

ORDINANCE NO. 10-818

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

WHEREAS, the findings and determinations set forth in Ordinance No. 10-818 are incorporated herein by this reference; and

WHEREAS, nothing in this interim Ordinance shall be deemed an acknowledgment that medical marijuana dispensaries are otherwise permitted in the City. The City Council is enacting this Ordinance, in part, to supplement the City's position that medical marijuana dispensaries are prohibited under current law because they are not expressly permitted; and

WHEREAS, to alleviate the conditions that lead to the adoption of Ordinance No. 10-817, pursuant to Government Code Section 65858(d), the City Council reports that following adoption of Ordinance No. 10-817 on April 13, 2010, the City has initiated research on the actions of other jurisdictions with respect to medical marijuana dispensaries. The Community Development Department, Police Department and City Attorney staff 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 begun designing a civic engagement program to facilitate public participation during the study period.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FILLMORE, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The findings and determinations set forth in the foregoing Whereas clauses are true and correct.

SECTION 2. 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.

A. 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.*

B. 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 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 Safety Code.

C. This Ordinance is an Interim Urgency Ordinance adopted pursuant to the authority granted to the City by Government Code Section 65858 and is for the immediate preservation of the public health, safety and welfare. The facts constituting the urgency remain as provided in Ordinance No. 10-817.

D. 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.

E. The violation of any of the provisions of this Ordinance shall constitute a misdemeanor 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 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 4. This Interim Urgency 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 pursuant to Government Code section 65858(a).


SECTION 5. The City Council on the basis of the whole record and exercising independent judgment finds that this Interim Urgency 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.

CITY OF FILLMORE, CALIFORNIA

By Patti Walker
Patti Walker, Mayor

APPROVED AS TO FORM:


Theodore J. Schneider, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF FILLMORE)

I, Clay Westling, City Clerk of the City of Fillmore, do hereby certify that the foregoing Ordinance was adopted at a regular meeting held on May 11, 2010, by the following vote:

AYES: BROOKS, CONAWAY, HERNANDEZ, WALKER, WASHBURN

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE

Clay Westling
Clay Westling, City Clerk

CITY OF FILLMORE)
COUNTY OF VENTURA)§
STATE OF CALIFORNIA)

I, CLAY WESTLING, City Clerk of the City of Fillmore, California do hereby certify that the foregoing Ordinance No. 10-818 was duly passed and adopted by the City Council of the City of Fillmore at the regular meeting thereof held on the 11th day of May, 2010 and was signed by the Mayor of the said City and that the same was passed and adopted by the following vote:

AYES: BROOKS, CONAWAY, HERNANDEZ, WALKER, WASHBURN

NAYS: NONE

ABSTAIN: NONE

ABSENT: NONE

ATTEST:

Clay Westling
Clay Westling, City Clerk

