

May 1, 2006

**Honorable Mayor and Members of the
Hermosa Beach City Council**

**Regular Meeting of
May 9, 2006**

**SUBJECT: UPDATE ON INTERIM URGENCY ORDINANCE TO PROHIBIT THE
ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES**

Recommendation:


Receive and file this report.

Background Analysis

On April 25, 2006 the City Council approved an interim urgency ordinance that established a 45-day moratorium on the establishment of new medical marijuana dispensaries in the City of Hermosa Beach. This moratorium was intended to prevent a proliferation of these uses within the City, including locations proximate to residential areas and sensitive land uses. As discussed in the interim ordinance, traffic and parking violations, loitering and noise issues have been noted in the vicinity of these facilities.

Following adoption of the interim ordinance, staff diligently began the process of researching and analyzing the operation of these facilities any potential compatibility issues with the surrounding land uses. Staff also began research on operational and development regulations that could minimize any potential impacts. Due to the complexity of the issue, staff anticipates that the research will not be complete before the expiration date of the moratorium on June 8, 2006.

In conformance with Section 65858, this report is being prepared in anticipation of a request for extension of the interim ordinance. According to this section, the interim ordinance may be extended for an initial period of up to 10 month 15 days. Staff anticipates that a request will be coming forward at the May 23, 2006 City Council meeting to extend the interim urgency ordinance for this time period, or until the effective date of new regulations, whichever is sooner.



Stephen R. Barrell
City Manager

Attachments

1. Urgency Ordinance No. 06 -

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ORDINANCE NO. 06-1265U

**AN INTERIM ORDINANCE OF THE CITY OF HERMOSA BEACH,
CALIFORNIA, PURSUANT TO GOVERNMENT CODE SECTION 65858
PROHIBITING THE ESTABLISHMENT OF MEDICAL MARIJUANA
DISPENSARIES AND DECLARING THE URGENCY THEREOF.**

**THE CITY COUNCIL OF THE CITY OF HERMOSA BEACH DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. Purpose and findings. Currently medical marijuana dispensaries are considered to be a permitted use of property in the commercial zones under the City's zoning ordinance. Medical marijuana dispensaries may be established in the City within close proximity to residentially zoned properties and sensitive uses such as residential property, schools and day care centers. Other cities with medical marijuana dispensaries have reported an increase in loitering around dispensaries, an incident of armed burglary within dispensaries, parking and traffic violations, and increased complaints from neighbors about increased pedestrian and vehicular traffic and noise. City staff believes that it is necessary to formulate regulations, consistent with State law, governing the location and operation of medical marijuana dispensaries in order to protect residents and businesses from harmful secondary effects of these establishments. Due to the recent proliferation of such establishments in cities throughout the region, and because such uses are permitted under the City's zoning regulations and further, because time will be required to prepare and adopt those regulations, this Ordinance is intended to place an interim moratorium on the establishment of any new medical marijuana dispensaries as of the date of adoption hereof, until new regulations are prepared and adopted by the City Council.

SECTION 2. Moratorium established. A moratorium is hereby established on the establishment of medical marijuana dispensaries in the City. Notwithstanding any provision of the Hermosa Beach Municipal Code to the contrary, no medical marijuana dispensary shall be established in the City, whether or not a permit of any kind is required from the City; further, no application for a permit of any kind (including a building permit) will be accepted, processed or considered during the pendency of this ordinance or any extension thereof for establishment of a

1 medical marijuana dispensary. This Ordinance and the moratorium established herein applies to
2 any site, facility, location, use, cooperative or business that distributes, dispenses, stores, sells,
3 exchanges, processes, delivers, gives away, or cultivates marijuana for medical purposes to
4 qualified patients, health care providers, patients' primary caregivers, or physicians, pursuant to
5 Health & Safety Code Section 11362.5 (adopted as Proposition 215, the "Compassionate Use Act
6 of 1996") or any State regulations adopted in furtherance thereof.

7 **SECTION 3.** Definitions. For purposes of this Ordinance, a "medical marijuana
8 dispensary" means a facility where marijuana is made available for medical purposes in
9 accordance with Health & Safety Code Section 11362.5. The word "marijuana" shall have the
10 same meaning as the definition of that word in Health & Safety Code Section 11018.

11 **SECTION 4.** Penalties. Violation of any provision of this Ordinance shall constitute a
12 misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in
13 County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and
14 every day such a violation exists shall constitute a separate and distinct violation of this
15 Ordinance. In addition to the foregoing, any violation of this Ordinances hall constitute a public
16 nuisance and shall be subject to abatement as provided by all applicable provisions of law.

17 **SECTION 5.** Severability. If any part or provision of this Ordinance or the application to
18 any person or circumstance is held invalid, the remainder of this Ordinance, including the
19 application of such part of provision to other persons or circumstances, shall not be affected and
20 shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

21 **SECTION 6.** Urgency. Based on the findings set forth in Section 1 hereof, the recent
22 proliferation of medical marijuana dispensaries in the region and the secondary effects of those
23 dispensaries pose a current and immediate threat to the public health, safety and welfare. This
24 Ordinance is necessary to alleviate and address that threat until permanent zoning regulations can
25 be established. This ordinance is adopted pursuant to California Government Code Section 65858
26 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This
27 ordinance shall be in full force and effect for a period of forty-five (45) days from the date of its
28 adoption unless extended by the City Council in accordance with the provisions of California

1 Government Code Section 65858.

2 **SECTION 7.** Conflicting Laws. For the term of this Ordinance, or any extension thereof,
3 the provisions of this Ordinance shall govern over any conflicting provisions of any other City
4 code, ordinance, resolution or policy.

5 **SECTION 8.** This ordinance shall become effective upon adoption.

6 **SECTION 9.** The City Clerk shall certify to the passage and adoption of this ordinance,
7 shall enter the same in the book of original ordinances of said city, and shall make minutes of the
8 passage and adoption thereof in the records of the proceedings of the City Council at which the
9 same is passed and adopted.

10 **PASSED, APPROVED and ADOPTED** this 25th of April 2006 by the following vote:

11 AYES: Edgerton, Keegan, Reviczky, Mayor Tucker
12 NOES: None
13 ABSENT: None
14 ABSTAIN: None

15 **PRESIDENT** of the City Council and **MAYOR** of the City of Hermosa Beach, California

17 ATTEST:

APPROVED AS TO FORM:

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City Clerk

City Attorney

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