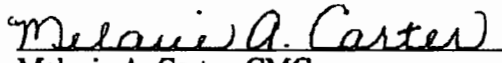
I, Melanie A. Carter, City Clerk of the City of Selma, do hereby certify that the foregoing Ordinance was introduced at the April 4, 2005, regular City Council meeting and duly adopted at a regular meeting held on April 18, 2005, by the following vote, to wit:

AYES:	5	COUNCIL MEMBERS:	Lujan, Derr, Avalos, Niswander, Tow.
NOES:	0	COUNCIL MEMBERS:	None
ABSTAIN:	0	COUNCIL MEMBERS:	None
ABSENT:	0	COUNCIL MEMBERS:	None



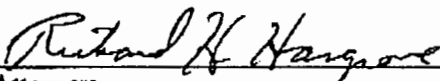
 Don Tow
 Mayor of the City

ATTEST:



 Melanie A. Carter, CMC
 City Clerk of the City of Selma

APPROVED AS TO FORM:



 City Attorney