Urgency ordinance approving an interim zoning moratorium throughout the City for 45 days 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 would grow medical cannabis and distribute it to patients attempting to exercise their rights
Since the passage of Proposition S, the City has witnessed a dramatic increase of unregulated medical cannabis dispensaries.

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

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

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

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

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

(10) A moratorium will provide the City the time to draft and adopt laws, consistent with the Compassionate Use Act of 1996 and SB 420, that will regulate the location and operation of medical cannabis dispensaries, while still allowing for the operation of legally existing medical cannabis dispensaries to guarantee that patients, their caregivers and physicians have access medical cannabis.

(b) Findings related to imposition of an interim moratorium.

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

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

(3) This Board has considered the impact on the public health, safety, peace, and general welfare if the interim controls proposed in this ordinance were not imposed.

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

(c) Planning Code Section 101.1 Findings.

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

(d) Environmental Findings.

The Planning Department has determined that the actions contemplated in this Ordinance are in compliance with the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Such determination is on file with the Clerk of the Board of Supervisors in File No. 050512 and is incorporated herein by reference.
Section 2. The following interim zoning moratorium shall be adopted as an Urgency Ordinance:

(a) No permit shall be issued to allow for the opening or operation of a Medical Cannabis Dispensary, as defined below.

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

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

(d) For the purpose of this Ordinance, in a C (Commercial) or M (Industrial) district of the City, a Medical Cannabis Dispensary shall be a club or dispensary where marijuana is grown, purchased, or distributed with a medical recommendation and classified as an assembly or social service use as set forth in Planning Code Section 217(d).

(e) This interim moratorium shall remain in effect for (i) 45 days from passage, which is the maximum initial period allowed unless extended in accordance with California Government Code section 65858 or (ii) until permanent controls are adopted to address the proliferation of Medical Cannabis Dispensaries, whichever first occurs.
Section 3. Within 25 days of the Board's approval of this Ordinance, the Planning Department shall submit to the Clerk of the Board a written report describing the measures taken to alleviate the conditions that led to the adoption of the Ordinance. Upon receipt of the report, the Clerk shall calendar a motion for the full Board to consider and approve said report. Such hearing and the action taken thereon shall be no later than 35 days after this Ordinance is finally adopted.

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

By: [Signature]
Sarah Ellen Owstown
Deputy City Attorney
Urgency ordinance approving an interim zoning moratorium throughout the City for 45 days 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.

March 29, 2005 Board of Supervisors — FINALLY PASSED
Ayes: 9 - Alioto-Pier, Ammiano, Dufty, Elsbernd, Ma, Maxwell, McGoldrick, Mirkarimi, Peskin
Excused: 2 - Daly, Sandoval
I hereby certify that the foregoing Ordinance was FINALLY PASSED on March 29, 2005 by the Board of Supervisors of the City and County of San Francisco.

Date Approved

Mayor Gavin Newsom

Gloria L. Young
Clerk of the Board