

**ORDINANCE NO. 438**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LA QUINTA, CALIFORNIA, AMENDING TITLE 11, CHAPTER 11.72 ("PUBLIC NUISANCES") OF THE LA QUINTA MUNICIPAL CODE TO ADD SECTION 11.72.030(DD) TO DECLARE MEDICAL MARIJUANA DISPENSARIES A PUBLIC NUISANCE AND TO PROHIBIT MEDICAL MARIJUANA DISPENSARIES IN THE CITY**

**WHEREAS**, the City Council of the City of La Quinta is committed to protecting the public health, safety, and welfare of the community, and to meet these goals it is necessary for the City Council to adopt measures, from time to time, to meet threats to the public health, safety, and welfare; and

**WHEREAS**, the federal Controlled Substances Act (21 U.S.C. § 801 *et seq.*) prohibits the manufacture, distribution and possession of marijuana; and

**WHEREAS**, in 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code section 11362.5 *et seq.*, and entitled "The Compassionate Use Act of 1996" ("Act"), to enable persons who are in need of marijuana for specified medical purposes to obtain and use marijuana under limited, specified circumstances. The State Legislature, pursuant to Senate Bill 420, also enacted Article 2.5, Medical Marijuana Program, of Chapter 6, Offenses and Penalties, of Division 10, Uniform Controlled Substances Act, of the Health and Safety Code of the State of California, as amended, which allows local governments to adopt and enforce laws consistent with Article 2.5; and

**WHEREAS**, to avoid the threat to public health, safety, and welfare that would occur if medical marijuana dispensaries were permitted in the City, it is necessary to declare the establishment and maintenance of such dispensaries, whether stand-alone dispensaries or as part of an otherwise legal facility, a public nuisance that should be prohibited in the City; and

**WHEREAS**, the adoption of this Chapter is consistent with federal law and Article 2.5, Medical Marijuana Program, of Chapter 6, Offenses and Penalties, of Division 10, Uniform Controlled Substances Act, of the Health and Safety Code of the State of California, as amended;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LA QUINTA  
DOES ORDAIN AS FOLLOWS:**

**SECTION 1. AMENDMENT TO MUNICIPAL CODE TITLE 11 (PEACE MORALS AND SAFETY):** La Quinta Municipal Code Chapter 11.72, entitled "Public Nuisances," is hereby amended to add Subsection "DD" to Section 11.72.030 ("Public Nuisances Declared") as follows:

(DD) Medical marijuana dispensaries. As used in this Chapter, a "medical marijuana dispensary" is a facility or location which provides, makes available, or distributes medical marijuana to a primary caregiver, a qualified patient, or a person with an identification card, in accordance with California Health and Safety Code Section 11362.5 et seq.

**SECTION 2. ENVIRONMENTAL DETERMINATION; GENERAL PLAN CONSISTENCY:** The City Council finds that adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to Title 14 California Code of Regulations section 15061, subsection (b)(3), in that the proposed Ordinance involves a proactive measure to prohibit marijuana dispensaries and does not have the potential to significantly effect the environment. The City Council further finds and determines that the Ordinance is consistent with the City's General Plan, in that the Ordinance does not change or alter any land use designations, densities or intensities of use set forth in the General Plan.

**SECTION 3. SEVERABILITY:** If any section, subsection, subdivision, paragraph, sentence, clause or phrase, or portion of this Ordinance is, for any reason, held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, paragraph sentence, clause or phrase of this Ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provisions of this Ordinance are declared to be severable.

**SECTION 4. EFFECTIVE DATE:** This Ordinance shall be in full force and effect thirty (30) days after adoption.

**SECTION 5. POSTING:** The City Clerk shall cause this Ordinance to be posted in at least three public places designated by resolution of the City Council, shall certify to the adoption and posting of this Ordinance, and shall cause this Ordinance and its certification, together with proof of posting to be entered into the BOOK of ORDINANCES of the City of La Quinta.


**PASSED, APPROVED, and ADOPTED** at a regular meeting of the La Quinta City Council held on this 19<sup>th</sup> day of June, 2007, by the following vote:

**AYES:** Council Members Henderson, Kirk, Osborne, Sniff, Mayor Adolph

**NOES:** None

**ABSENT:** None


**ABSTAIN:** None

  
\_\_\_\_\_  
DON ADOLPH, Mayor  
City of La Quinta, California

**ATTEST:**

  
\_\_\_\_\_  
VERONICA J. MONTECINO, CMC, City Clerk  
City of La Quinta, California  
(City Seal)

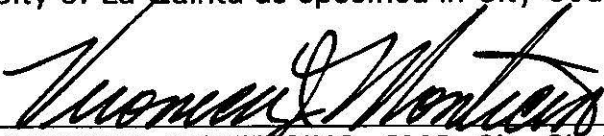
**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
M. KATHERINE JENSON, City Attorney  
City of La Quinta, California

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE) ss.  
CITY OF LA QUINTA )

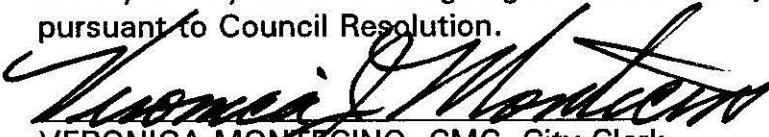
I, VERONICA MONTECINO, City Clerk of the City of La Quinta, California, do hereby certify the foregoing to be a full, true, and correct copy of Ordinance No. 438 which was introduced at a regular meeting on the 5<sup>th</sup> day of June, 2007 and was adopted at a regular meeting held on the 19<sup>th</sup> day of June, 2007, not being less than 5 days after the date of introduction thereof.

I further certify that the foregoing Ordinance was posted in three places within the City of La Quinta as specified in City Council Resolution 2006-102.

  
VERONICA MONTECINO, CMC, City Clerk  
City of La Quinta, California

DECLARATION OF POSTING

I, VERONICA MONTECINO, City Clerk of the City of La Quinta, California, do hereby certify that the foregoing ordinance was posted on 6-29-07, pursuant to Council Resolution.

  
VERONICA MONTECINO, CMC, City Clerk  
City of La Quinta, California