



Agenda Item **9**

DATE: August 24, 2010

TO: Board of Supervisors

FROM: Margaret Mims, Sheriff *M. Mims*

Alan Weaver, Director *Alan Weaver*
Department of Public Works and Planning

SUBJECT: Regulation of Medical Cannabis (Marijuana) Dispensaries

RECOMMENDED ACTION:

Consider and take action on the proposed extension of Interim Urgency Ordinance No. 10-014 pursuant to Government Code Section 65858 establishing a moratorium on the operation of medical cannabis dispensaries in the unincorporated areas of Fresno County (4/5 vote).

The recommended action is a follow-up to your Board's July 13, 2010 adoption of Interim Urgency Ordinance No. 10-014 prohibiting the establishment of medical marijuana dispensaries in the unincorporated areas of Fresno County. The recommended action will extend the Ordinance to July 13, 2012.

ALTERNATIVE ACTION:

Determine that the specific Findings cannot be made pursuant to Government Code Section 65858 and take no action on the proposed Agenda Item.

FISCAL IMPACT:

As with the prior Interim Urgency Ordinance, approval of the recommended action represents a total net County cost of approximately \$8,000.00, which would be absorbed within the Department's existing budget in Org. No. 43600200. This cost would, however, defer or displace other current overall workload activities budgeted in this account.

ADMINISTRATIVE OFFICE REVIEW *Brandi Orth* Page 1 of 6
BOARD ACTION: DATE August 24, 2010 APPROVED AS RECOMMENDED OTHER



Official Action of
Board of Supervisors

[Signature]
Deputy

UNANIMOUS ANDERSON _____ CASE _____ LARSON _____ PEREA _____ POOCHIGIAN _____

IMPACTS ON JOB CREATION:

Approval of the recommended action would not affect the efforts to create jobs in Fresno County.

BACKGROUND / DISCUSSION:

On July 13, 2010, your Board considered and adopted an Interim Urgency Ordinance pursuant to making the Findings required under Government Code Section 65858, prohibiting the establishment of medical marijuana dispensaries in the unincorporated areas of Fresno County pending completion of a Zoning Ordinance Text Amendment initiated on the same day. The originally adopted Interim Urgency Ordinance will expire on August 26, 2010, unless extended.

In addition, information was provided to your Board regarding 15 existing medical marijuana dispensaries, the majority of which are located within the Fresno/Clovis Metropolitan area. Testimony presented by the public at the hearing indicated that several of these dispensary operators had contacted County staff to determine where they might be located prior to operation. As noted in the July 13th Agenda Item to your Board, Department of Public Works and Planning staff indicated that initially it had classified medical marijuana dispensaries as pharmacies and similar types of uses and communicated this to members of the public. Pharmacies and similar types of uses are permitted "by-right" in the County's Commercial zoning districts. As part of your Board's approval of the Resolution of Intention and Interim Urgency Ordinance, your Board directed staff to evaluate the 15 dispensaries and determine which relied on staff's information in establishing the dispensary operations.

Based on staff's research, only six of the existing 15 dispensaries are located in zoning districts (Commercial zoning districts) that allow pharmacies. The other dispensaries are located in the County's Industrial, Light Manufacturing and Residential and Professional zoning districts that do not allow pharmacies. As a result, this type of use would not be allowed and staff will initiate Zoning Violations for each of these properties. Staff will make the operators aware of the Interim Urgency Ordinance and their need to discontinue operation. The six dispensaries that are located in zoning districts that allow pharmacies would be allowed to remain pending completion of the Zoning Ordinance Text Amendment Application.

Your Board must make two Findings in order to extend the Interim Urgency Ordinance, as was the case with the initial action:

1. That there is a current and immediate threat to the public health, or welfare; and
2. That the approval of additional entitlements for the land use would result in that threat to public health, safety, or welfare.

If extended, the Interim Urgency Ordinance would be in effect for an additional 22 months and 15 days for a period not to exceed two years. It is anticipated that the additional extension will be needed in order to allow adequate time to process and prepare and complete processing of the Amendment to Text Application.

REFERENCE MATERIAL

BAI #13, July 13, 2010