

ORDINANCE NO. 2009-025

**AN INTERIM EMERGENCY ORDINANCE OF THE COUNCIL OF
THE CITY OF SAN BUENAVENTURA EXTENDING A CITYWIDE
MORATORIUM ON THE ESTABLISHMENT AND OPERATION
OF MEDICAL MARIJUANA DISPENSARIES FOR A PERIOD
OF TEN MONTHS AND FIFTEEN DAYS**

The Council of the City of San Buenaventura does ordain as follows:

Section 1. Findings and Determinations.

A. The findings and determinations set forth in Ordinance No. 2009-019 are incorporated by this reference.

B. Nothing in this interim Ordinance shall be deemed an acknowledgment that medical marijuana dispensaries are otherwise permitted in the City. This Ordinance is being enacted, in part, to supplement the City's position that medical marijuana dispensaries are prohibited under current law because they are not expressly permitted.

Section 2. Measures Taken to Alleviate the Conditions that Lead to the Adoption of Ordinance No. 2009-019.

A. Pursuant to Government Code Section 65858(d), the City Council reports that following adoption of Ordinance No. 2009-019 on September 21, 2009, the City has initiated research on the actions of other jurisdictions with respect to medical marijuana dispensaries. Planning, Police and City Attorney staffs have been requested to examine alternatives and provide an evaluation of the direct and secondary impacts of medical marijuana dispensaries upon surrounding land uses and neighborhoods. Staff has also begun designing a civic engagement work program in order to facilitate public participation during the interim study period.

Section 3. Imposition of Moratorium.

A. The findings and determinations in Section 1 are true and correct.

B. In accordance with the authority granted to the City under Government Code Section 65858, from and after the date of this Ordinance no use permit, variance, building permit, business license, or other applicable entitlement for use shall be approved or issued for the establishment or operation of a medical marijuana dispensary for a period of ten months and fifteen days.

C. For purposes of this Ordinance, medical marijuana dispensary shall mean any facility or location where a primary caregiver intends to or does make

available, sell, transmit, give, exchange for consideration, or otherwise provide medical marijuana to any of the following: a qualified patient, a person with an identification card or a primary caregiver. For purposes of this Ordinance, the terms primary caregiver, qualified patient and person with an identification card shall have the same meanings as those set forth in Health and Safety Code Section 11362.5, *et seq.*

D. For purposes of this Ordinance, a medical marijuana dispensary shall not include the following uses as long as the location of such uses is otherwise regulated by applicable law and as long as such uses strictly comply with applicable law including but not limited to Health and Safety Code Section 11362.5, *et seq.*: (1) a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; (2) a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; (3) a residential care facility for persons with chronic life threatening illness which is licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; (4) a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; or (5) a residential hospice or home health agency licensed pursuant to Chapter 8 of the Health and Safety Code.

E. This Ordinance is an Interim Emergency Ordinance adopted pursuant to the authority granted to the City by Government Code Section 65858 and the City Charter and is for the immediate preservation of the public health, safety and welfare. The facts constituting the urgency remain as provided in Ordinance No. 2009-019.

F. City staff is directed to study the applicable legal and land use issues related to operation of medical marijuana dispensaries and develop appropriate zoning and licensing guidelines or regulations governing such uses, and/or a possible prohibition on such uses if authorized by law and desired by the City Council.

G. The violation of any of the provisions of this Ordinance shall constitute a misdemeanor and a public nuisance and shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a period 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.

Section 4. Severability.

If any provision of this Interim Emergency Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Interim Emergency Ordinance which can be given effect without the invalid provision or application and to this end the provisions of this Interim Emergency Ordinance are hereby declared to

be severable.

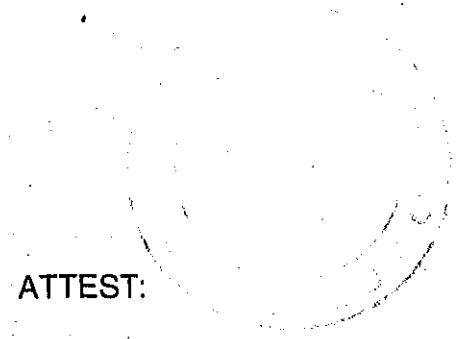
Section 5. Effective Date.

This Interim Emergency Ordinance shall become effective immediately upon adoption and shall be in effect for ten months and fifteen days from the date of adoption unless extended by the City Council as provided for in Section 65858(a) of the Government Code.

Section 6. CEQA Findings.

The City Council on the basis of the whole record and exercising independent judgment finds that this Interim Emergency Ordinance is not subject to environmental review pursuant to the State Guidelines for Implementation of the California Environmental Quality Act Sections 15060(c)(2) and 15060(c)(3) pertaining to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. This Ordinance has no potential for resulting in physical change to the environment directly or indirectly in that it prevents change to the environment pending the completion of the contemplated research and studies.

PASSED and ADOPTED this 19 day of October 2009.


Christy Weir
Christy Weir, Mayor

ATTEST:

Mabi Covarrubias Plisky
Mabi Covarrubias Plisky
City Clerk

APPROVED AS TO FORM

By: Ariel Pierre Calonne
Ariel Pierre Calonne
City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss
CITY OF SAN BUENAVENTURA)

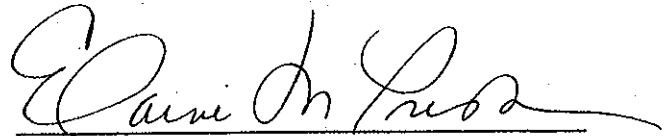
I, ELAINE M. PRESTON, Deputy City Clerk of the City of San Buenaventura, California, certify that the foregoing Ordinance was passed and adopted by the City Council of the City of San Buenaventura, at a regular meeting on October 19, 2009, by the following vote:

AYES: Councilmembers Brennan, Summers, Morehouse, Andrews, Deputy Mayor Fulton, and Mayor Weir.

NOES: Councilmember Monahan.

ABSENT: None.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of the City of San Buenaventura on October 20, 2009.



Deputy City Clerk

