

CITY OF FAIRFIELD

ORDINANCE NO. 2007 - 15

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD AMENDING CHAPTER 25, ARTICLE ONE OF THE FAIRFIELD CITY CODE TO CLARIFY THAT MEDICAL MARIJUANA DISPENSARIES ARE NOT A PERMITTED USE IN ANY ZONE IN THE CITY

THE CITY COUNCIL OF THE CITY OF FAIRFIELD DOES ORDAIN AS FOLLOWS:

SECTION 1: Statement of Intent:

- A. On June 25, 2005, the Fairfield City Council adopted a moratorium on medical marijuana dispensaries to allow for additional time to review issues associated with such uses in light of State and federal law and information on the impacts of said facilities.
- B. The City Council has considered the potential impacts of such facilities, and, based on the advice of Counsel, has determined that said facilities should be prohibited within the City of Fairfield.
- C. The City has held a duly noticed public hearing on the proposed Zoning Ordinance revisions prohibiting medical marijuana facilities, in accordance with the rules and regulations regarding such.

SECTION 2: Section 25.22 ("Commercial Zoning Districts"), Subsection 25.22.4 ("Regulations of Specific Uses"), is hereby amended by adding a new Subsection 25.22.4.6 to read as follows:

"25.22.4.6 Medical Marijuana Dispensaries Prohibited

A medical marijuana dispensary is not an allowable use anywhere in the City."

SECTION 3: Section 25.50 ("Definitions of Terms and Phrases"), Subsection 25.50.2 ("Definitions of Land Uses, General Terms, and Phrases") is hereby amended by adding a new definition for "Medical Marijuana Dispensary" to read as follows:

“Medical Marijuana Dispensary.” Any location, structure, vehicle, store, co-op, residence, or similar facility used, in full or in part, as a place at or in which marijuana is sold, traded, exchanged, bartered for in any way. "Medical marijuana dispensary" shall include but not be limited to facilities which make available and/or distribute marijuana in accordance with California Health and Safety Code Section 11362.5 et seq. "Medical marijuana dispensary" shall not include the following uses, as long as the location of such uses are otherwise regulated by this code or applicable

law: a pharmacy regulated by Chapter 9, Division 2 of the Business & Professions Code and/or the Federal Controlled Substances Act of 1970 and its implementing regulations, a clinic licensed pursuant to Chapter 1 of Division 2 of the Health & Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health & Safety Code, a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health & Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health & Safety Code, a residential hospice licensed pursuant to Chapter 8.5 of Division 2 of the Health & Safety Code, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health & Safety Code, as long as any such use complies strictly with applicable law, including, but not limited to, Health & Safety Code Sections 11362.5 et seq.”

SECTION 4: Section 25.50 (“Definitions of Terms and Phrases”), Subsection 25.50.2 (“Definitions of Land Uses, General Terms, and Phrases”) is hereby amended by revising the definition of “Office, Administrative, Business, or Professional” to read as follows:

“Office, Administrative, Business, or Professional. Offices for businesses and organizations providing services of a non-retail character to clients, where items are not typically offered for sale on the premises. These uses include, but are not limited to:

accounting and tax preparation
auto broker
(no on-site storage or display)
civic or charitable organization
consulting services
court reporting services
counseling services
detective agencies
employment and secretarial agencies
engineering and environmental services

insurance agencies
legal services
office management and
public relations
mortgage or title companies
professional membership
organizations
real estate offices
social service organizations
word processing services

This classification does not include offices operated by a local, State, or Federal agency which are classified under "Offices, Government", nor offices providing outpatient medical services, which are classified under "Offices, Medical and Dental," ***nor medical marijuana dispensaries, which are prohibited.***

SECTION 5: Section 25.50 ("Definitions of Terms and Phrases"), Subsection 25.50.2 ("Definitions of Land Uses, General Terms, and Phrases") is hereby amended by revising the definition of "Office, Medical and Dental" to read as follows:

Office, Medical and Dental. Offices providing outpatient medical, mental health, surgical, and other personal health services. Includes general practitioner, specialized medicine, chiropractic, psychiatric, psychological, ophthalmic, blood banks, and similar offices. This classification does not include any facility to which ambulance service is provided on a regular basis. ***This classification also does not include medical marijuana dispensaries, which are prohibited.***

SECTION 6: If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council of the City of Fairfield hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 7: Pursuant to 14 California Code of Regulations §§ 15305 and 15061(b)(3), this Ordinance is categorically exempt from the California Environmental Quality Act in that the City Council of the City of Fairfield finds that the Ordinance will not result in any changes in land use or density and there is no possibility that the implementation of this Ordinance will have significant effects on the environment.

SECTION 8. The City Council finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code Section 36937(b) and take effect immediately upon adoption. City staff has received inquiries from individuals interested in providing medical marijuana to patients. At this time, the Fairfield Municipal Code does not specifically address the operation of medical marijuana dispensaries within the City, although the Code expressly states that uses not specifically listed on the land use tables are not permitted. (Fairfield Municipal Code § 25.22.2.B) Thus, in order to prevent any confusion or ambiguity, the City adopted a moratorium on June 21, 2005, which was subsequently extended until June 18, 2007. If this Ordinance does not become effective immediately, but instead becomes effective thirty days after its second reading, significant ambiguity or confusion regarding whether medical marijuana dispensaries are allowed under the zoning code could result. Further, as described in Section 1 above, the City Council finds that medical marijuana dispensaries have the potential to create public safety and law enforcement problems as well as other potential adverse impacts. Therefore, this Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare and its urgency is hereby declared.

SECTION 9. The City Clerk shall cause this ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code, shall certify to the adoption of this ordinance, and shall cause this ordinance and her certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

SECTION 10: This Ordinance is an urgency ordinance for the immediate preservation of the public safety, health, and welfare, and therefore shall become effective immediately upon its introduction and adoption.

INTRODUCED at a regular meeting of the City Council of the City of Fairfield on the 5th day of June, 2007.

PASSED AND ADOPTED this 5th day of June,
2007, by the following vote:

AYES: COUNCILMEMBERS:	PRICE/BATSON/FARLEY/MRAZ/KARDOS
NOES: COUNCILMEMBERS:	<u>None</u>
ABSENT: COUNCILMEMBERS:	<u>None</u>
ABSTAIN: COUNCILMEMBERS:	<u>None</u>

Nancy L. Puce
MAYOR

ATTEST:

Artitha K. Cortright
CITY CLERK