

COUNCIL MEETING
July 18, 2006

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Amending Sections of the Municipal Code Relating to the Issuance of Business Licenses.

RECOMMENDATION:

The Chief of Police recommends that the City Council adopt the attached proposed ordinance clarifying the existing Municipal Code to insure that business licenses are not issued for the provision of any service, good, or product that is illegal under California or Federal law.

BACKGROUND/ANALYSIS:

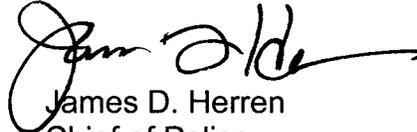
In 1996, the California voters enacted Proposition 215 referred to as the "Compassionate Use Act" which protected patients, caregivers, and physicians who cultivate, use, possess, transport or recommend marijuana for medical purposes. In 2003, Governor Davis signed legislation (SB420) setting forth various criteria for the implementation of Proposition 215. Although granting wide latitude to the distribution of marijuana for medical purposes, the law specifically prohibited any individual or group from cultivating or distributing marijuana for profit.

Numerous marijuana/cannabis distribution centers calling themselves "co-ops" have been appearing in California and have been dealt with in a variety of matters by different cities. Some cities have warmly embraced these "co-ops". Other cities have considered them a land use issue and have enacted a moratorium on licensing them so they can study the secondary effects and determine the appropriate zoning for these distribution centers. However, the Police Department is recommending a different approach. It is recommended that the City Council clarify the City's business license ordinance to ensure that no licenses be issued to individuals seeking to open a marijuana/cannabis distribution business that violates Federal Law.

The United States Supreme Court has ruled that distribution of marijuana for medical purposes is in violation of the Federal Controlled Substance Act. The United States Attorney's Office has recently indicted owners of "co-ops" in the San Diego area.

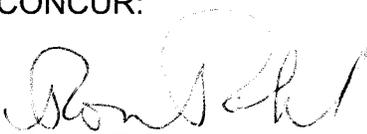
It should be noted that this Ordinance would not affect the legal status of individual patients who are not involved in unlawful distribution. It is the position of the Department that these "co-ops" are illegal under Federal law and should not be licensed as businesses by the City of Torrance. Therefore, it is recommended that the City adopt the attached ordinance.

Respectfully submitted,



James D. Herren
Chief of Police

CONCUR:



John L. Fellows III
City Attorney



LeRoy J. Jackson
City Manager

NOTED:



Eric Tsao
Finance Director

Attachment

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
TORRANCE AMENDING SECTIONS OF THE TORRANCE
MUNICIPAL CODE RELATING TO THE ISSUANCE OF
BUSINESS LICENSES**

The City Council of the City of Torrance does ordain as follows:

SECTION 1

That Section 31.3.6 of the Torrance Municipal Code be amended to read in its entirety as follows:

“SECTION 31.3.6 UNLAWFUL BUSINESS.

No license issued under the provisions of this Division shall be construed as authorizing the conduct of or continuance of any illegal or unlawful business or practice, or the furnishing, sale, or provisioning of any service, good, or product that is illegal under this Code, the Laws of the State of California, or the Laws of the United States of America.”

SECTION 2

A new section 31.4.1(a)(9) shall be added to the existing Section of 31.4.1 to read in its entirety as follows.

“SECTION 31.4.1. APPLICATIONS.

- a) Every person required to have a business license shall make application to the License Supervisor. The applicant shall furnish all information required to enable the License Supervisor to properly classify the business of the applicant and determine the proper license tax to be paid by such applicant. This information shall include, but not be limited to:
- 1) Name of firm;
 - 2) Address and phone number;
 - 3) Mailing address;
 - 4) Nature of business;
 - 5) Name of applicant;
 - 6) Address and phone number of applicant;
 - 7) Driver’s license number of applicant;
 - 8) Social Security number of applicant;
 - 9) An affirmation by the applicant that the business does not furnish or provide any service, good, or product that is illegal under this Code, the Laws of the State of California or the Laws of the United States of America.”

SECTION 3

Any inconsistent provisions of the Torrance Municipal Code or any other inconsistent ordinances of the City are repealed to the extent of the inconsistencies.

SECTION 4

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, then the decision will not affect the validity of the remaining portion of the ordinance. The City Council declares that it would have passed this ordinance and each of its sections, subsections, sentences, clauses and phrases, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases might be declared invalid or unconstitutional.

SECTION 5

This ordinance will take affect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED AND APPROVED this ____ day of _____, 2006.

ADOPTED and PASSED this _____ day of _____, 2006.

Mayor of the City of Torrance

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____
Ronald T. Pohl
Assistant City Attorney