

May 9, 2006

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

**Regular Meeting of
May 23, 2006**

**SUBJECT: EXTENSION OF URGENCY ORDINANCE TO PROHIBIT THE
ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES**

Recommendation:

Adopt the attached urgency ordinance: Ordinance No. 06-___,

AN ORDINANCE OF THE CITY OF HERMOSA BEACH PURSUANT TO
GOVERNMENT CODE SECTION 65858 EXTENDING ORDINANCE NO.
_____ WHICH ESTABLISHED A MORATORIUM PROHIBITING THE
ESTABLISHMENT OF MEDICAL MARIJUANA DISPENSARIES AND
DECLARING THE URGENCY THEREOF. (ATTACHMENT 1)

Background

On April 25, 2006 the City Council approved an interim urgency ordinance prohibiting the establishment of medical marijuana dispensaries in the city.

Analysis

The purpose of the present agenda item is to consider an extension to an interim urgency ordinance to place a 45-day moratorium on the establishment of new medical marijuana dispensaries in the City of Hermosa Beach. Currently medical marijuana dispensaries are considered to be a permitted use of property similar to dispensing medicines in a medical clinic, pharmacy or medical office as allowed in the commercial zones under Article 17 of the Municipal Code (Zoning Ordinance). Potential dispensaries can be permitted if they meet minimum parking and development standards. There is no requirement for a conditional use permit or other discretionary review to establish these facilities. The City has comported itself in conformance with Proposition 215.

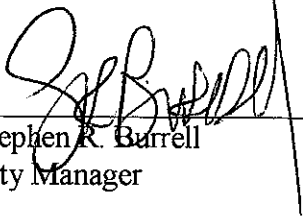
Medical marijuana dispensaries have been established throughout commercial zones in the region and may locate in close proximity to residentially zoned properties and sensitive land uses. Staff believes that it is necessary to review and analyze the impact of medical marijuana dispensaries and to formulate any necessary regulations, consistent with State law, governing the location and operation of the facilities in order to protect residents and businesses from harmful secondary effects.

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. However, due to the complexity of the issue, the research will not be complete before the expiration date of the moratorium on June 8, 2006. Therefore the urgency ordinance must be extended.

Consistent with Government Code Section 65858, the Council may adopt up to two extensions of the moratorium after providing notice pursuant to Section 65090 and holding a public hearing. The maximum duration of the extensions are ten (10) months, fifteen (15) days for the first, and twelve (12) months for the second.

FISCAL IMPACT

There is no fiscal impact for this item at this time.

A handwritten signature in black ink, appearing to read "Stephen R. Burrell", is written over a horizontal line.

Stephen R. Burrell
City Manager

Attachments

1. Urgency Ordinance

P:/MedMJ3

ORDINANCE NO. 06-_____

**AN ORDINANCE OF THE CITY OF HERMOSA BEACH PURSUANT TO
GOVERNMENT CODE SECTION 65858 EXTENDING ORDINANCE NO.
_____ WHICH ESTABLISHED A MORATORIUM 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. Moratorium extended. Ordinance No. _____, adopted April 25, 2006, is hereby extended for 10 months and 15 days.

SECTION 2. Penalties. Violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 or by imprisonment in County jail for not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance. In addition to the foregoing, any violation of this Ordinances shall constitute a public nuisance and shall be subject to abatement as provided by all applicable provisions of law.

SECTION 3. Severability. If any part or provision of this Ordinance or the application to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part of provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 4. Purpose and findings; Urgency. Currently medical marijuana dispensaries are considered to be a permitted use of property in the commercial zones under the City's zoning ordinance. There have been a proliferation of medical marijuana dispensaries throughout the region with some in close proximity to residentially zoned properties and sensitive uses such as day care centers. Other cities with medical marijuana dispensaries have reported an increase in loitering around dispensaries, an incident of armed burglary within a dispensary, 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 the City, and because time will be required to prepare and adopt those regulations, this Ordinance is intended to extend 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. Based on the foregoing, the recent proliferation of medical marijuana dispensaries in the region and the secondary effects of those dispensaries poses a current and immediate threat to the public health, safety and welfare. This Ordinance is necessary to alleviate and address that threat until permanent zoning regulations can be established. This ordinance is adopted pursuant to California Government Code Section 65858 and shall take effect immediately upon adoption by a four-fifths vote of the City Council. This ordinance shall be in full force and effect for a period of 10 months and 15 days from the date of its adoption

unless extended by the City Council in accordance with the provisions of California Government Code Section 65858.

SECTION 5. Conflicting Laws. For the term of this Ordinance, or any extension thereof, the provisions of this Ordinance shall govern over any conflicting provisions of any other City code, ordinance, resolution or policy.

PASSED, APPROVED AND ADOPTED this 23rd day of May 2006.

Mayor

ATTEST:

City Clerk