

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF FRESNO  
STATE OF CALIFORNIA  
ORDINANCE NO. 10-019

INTERIM URGENCY ORDINANCE NO. 10-019, ADOPTED ON September 14, 2010,  
AS AN URGENCY MEASURE PURSUANT TO GOVERNMENT CODE SECTION 65858, IS  
HEREBY ADOPTED.

SECTION 1: The Board of Supervisors of the County of Fresno finds as follows:

Currently, the County has no explicit rules or regulations governing the indoor or outdoor cultivation of medical cannabis. A number of outdoor medical marijuana cultivation sites have been established in the unincorporated areas of Fresno County and the Fresno County Department of Public Works and Planning has received inquiries from prospective operators of such sites about cultivating in the unincorporated areas of the County. There is insufficient time for the County to adopt a regular, non-urgency ordinance applicable to the outdoor cultivation of medical marijuana. Unless adopted on an urgency basis, outdoor cultivation could occur without any specific regulation applicable to it and could create inconsistent and incompatible land use. Cultivation of medical marijuana requires careful consideration and regulation of the location and manner in which it is to occur so as to prevent impacts on nearby residents and businesses. Federal law prohibits use of cannabis, regardless of the reason for such use; while state law allows the use of medical cannabis on limited terms and conditions. This Ordinance both complies with applicable state law, as well as imposing reasonable rules and regulations protecting the public health, safety, and welfare of the residents and businesses within the unincorporated area of Fresno County.

///  
///  
///  
///

1           SECTION 2: The Board of Supervisors of the County of Fresno finds as follows:

2           A.       The voters of the State of California approved Proposition 215 (codified as Health and  
3           Safety Code Section 11382.5 g. and entitled "The Compassionate Use Act of 1996"). The  
4           intent of Proposition 215 was to enable persons who are in need of cannabis for medical  
5           purposes to be able to obtain and use it without fear of criminal prosecution under limited,  
6           specified circumstances. Further, effective January 1, 2004, the State Legislature enacted  
7           Senate Bill (SB) 420 to clarify the scope of The Compassionate Use Act of 1996 and to allow  
8           counties and other governing bodies to adopt and enforce rules and regulation laws consistent  
9           with SB 420; and

10          B.       The Board finds that there is a current and immediate threat to the public health, safety  
11          or welfare posed by the location and outdoor cultivation of medical cannabis; and

12           SECTION 3:

13          A.       It is the Board of Supervisors' intention that nothing in this Ordinance shall be deemed  
14          to conflict with Federal law as contained in the Controlled Substances Act, 21 U.S.C. Section  
15          841, nor to otherwise permit any activity that is prohibited under that Act. It is further the  
16          Board of Supervisors' intention that nothing in this Ordinance shall be construed to (1) allow  
17          persons to engage in conduct that endangers others or causes a public nuisance, (2) allow  
18          the use of cannabis for non-medical purposes, or (3) allow any activity relating to the  
19          cultivation, distribution, or consumption of cannabis that is otherwise illegal; and

20          B.       This Ordinance enacts a prohibition on the outdoor cultivation of medical marijuana in  
21          the unincorporated areas of Fresno County pending the development of standards and  
22          regulations relating to cultivation; and

23          C.       This Ordinance is hereby found to be categorically exempt from environmental review  
24          pursuant to CEQA Guidelines Section 15061 (b) (3).

25          ///

26          ///

27          ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SECTION 4:

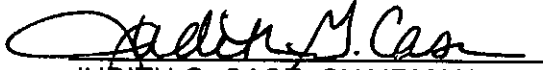
If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 5:


This Ordinance is an urgency measure to prevent a current and immediate threat to the public health, safety, or welfare, adopted pursuant to Section 65858 of the Government Code of the State of California, and is effective immediately and shall remain in effect for 45 days unless extended pursuant to California Government Code Section 65858.

THE FOREGOING WAS PASSED AND ADOPTED BY THE FOLLOWING VOTE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO THIS 14th DAY OF September 2010, TO-WIT:

AYES: Supervisors Perea, Poochigian, Anderson, Larson, Case  
NOES: None  
ABSENT: None

  
JUDITH G. CASE, CHAIRMAN  
BOARD OF SUPERVISORS

ATTEST:

  
BERNICE SIEDEL, CLERK  
BOARD OF SUPERVISORS