

# CITY OF LEMON GROVE

(This Measure will appear on the ballot in the following form.)

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## MEASURE V

Shall an Ordinance to Rescind the prohibition of Marijuana Dispensaries and Add the Medical Marijuana Regulatory Ordinance to the Lemon Grove Municipal Code be adopted?

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This measure requires approval by a simple majority (over 50%) of the voters voting on the measure. Full text of this measure follows the arguments and rebuttals.

## CITY ATTORNEY IMPARTIAL ANALYSIS

The City Attorney has prepared the following impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the measure:

This Measure repeals the prohibition against Medical Marijuana Dispensaries in Lemon Grove. It qualified for the ballot by gathering more than ten percent of the signatures of Lemon Grove registered voters.

It allows Medical Marijuana Dispensaries to operate, with a Conditional Use Permit, in Heavy Commercial, Limited Commercial, General Commercial and Light Commercial Zones. Dispensaries would be prohibited in all residential and Mixed-Use (Downtown Village Specific Plan and Central Commercial) Zones.

The Measure allows Dispensaries to grow, process and dispense marijuana to a "qualified patient" or "primary caregiver" on the premises. Under state law, a "qualified patient" must have a prescription from a licensed physician.

Dispensaries must be located at least 1,000 feet from public parks, playgrounds, licensed daycare facilities, schools, and alcohol and substance abuse treatment centers. The distance separation is measured by the distance it takes to travel between locations on the public right of way.

The Measure includes background checks for employees. At least one state licensed, uniformed security guard shall be on duty during operating hours (maximum 8:00 A.M. to 8:00 P.M. daily). City and Sheriff's Department unannounced inspections of a Dispensary are only allowed based on general legal standards of "probable cause" of a violation. Dispensary transaction, employee and patient records are maintained for a two-year period. Dispensaries shall maintain 24-hour recorded video surveillance of the Dispensary premises. A centrally monitored alarm system is required. Adequate lighting is required.

Each Dispensary shall have an Operations Manual. No patient shall receive medical marijuana more than once a day. Medical marijuana shall not be consumed on premises unless permitted by the City. Physicians cannot issue prescriptions to patients on site. Dispensaries shall not permit the display of marijuana plants or representations of marijuana plants in areas visible to the public. Sale of alcoholic beverages, tobacco and tobacco products, and drug paraphernalia are prohibited.

## **CITY ATTORNEY IMPARTIAL ANALYSIS (CONTINUED)**

The Measure also allows qualified patients to grow marijuana at their private single-family residence in the Residential Low and Residential Medium/Low zones. If the property is rented, a notarized authorization from the landlord is required. All residential cultivation must be in an enclosed structure. The structure shall have a one-hour firewall.

The growing area shall not exceed fifty square feet. Cultivation lighting shall not exceed 1200 watts. The marijuana plants shall not be visible from the outside. The residence shall maintain a kitchen, bathroom(s) and primary bedrooms. Cultivation shall not be an authorized Home Occupation.

A Business permit tax is set at fifteen dollars plus two dollars a person up to fifty employees. Mobile dispensaries, with no fixed business location in Lemon Grove, shall pay fifteen dollars plus two dollars per employee, maximum of fifty. A per Dispensary member charge of fifteen dollars is also required.

This measure contains language allowing the City Council to amend, but not repeal this Measure in certain limited circumstances. The City Manager is delegated the authority to adopt implementing regulations. Otherwise, the Measure cannot be repealed without a vote of the People.

The above statement is an impartial analysis of Measure V. If you desire a copy of the measure, please call the elections official's office at (619-825-3800) and a copy will be mailed at no cost to you.

## ARGUMENT IN FAVOR OF MEASURE V

MEASURE V will provide regulation, oversight and transparency of medical marijuana organization in the City of Lemon Grove by creating a conditional use permit process and restricted zoning for medical marijuana dispensaries while ensuring full compliance with California State law.

In 1996, the majority of voters in California and in the City of Lemon Grove voted for the Compassionate Use Act, which allowed patient access to medical marijuana. Twenty years later, we still lack regulated medical marijuana access in Lemon Grove.

Without regulated access, Lemon Grove patients are forced to use less effective and more costly pharmaceuticals to manage their pain or to turn to black market dealers to obtain medical marijuana, and enforcement against illegal dispensaries continues to tax the city budget.

**MEASURE V creates local regulations to comply with the California State Medical Marijuana Regulation and Safety Act** which creates uniform regulation and oversight for medical marijuana dispensaries.

**MEASURE V ensures the safety of patients and the community** by including security requirements including alarm systems, security cameras, lighting standards, and restricting hours of operation.

**MEASURE V ensures that medical marijuana dispensaries are located in appropriate areas.** It prohibits medical marijuana dispensaries in residential zones and areas where children congregate.

**MEASURE V requires a large buffer between dispensaries** to allow patient access, while avoiding a concentration of dispensaries in Lemon Grove.

**MEASURE V authorizes the city to set fees** to ensure that the safe access does not become a financial burden on the city and to cover the cost of code compliance enforcement against illegal distributors.

Join us in supporting community and patient safety in Lemon Grove! Vote "Yes" on MEASURE V.

ADAM D. RICHARDSON, Ph.D.  
Cancer Research Scientist

JANICE MCKECHNIE  
Lemon Grove Resident

MICHAEL E. CINDRICH  
Former Prosecutor

TOM HORVATH, Ph.D.  
Addiction Treatment Expert  
Practical Recovery

JUDGE JAMES P. GRAY  
Superior Court Judge (Retired)

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE V

### **Measure V offers no real regulation, oversight, or transparency!**

**Lacks Transparency:** If passed, Measure V would allow **15 marijuana storefronts** in Lemon Grove! Proponents estimate that **4,000 marijuana consumers** would become regular customers at each of the 15 stores; equals **60,000 people who could buy marijuana in Lemon Grove every day!**

**Lacks Transparency:** Lemon Grove already has regulations that comply with the state's Medical Marijuana Regulation and Safety Act. The new State law allows local rules prohibiting marijuana dispensaries which Lemon Grove has had in place since 2011.

**Lacks Adequate Safety Protections:** Measure V requires **one security guard inside during business hours**, not outside protecting the community or customers going to or from with marijuana or cash.

**Lacks Regulation:** Voters beware of the wording in Measure V! The difference between "residential zone" (in Measure V) and "**residential use**" (not in Measure V) is significant! Residential use is where you live. Is this what you want next door to your home?

**Lacks Adequate Oversight:** Measure V prohibits direct oversight. City and Sheriff's Department inspections are only allowed with prior notice.

**Lacks transparency, regulation, and oversight:** The City cannot tax for the public safety and health costs known to be associated with marijuana dispensaries.

**Don't buy their lie!** Marijuana is already easily available; it's cultivated, processed, made into candy, and delivered to the door. Marijuana is advertised in the Reader and on the web. And it falls easily into the hands of kids!

### **Keep Lemon Grove safe! Vote NO on Measure V!**

JENNIFER L. MENDOZA  
Lemon Grove City Councilmember

KATIE DEXTER  
Trustee, Lemon Grove School Dist.

KATHLEEN A. STRZELECKI  
Artist "LOCAL"

ARCHIE ROBINSON  
Pastor

HELEN OFIELD

## **ARGUMENT AGAINST MEASURE V**

### **Vote NO to protect Lemon Grove's economy and safety.**

Lemon Grove voters already rejected two ballot measures seeking to rescind the City's local control ordinance. Both were defeated by nearly 2/3 of the voters.

California's laws protect cities, like Lemon Grove, that use their land-use authority to keep undesirable marijuana dispensaries out. Courts have upheld cities rights to determine their own land uses for public safety, economic development, and housing.

Yet, here we are again with the special interest marijuana lobby imposing on Lemon Grove's limited budget!

Measure V proponents estimate that 4,000 people will come to each dispensary in Lemon Grove and allows them to purchase marijuana on a daily basis.

Measure V allows marijuana delivery services.

Measure V does not require a 1,000' buffer from residential property.

Measure V prohibits any modifications to this ordinance for three years, yet requires records be kept for only two years.

Measure V designates the Development Services Director as the only one who can propose conditions on a dispensary, circumventing the authority of city council.

Nothing in Measure V provides additional revenue to the city to administer or enforce this law.

Nothing in Measure V prevents illegal marijuana shops from getting a permit.

Measure V prohibits unannounced inspections by City and Sheriff staff.

Marijuana storefronts hurt neighborhoods. The City of San Diego indicated that census tracts with marijuana storefronts had twice as many property and violent crimes as census tracts without them.

Measure V only requires one security guard, inside the store and during business hours but Lemon Grove has already experienced marijuana dispensary crime – with no cooperation from store owners.

Put our city's precious resources to work fixing streets and parks, creating jobs, and making our city safe and healthy!

Please vote NO on Measure V. Don't victimize our community!

AIMEE H. HENDLE  
Resident

VINCENT NGUYEN, PHARM.D, MBA  
Pharmacy Owner

JERRY JONES  
City Council, Lemon Grove

MARY T. SESSOM  
Mayor City of Lemon Grove

MARK W. STAPLETON  
Lemon Grove Clergy Assoc.

## **REBUTTAL TO ARGUMENT AGAINST MEASURE V**

Just because previous efforts to impose regulation of medical marijuana in Lemon Grove have not been successful does not mean that the voters of Lemon Grove do not have the right to ask, again, for regulation at the ballot box.

Our current lack of regulation is not working. Illegal marijuana dispensaries continue to proliferate, and our city suffers the cost burden of the constant cycle of investigation and enforcement actions, while patients suffer without regulated access.

Measure V is based on the Lemon Grove government's own proposal for medical marijuana regulations and was requested by the over 1,000 Lemon Grove residents who signed the petition for regulated access.

Currently, illegal dispensaries in Lemon Grove cost our city money, since the unlicensed operators do not pay fees to our city. Measure V would include fees to cover regulatory costs and additional per patient fees to cover the cost of enforcement actions to shut down unlicensed dispensary operators. Measure V would require regulated dispensaries to pay for their regulation and oversight, and add additional revenue to our city budget.

Measure V prohibits dispensaries in residential neighborhoods and the village commercial district.

Opponents of regulation are attempting to confuse voters by associating medical marijuana access with crime - they fail to distinguish between rogue dispensary operators, operating outside the law, with regulated access with city and sheriff oversight, cost recovery fees, required security measures, and city regulations.

Regulation works - Vote Yes on Measure V!

JANICE MCKECHNIE  
Lemon Grove Resident

MICHAEL E. CINDRICH  
Former Prosecutor

LEO LAWRENCE, J.D.  
Former Sheriff's Deputy

JUDGE JAMES GRAY (Ret.)  
Orange County Superior Court

# FULL TEXT OF MEASURE V

## Initiative to rescind the prohibition of marijuana dispensaries and add the Medical Marijuana Regulatory Ordinance to the Lemon Grove Municipal Code

**WHEREAS** the California voters approved Proposition 215 in 1996 to ensure that seriously ill Californians have the right to obtain and use cannabis for medical purposes and to encourage elected officials to implement a plan for the safe and affordable distribution of medicine; and

**WHEREAS** the California State Legislature adopted Senate Bill 420, the Medical Marijuana Program Act, in 2003 to help clarify and further implement Proposition 215 in part by authorizing patients and *Primary caregivers* to associate within the State of California in order to collectively or cooperatively cultivate cannabis for medical purposes; and

**WHEREAS** the California State Legislature adopted Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, collectively known as the Medical Marijuana Regulation and Safety Act, in 2015 to establish a statewide regulatory framework and establish the Bureau of Medical Marijuana Regulation for the regulation of *medical marijuana* activity occurring in jurisdictions across California;

**The People of the City of Lemon Grove and the City Council of the City of Lemon Grove hereby ordain as follows:**

**Section 1.** Chapter 17.32 (Medical Marijuana Regulatory Ordinance - Land Use) is hereby added to the Lemon Grove Municipal Code to read as shown in Attachment "1" as though fully set forth at this point.

**Section 2.** Lemon Grove Municipal Code Section 5.04.220 is hereby amended to read as shown in Attachment "2" as though fully set forth at this point. This amendment adds a provision to the Lemon Grove Municipal Code for a business license tax for *Medical Marijuana Dispensaries* permitted under State law and approved under regulatory authority granted by the State to the City. No other business license tax amounts or classifications are amended, raised or adopted by this Ordinance.

**Section 3. Severability.** If any section, sub-section, sentence, clause, phrase, part, or other portion of this measure, or application thereof, is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the remaining portions or provisions of this measure. It is hereby declared by the people voting for this measure that this measure, and each section, sub-section, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, sub-sections, sentences, clauses, phrases, parts or portions, or the application thereof, are declared invalid or unconstitutional.

**Section 4. Conflicting Ballot Measures.** This measure is inconsistent with and intended as an alternative to any other initiative or measure placed on the same ballot that addresses the same subject matter as this measure. In the event that this measure and another initiative or measure addressing the same subject matter as this measure, or any part thereof, is approved by a majority of voters as the same election, and this measure receives a greater number of affirmative votes than any other such initiative or measure, then this measure shall prevail and control in its entirety and said other initiative or measure shall be rendered void and without any legal effect.

**Section 5. Amendment of this Measure.** This measure, except as specified herein, shall only be amended by a subsequent vote of the People. Notwithstanding any other law or provision in this measure, the City Council shall have the right and the ability to amend or modify this measure under the following circumstances:

## FULL TEXT OF MEASURE V (CONTINUED)

- a. After this measure has been in effect in the City of Lemon Grove for a period of three years, the City Council, in its sole and exclusive discretion, determines that regulations, fees, permits or penalties warrant adjustment due to inflation, unreasonable cost burdens to the City or *Dispensaries*, unreasonable regulatory burdens to the City or *Dispensaries*, or that a zoning or regulatory restriction contained in the measure has created any other unnecessary or unanticipated burden to the City or *Dispensaries*;
- b. The City Council, in its sole and exclusive discretion, determines that the regulations, penalties or fees established in this measure no longer conform to the California State regulations for marijuana activity or that the regulations established in this measure fail to conform to the local licensing requirements for marijuana *Dispensaries*, as outlined in Division 8, Chapter 3.5 of the California Business and Professions Code; or
- c. The City Council, in its sole and exclusive discretion, determines that the City or any of its subsidiary agencies, departments or other controlled legal entities will lose or receive reduced funding, including potential funds from grant eligibility, from the state or federal government for implementing and/or enforcing this measure or any related Lemon Grove law or regulation.

**Section 6. Administrative Regulations.** This measure specifically delegates to the Lemon Grove City Manager the ability to prepare implementing regulations that are consistent with the terms and conditions of this Ordinance and any amendments or modifications thereto. The City Council shall have the ability to review, modify and approve any implementing regulations adopted by the City Manager at its discretion.

**Section 7. Implementation Date.** No permit application shall be accepted for processing for a period of three (3) months after the effective date of this Ordinance to allow for the City of Lemon Grove to develop implementing policies. No use shall be permitted under this Ordinance during this three-month (3) implementation period.

**Section 8. Effective Date.** This Ordinance, in order to go into effect, must be approved by a two-thirds vote of the full City Council. Thereafter, this Ordinance shall not take effect unless and until approved by a majority vote of the people at the November 8, 2016 General Election. Upon approval by the people, the ordinance shall take effect in the manner allowed by law and as specified herein.