

## ORDINANCE NO. 1031

### AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAMARILLO, CALIFORNIA, EXTENDING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT AND OPERATION OF MEDICINAL MARIJUANA DISPENSARIES PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858(a)

The City Council of the City of Camarillo ordains as follows:

#### **SECTION 1. Findings.**

A. On June 11, 2008, the City Council adopted Urgency Ordinance No. 1026 imposing a moratorium on the establishment and operation of medical marijuana dispensaries in the City for a period of 45 days. The findings set forth in Urgency Ordinance No. 1026 are incorporated by reference.

B. Pursuant to California Government Code Section 65858(d), the City has issued a report describing the measures taken to review and potentially alleviate the conditions that necessitated the adoption of Urgency Ordinance No. 1026. The report and the findings contained therein are also incorporated by reference.

C. As described in the report, due to the continued uncertainty regarding the apparent conflict between Federal and State law regarding the legality of the cultivation, distribution and possession of marijuana, and the reported negative secondary effects in communities that have permitted the establishment of medical marijuana dispensaries, approximately 80 California cities have adopted moratoriums on such uses with more than 60 other cities banning such facilities outright.

D. As described in the report, legislation and guidelines at the Federal and State level intended to resolve some of the conflicts between Federal and State law and internal State laws remain pending.

E. Due to the apparent conflict between Federal and State law including internal California legal conflicts, as well as the community and statewide concerns regarding the establishment of medical marijuana dispensaries, and the fact that Federal legislation and enforcement is currently in flux, it remains necessary for the City of Camarillo to continue to study the potential impacts such facilities may have on the public health, safety, and welfare, as well as the impacts the inconsistent and conflicting authorities may have on the City's ability to regulate such facilities.

F. Based on the foregoing, the City Council finds that allowing the establishment or operation of or approving any entitlements for the establishment or operation of medical marijuana dispensaries prior to (1) resolving whether Federal law will be routinely enforced against medical marijuana dispensaries, (2) the results of pending lawsuits to determine whether Federal law pre-empts State law on this issue,

(3) the City's full review of the impacts that such facilities have had in other jurisdictions, and (4) resolving any zoning conflicts or regulatory issues based on the fact that no zoning currently exists in the City permitting such dispensaries, would result in the current and immediate threat to the public health, safety, and welfare. Accordingly, the City finds the continuation of the interim prohibition on such uses and the issuance of any such applicable entitlements is necessary for an additional period of 10 months and 15 days.

G. The City has complied with the notice and public hearing requirements of Government Code section 65858(a) and 65090.

**SECTION 2. Environmental Review.** The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly; rather it prevents changes in the environment pending the completion of the contemplated municipal code review.

**SECTION 3. Continuation of Moratorium on Medical Marijuana Dispensaries.** The City Council orders as follows:

A. In accordance with the authority granted the City of Camarillo under Government Code section 65858(a), and pursuant to the findings stated herein, for a period of 10 months and 15 days from the effective date of this ordinance:

1. No medical marijuana dispensary may be established or operate in any zone of the City.

2. No use permit, variance, zoning clearance or other applicable entitlement or approval will be accepted, approved or issued for the establishment or operation of a medical marijuana dispensary.

B. As used in this ordinance, the following definitions apply:

1. "Establish" or "operate" a medical marijuana dispensary means and includes any of the following:

(a) The opening or commencement of such a business or establishment as a new business or establishment;

(b) The conversion of an existing business or establishment to a business or establishment defined as a medical marijuana dispensary in this ordinance;

(c) The addition of any form of business or establishment defined as a medical marijuana dispensary in this ordinance to any other existing business or establishment.

2. "Marijuana" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It includes marijuana infused in foodstuff. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except resin extracted therefrom), fiber, oil, or cake, or the sterilized seeds of the plant that are incapable of germination.

3. "Medical marijuana dispensary" means any facility or location, whether fixed or mobile, where medical marijuana is made available to and/or distributed by or to one or more of the following: a "primary caregiver," "a qualified patient," or a person with an "identification card," as these terms are defined in California Health and Safety Code section 11362.5 and following. A "medical marijuana dispensary" does not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable law: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with applicable law including, but not limited to, Health and Safety Code section 11362.5 and following.

**SECTION 4. Legal and Planning Study.** The Department of Community Development with the assistance of the City Attorney's Office is directed to continue to study and analyze issues related to the establishment or operation of medical marijuana dispensaries within the City, including but not limited to, evaluating conflicts in State and Federal law concerning the validity of the Compassionate Use Act, the legality of such facilities, the potential impacts of such facilities on public health, safety and welfare of the community, the desirability of such facilities in various zones, and the extent of regulatory controls, if any, to impose on such facilities.

**SECTION 5. Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 6. Effective Date and Duration.** This urgency ordinance enacted under California Government Code section 65858(a) will take effect on July 26, 2008 upon adoption by a four fifths (4/5) vote of the City Council. This ordinance will remain

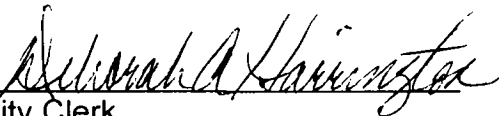
in effect for 10 months and 15 days from the effective date, and will expire on June 11, 2009, unless extended.

**SECTION 7. Publication.** The City Clerk is directed to cause this urgency ordinance to be published in the manner required by law.

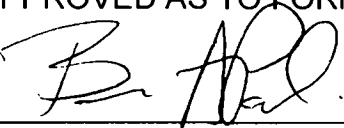
PASSED, APPROVED AND ADOPTED this 23rd day of July 2008.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

STATE OF CALIFORNIA            )  
COUNTY OF VENTURA        )  
CITY OF CAMARILLO            )        SS:

I, DEBORAH A. HARRINGTON, City Clerk of the City of Camarillo, certify Ordinance No. 1031 was passed and adopted by the City Council of the City of Camarillo as an urgency measure at a regular meeting of the Council held on the 23<sup>rd</sup> day of July 2008, and that such ordinance was adopted by the following vote:

AYES:            Councilmembers: Kildee, McDonald, Morgan, Waunch, Mayor Craven

NOES:            Councilmembers: None

ABSENT:         Councilmembers: None

  
\_\_\_\_\_  
City Clerk