

[Zoning – 16 Month and 15 Day Extension of Interim Moratorium on Medical Cannabis Dispensaries.]

Urgency ordinance approving a 16 month and 15 day extension of the interim zoning moratorium throughout the City on clubs or dispensaries where marijuana is grown, purchased or distributed with a medical recommendation and making required findings, including findings of consistency with the priority policies of Planning Code Section 101.1 and environmental findings.

Note: Additions are *single-underline italics Times New Roman*;
deletions are ~~*strikethrough italics Times New Roman*~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) General Findings.

(1) In 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq. and entitled "The Compassionate Use Act of 1996") to enable persons who are in need of marijuana for specified medical purposes to obtain and use marijuana under limited, specified circumstances. The State legislature also enacted SB 420 to clarify the scope of the Compassionate Use Act of 1996, allowing cities and other governing bodies to adopt and enforce rules and regulations laws consistent with SB 420.

(2) In December of 2001, the Board of Supervisors passed Resolution No. 012006, declaring San Francisco to be a "Sanctuary for Medical Cannabis."

(3) In November of 2002, the City's voters passed Proposition S, a declaration of policy directing the City to "explore the possibility of establishing a program whereby the City

1 would grow medical cannabis and distribute it to patients attempting to exercise their rights
2 under Proposition 215." Since the passage of Proposition S, the City has witnessed a
3 dramatic increase of unregulated medical cannabis dispensaries.

4 (4) In 2002 there were approximately 2,200 individuals registered with the Department
5 of Public Health's Medical Cannabis Voluntary Identification Card Program and there are now
6 over 7,000 individuals enrolled.

7 (5) As of March 2005, there are approximately 35 medical cannabis dispensaries in
8 operation in the City, with approximately another 10 clubs scheduled to open later this year.

9 (6) The proliferation of medical cannabis dispensaries has had attendant health, safety
10 and welfare consequences that were not anticipated at the time that zoning determinations
11 were made permitting medical cannabis dispensaries to operate subject to a conditional use
12 permit in some areas of the City, and as of right in others.

13 (7) There are currently no comprehensive City laws regulating or monitoring medical
14 cannabis dispensaries.

15 (9) The healthy coexistence of medical cannabis dispensaries and surrounding
16 neighborhoods is in the best interest of residents of the City.

17 (10) On March 29, 2005, the Board of Supervisors adopted Ordinance No. 64-05, an
18 urgency Ordinance that imposed a 45-day moratorium on clubs or dispensaries where
19 marijuana is grown, purchased or distributed with a medical recommendation. A copy of said
20 Ordinance is on file with the Clerk of the Board of Supervisors in File No. 050512, and is
21 incorporated herein by reference.

22 (11) On April 1, 2005, the Mayor signed Ordinance No. 64-05 into law.

23 (12) On April 22, 2005, the Planning Department issued a report entitled "Report on
24 Status and Regulatory Actions Regarding Medical Cannabis Dispensaries" for the Board's
25

1 consideration. A copy of said report is on file with the Clerk of the Board of Supervisors in File
2 No. 050512 and is incorporated herein by reference.

3 (13) On April 25, 2005 during a hearing of the Government Oversight and Audit
4 Committee of the Board of Supervisors, the Committee considered the Planning Department's
5 report and held a hearing at which it took testimony from the public and from various City
6 departments regarding Medical Cannabis Dispensaries.

7 (14) On May 10, 2005, the Board of Supervisors, in accordance with California
8 Government Code section 65858, and in furtherance of Ordinance No. 64-05, by Motion No.
9 M05-96 adopted as its own and formally issued the Planning Department's report
10 entitled "Report on Status and Regulatory Actions Regarding Medical Cannabis
11 Dispensaries." A copy of said Motion is on file with the Clerk of the Board of Supervisors in
12 File No. 050774 and is incorporated herein by reference.

13 (15) On May 17, 2005 the Board of Supervisors adopted Ordinance No. 98-05, an
14 urgency Ordinance extending for six months the moratorium on clubs or dispensaries where
15 marijuana is grown, purchased or distributed with a medical recommendation. A copy of said
16 Ordinance is on file with the Clerk of the Board of Supervisors in File No. 050773 and is
17 incorporated herein by reference.

18 (16) On May 20, 2005, the Mayor signed Ordinance No. 98-05 into law.

19 (17) A further extension of the interim zoning moratorium on medical cannabis
20 dispensaries will provide the City necessary additional time to draft and adopt laws, consistent
21 with the Compassionate Use Act of 1996 and SB 420, that will regulate the location and
22 operation of medical cannabis dispensaries, while still allowing for the operation of legally
23 existing medical cannabis dispensaries to guarantee that patients, their caregivers and
24 physicians have access medical cannabis.

25 (b) Findings related to the extension of the interim zoning moratorium.

1 (1) Planning Code Section 306.7 provides for the imposition of interim zoning controls
2 to accomplish several objectives, including preserving existing neighborhood-serving retail
3 uses; preserving residential neighborhoods and areas of mixed residential and commercial
4 uses in order to preserve the existing character of such neighborhoods and areas; developing
5 and conserving the City's commerce and industry to maintain the City's economic vitality, and
6 maintaining adequate services for its residents, visitors, businesses and institutions.

7 (2) The extension of these controls is intended and designed to address and
8 ameliorate the problems and conditions associated with the proliferation in the City of clubs
9 and dispensaries where marijuana is grown, purchased, or distributed with a medical
10 recommendation by imposing a temporary moratorium on new dispensaries and clubs.

11 (3) This Board has considered the impact on the public health, safety, peace, and
12 general welfare if the extension of the interim controls described in this ordinance is not
13 imposed.

14 (4) This Board has determined that the public interest will be best served by extending
15 these interim controls to ensure that the legislative scheme that may be ultimately adopted is
16 not undermined during the planning and legislative process for permanent controls, which
17 process shall be conducted within a reasonable time.

18 (c) Planning Code Section 101.1 Findings.

19 The extension of this interim zoning moratorium advances and is consistent with
20 Priority Policies 1, 2 and 5 of the Planning Code section 101.1 in that they attempt to conserve
21 a diverse economic base and existing neighborhood-serving retail and neighborhood
22 character and that is a primary purpose of this legislation. With respect to Priority Policies 3,
23 4, 6, 7 and 8, the Board finds that the extension of the interim zoning moratorium does not, at
24 this time, have an effect upon these policies, and thus, will not conflict with such policies.

25 (d) Environmental Findings.

1 The Planning Department has determined that the actions contemplated in this
2 Ordinance are in compliance with the California Environmental Quality Act (California Public
3 Resources Code sections 21000 et seq.). Such determination is on file with the Clerk of the
4 Board of Supervisors in File No. 050512 and is incorporated herein by reference.

5
6 Section 2. The extension of the interim zoning moratorium, as described below, shall
7 be adopted as an Urgency Ordinance:

8 (a) No permit shall be issued to allow for the opening or operation of a Medical
9 Cannabis Dispensary, as defined below, provided that nothing in this ordinance shall be
10 construed to allow MCDs in a location or through an alternate process than is otherwise
11 currently allowed in the Planning Code.

12 (b) For purposes of this Ordinance, in an RH (Residential, House), RM (Residential,
13 Mixed) or RC (Residential, Commercial) district of the City, a Medical Cannabis Dispensary
14 shall be a club or dispensary where marijuana is grown, purchased, or distributed with a
15 medical recommendation and classified as a social service or philanthropic facility as set forth
16 in Planning Code Section 209.3(d), or a club or dispensary where marijuana is grown,
17 purchased, or distributed with a medical recommendation and classified as a private
18 clubhouse as set forth in Planning Code Section 209.4(b).

19 (c) For purposes of this Ordinance, in a Neighborhood Commercial or Mixed-Use
20 district of the City, a Medical Cannabis Dispensary shall be a club or dispensary where
21 marijuana is grown, purchased, or distributed with a medical recommendation and classified
22 as an assembly or social service use as set forth in Planning Code Sections 790.50(a) and
23 890.50(a).

24 (d) For the purpose of this Ordinance, in a C (Commercial) or M (Industrial) district of
25 the City, a Medical Cannabis Dispensary shall be a club or dispensary where marijuana is

1 grown, purchased, or distributed with a medical recommendation and classified as an
2 assembly or social service use as set forth in Planning Code Section 217(d).

3 (e) The extension of the interim zoning moratorium shall remain in effect for (i) 16
4 months and fifteen days from passage or (ii) until permanent controls are adopted to address
5 the proliferation of Medical Cannabis Dispensaries, whichever first occurs.

6
7 Section 3. Within 475 days of the Board's approval of this Ordinance, the Planning
8 Department shall submit to the Clerk of the Board a written report describing the measures
9 taken to alleviate the conditions that led to the adoption of the Ordinance. Upon receipt of the
10 report, the Clerk shall calendar a motion for the full Board to consider and approve said report.
11 Such hearing and the action taken thereon shall be no later than 485 days after this
12 Ordinance is finally adopted.

13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:


16 Sarah Ellen Owsowitz
17 Deputy City Attorney



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 051769

Date Passed:

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November 15, 2005 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Alioto-Pier, Ammiano, Daly, Dufty, Ma, Maxwell, McGoldrick,
Mirkarimi, Peskin, Sandoval

Excused: 1 - Elsbernd

File No. 051769

I hereby certify that the foregoing Ordinance was **FINALLY PASSED** on November 15, 2005 by the Board of Supervisors of the City and County of San Francisco.

11/18/05
Date Approved

Kay Lubago
Gloria L. Young
Clerk of the Board

[Signature]
Mayor Gavin Newsom