

City of Garden Grove

INTER-DEPARTMENT MEMORANDUM

To: Matthew Fertal
Dept.: City Manager
Subject: RULES OF PROCEDURE FOR HEARINGS
REGARDING MEDICAL MARIJUANA
DISPENSARY REGISTRATION PROCESS

From: Maria Stipe
Dept.: City Manager
Date: November 8, 2011

OBJECTIVE

To request the City Council adopt Rules of Procedure for administrative hearings regarding the medical marijuana dispensary registration process.

BACKGROUND

Earlier this year, the City Council adopted Chapters 5.80 and 5.85 of the Garden Grove Municipal Code (collectively, the "Registration Ordinance"), which provides for a registration process to allow the City to identify those medical marijuana dispensaries that have been established and operating in the City since at least June 30, 2011. The owners/operators of medical marijuana dispensaries that can establish to the satisfaction of the City Manager that they were "established operations" will potentially be eligible to legally operate in the City in the future (pending City Council adoption of a future ordinance permitting and regulating medical marijuana dispensaries). City Staff is currently in the process of conducting the registration process.

DISCUSSION

As part of the registration process, an applicant may request a review and hearing by the City Manager (or his designee) of City Staff's initial determination as to whether the applicant has established that he or she is the owner/operator of an established medical marijuana operation within the meaning of the Registration Ordinance. In order to ensure such hearings are conducted fairly and efficiently, it is necessary to adopt Rules of Procedure governing them in advance. The City Attorney's Office has prepared the attached Rules of Procedure for the Council's consideration.

FINANCIAL IMPACT

None.

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RECOMMENDATION

It is recommended that the City Council:

- Adopt the attached Rules of Procedure Regarding Medical Marijuana Dispensary Registration Process.


MARIA STIPE
Deputy City Manager

Attachment: Rules of Procedure For Hearings Regarding Medical Marijuana
Dispensary Registration Process

Recommended for Approval


Matthew Fertal
City Manager

**RULES OF PROCEDURE FOR HEARINGS REGARDING MEDICAL
MARIJUANA DISPENSARY REGISTRATION PROCESS**

(Adopted November 8, 2011 by the Garden Grove City Council)

These Rules are intended to govern the administrative proceedings relating to hearings regarding the City of Garden Grove's Medical Marijuana Registration Process.

The parties to the administrative proceedings are advised that the purpose of the hearings is to determine, by examination of the record submitted at the hearing, whether a medical marijuana dispensary has, by a preponderance of the evidence, established that it is an established medical marijuana dispensary operation within the meaning of the City's Medical Marijuana Registration Ordinance (Chapters 5.80 and 5.85 of the Garden Grove Municipal Code). Parties to the proceeding may, if they choose, be represented by legal counsel. The party requesting the hearing (the "Requesting Party") or its representative, and the City Staff or its representative, shall each be entitled to present their respective positions, all in accordance with the following Rules of Procedure. For the purposes of these Rules, reference to the masculine gender includes the feminine.

The following Rules shall apply to all administrative proceedings before the City Manager or his designee¹, either of which is hereinafter referred to as the City Manager:

1. No later than fifteen (15) calendar days prior to the date set for the hearing, the Requesting Party shall serve on the City Clerk and file with the City Manager the following:

¹ All references herein to the City Manager shall be deemed to include the City Manager's designee.

A. A brief, but complete, report or memorandum in support of the facts and any legal points and authorities upon which the Requesting Party will rely;

B. Copies of all documentary evidence to be submitted into the record in support of the Requesting Party's position and to rebut the factual findings of the Finance Director. Copies of documents already provided to the City by the Responding Party as part of the registration process may, but are not required to be provided again. Documentary evidence the Requesting Party had the opportunity to, but failed to, submit to the City prior to the September 23, 2011 close of the registration process or the date specified in any subsequent request for supplemental information from the City, may, at the City Manager's discretion, not be considered.

2. No later than eight (8) calendar days before the hearing, City Staff shall serve upon the Requesting Party and file with the City Manager:

A. Copies of all documents provided to the City by the Requesting Party as part of the Registration Process;

B. A brief, but complete, report, memorandum, or response in support of the facts and any legal points and authorities upon which City Staff will rely;

C. Copies of all documentary evidence to be submitted into the record in support of the City Staff's position.

3. Each party to the proceedings shall provide five (5) complete copies of all documents to be submitted for the record, which shall be served on the City Manager as set forth in Sections 1 and 2 above.

4. Factual contentions of both the City Staff and Requesting Party involved in the hearing shall be presented, heard, and determined based upon the evidence

submitted (including documents, photographs, etc.) and the oral arguments presented at the hearing. Any person that has filed evidence as part of the record shall be present at the hearing and subject to questioning under oath.

5. The City Manager may direct questions to any person present at the hearing that has presented evidence for the hearing, or to the Requesting Party, or its representative, or to City Staff, or its representative.

6. If the hearing date is continued for any reason, the order of continuance shall provide the new dates, if necessary, that the Requesting Party's and City Staff's papers are due to be filed with the City Manager.

7. The hearing need not be conducted according to technical judicial rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded. Evidence the Requesting Party had the opportunity, but failed, to submit to the City prior to the close of the registration process or the date specified in any subsequent request for supplemental information from the City, may, at the City Manager's discretion, not be considered.

8. Papers not timely filed by a party, including any memorandum or other papers required to be filed under these Rules or documentary evidence the Requesting Party had the opportunity, but failed, to submit to the City prior to the close of the registration process or the date specified in any subsequent request for supplemental information from the City, may, at the City Manager's discretion, not be considered. The Requesting Party and/or its representative, and the City Staff and/or its representative, shall be present on the hearing date to provide informed discussion and argument on the subject of the hearing.

9. The testimony shall be recorded by means of either a recording or a certified court reporter.

10. The City Manager shall decide all questions of procedure and evidence.

11. The format for the hearing shall be as described below, but may at the discretion of the City Manager be modified as necessary to guarantee that all relevant information may be considered:

- A. Call to Order
- B. Introductions of Parties Present
- C. Presentation by Requesting Party
- D. Presentation by City Staff
- E. Questions by the City Manager
- F. Final Statement by Requesting Party
- G. Final Statement by City Staff
- H. Close Hearing

12. Within thirty (30) days following the conclusion of the hearing, the City Manager shall make his determination and issue his written decision.

13. The decision of the City Manager shall be final.