

CITY OF ALAMEDA ORDINANCE NO. 2985  
New Series

AN INTERIM URGENCY ORDINANCE OF THE CITY OF  
ALAMEDA, MAKING FINDINGS, AND ESTABLISHING A  
FORTY-FIVE DAY MORATORIUM ON THE ESTABLISHMENT  
OR EXPANSION OF MEDICAL MARIJUANA DISPENSARIES

WHEREAS, the City of Alameda has received a number of inquiries regarding the establishment of medical marijuana dispensaries within the City of Alameda; and

WHEREAS, such dispensaries have been established in several locations in California, including nearby cities, and as a consequence, some communities have reported increases in illegal drug activity, illegal drug sales, robbery of persons at or leaving dispensaries, loitering around dispensaries, falsely obtaining identification cards to qualify for medical marijuana, and other increases in criminal activities; and

WHEREAS, this potential for increased risk of crime and violence presents a clear and immediate danger to the public health, safety and welfare of the residents and businesses of the City of Alameda; and

WHEREAS, if medical marijuana dispensaries were allowed to be established in the City without appropriate regulations and safeguards, such uses might be in conflict with the requirements of the City's General Plan, zoning regulations, and be inconsistent with surrounding uses, or be detrimental to the public health, safety and welfare; and

WHEREAS, it is necessary for the City of Alameda to study the potential impacts of such facilities on the public health, safety, and welfare and enact appropriate regulations.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Alameda that:

Section 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. The City Council finds that issuing permits, business licenses, or other applicable entitlements providing for the establishment of medical marijuana dispensaries, prior to the completion of the City's study of the potential impact of such facilities, poses a current and immediate threat to

Approved as to Form  
*Debra R. Hill*  
CITY ATTORNEY

the public health, safety, and welfare, and that a temporary moratorium on the issuance of such permits, licenses, and entitlements is thus necessary.

Section 3. 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.

Section 4. In accordance with California Government Code section 65858, this Ordinance shall take effect immediately, on November 6, 2008, and be in full force for a period of 45 days. This period may be extended by the City Council in accordance with the provisions of section 65858 to provide the City with sufficient time to review the analysis and consider adoption of appropriate regulations.

Section 5. To the extent this Ordinance is inconsistent with any other provisions of the Alameda Municipal Code, this Ordinance governs.

Section 6. The public safety, health, and general welfare will be furthered by this Ordinance.

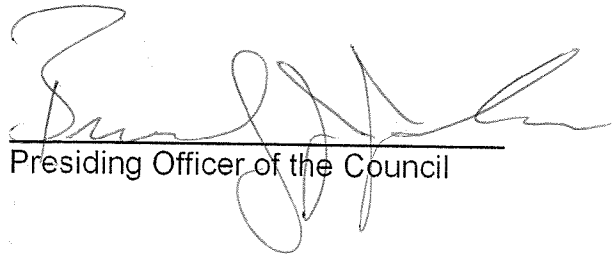
Section 7. The City, on a case-by-case basis, shall have the authority upon showing of a good cause by an applicant to waive the moratorium imposed by this Ordinance. Good cause shall mean a factual and evidentiary showing by the applicant that the moratorium, if not waived, will deprive the applicant of substantially all reasonable use of his/her property. Such applications for waiver shall be filed with the City's Planning and Building Department with appropriate fees. Said applications shall be reviewed and decided by the Planning and Building Director. The decision of the Planning and Building Director may be appealed to the City Council.

Within 10 calendar days of a decision by the Planning and Building Director, an appeal from said decision may be filed by the applicant, the permit holder, or any other interested party. In the event the last date of appeal falls on a weekend or holiday when City offices are closed, the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the Planning and Building Department and shall be filed with the Planning and Building Department. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning and Building Director or wherein its decision is not supported by the evidence in the record. Upon receipt of the appeal, the Council shall set the date for consideration thereof. The Planning and Building Department shall, not less than ten days prior thereto, give written notice to the applicant, the appellant in those cases where the applicant is not the appellant; adverse party or parties, the attorney, spokesperson, or representative of such party or

parties, other interested groups, and neighborhood associations who have requested notification; and to similar groups and individuals as deemed appropriate, of the date and place of the hearing on the appeal. The City Council shall vote on the appeal within thirty (30) days after its hearing of the appeal. If the Council is unable to decide the appeal at the meeting, it shall appear for a vote on each regular meeting of the Council thereafter until decided.

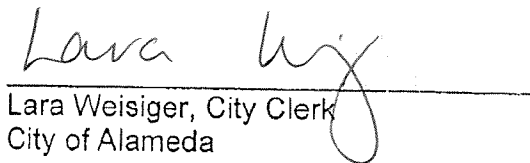
Section 8. The fee for a waiver of the moratorium imposed by this Ordinance shall be the same as the fee set in the Master Fee Resolution for a Use Permit. The appeal fee shall be the same as the fee set in the Master Fee Resolution for an Appeal to the City Council.

Section 9. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.



Presiding Officer of the Council

Attest:

  
Lara Weisiger, City Clerk  
City of Alameda

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by the Council of the City of Alameda in a special meeting assembled on the 6<sup>th</sup> day of November, 2008 by the following vote to wit:

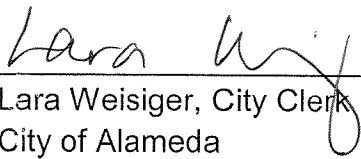
AYES: Councilmembers deHaan, Gilmore, Matarrese, Tam and Mayor Johnson – 5.

NOES: None.

ABSENT: None.

ABSTENTIONS: None.

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 7<sup>th</sup> day of November, 2008.

  
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Lara Weisiger, City Clerk  
City of Alameda