

CITY COUNCIL AGENDA REPORT

DATE: June 11, 2009

AGENDA OF: June 23, 2009

DEPARTMENT: City Manager

SUBJECT: An Uncodified Interim Ordinance of the City of Santa Cruz Imposing a Temporary Moratorium on the Establishment of Medical Marijuana Dispensaries and Production Houses and Declaring the Urgency Thereof.

Recommendation: Motion to introduce and adopt the Uncodified Interim Ordinance of the City of Santa Cruz imposing a temporary moratorium on the establishment of medical marijuana dispensaries and production houses and declaring the urgency thereof.

An uncodified Interim Ordinance of the City of Santa Cruz imposing a temporary moratorium on the establishment of medical marijuana dispensaries and production houses and declaring the urgency thereof.

BACKGROUND: In 1996 the voters of the State of California approved Proposition 215, entitled the Compassionate Use Act of 1996, the intent of which was to enable persons who are in need of marijuana for medical purposes to obtain and use it under limited, specific circumstances. In 2000 the City Council adopted ordinances pertaining to personal medical marijuana use and the establishment of land use regulations for Medical Marijuana dispensaries and production within the City of Santa Cruz. Two Medical Marijuana dispensaries have been approved in the City of Santa Cruz in 2004 and 2006, both in the Harvey West area.

On February 25, 2009 U.S. Attorney General Eric Holder announced in a press conference that ending federal medical marijuana raids "is now American policy." Prior to and since that day City staff has received a very large number of inquiries from members of the public about the regulations and processes for opening medical marijuana dispensaries and production houses within the City of Santa Cruz. Recently two new applications have been filed to establish medical marijuana dispensaries on the Westside of Santa Cruz. Others have indicated they intend to submit new applications soon.

DISCUSSION: To our knowledge the two existing medical marijuana dispensaries in the City have been operating without any complaints to the City since their establishment. Since the recent changes in federal enforcement policy, concerns have been raised regarding the inadequacy of the current regulations to address the potential number of permit applications and the impact that such a proliferation/overconcentration of medical marijuana dispensaries and production houses within the City may have on the community as a whole.

This issue does not seem to be unique to the City of Santa Cruz in that since the U.S. Attorney General's announcement, a number of cities in California have established moratoriums on the medical marijuana dispensaries because of a considerable increase in persons wishing to establish such facilities in their communities. Other cities' reasons primarily appear to be based on compatibility, health, and safety problems with the land use. An additional concern for consideration is the fact that Santa Cruz is the only jurisdiction in the County of Santa Cruz that allows medical marijuana dispensaries and production houses. This could result in a concentration of dispensaries that had not been considered when the ordinance was adopted. It is recommended that staff be directed to study the current ordinance, to address all of the above concerns and return to Council with recommendations for modification to the codes.

To study this in a reasonable, but timely manner it recommended that an urgency interim ordinance be adopted that would place a 45 day moratorium on the issuance of use permits, building permits, business licenses or any other entitlement for the establishment or operation of medical marijuana dispensaries and production houses. Pursuant to Government Code Section 65858, the City Council, with a minimum of six votes, may, to protect the public safety, health, and welfare of the community, "adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated General Plan, Specific Plan or zoning proposal that the legislative body...is considering or studying or intends to study within a reasonable time". If the 45 day moratorium is inadequate to complete the above mentioned study, staff would need to return to the City Council to extend the moratorium as required under Government Code Section 65858 for an additional ten months and 15 days. It should be noted that this moratorium would delay the processing of the two current applications until it is lifted.

ENVIRONMENTAL REVIEW: This interim urgency ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c) (2) – the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and Section 15060(c) (3) – the activity is not a project as defined in Section 15378 of the CEQA Guidelines, because it has no potential for resulting in physical change to the environment, directly or indirectly.

FISCAL IMPACT: No fiscal impact on the City of Santa Cruz for the study during the moratorium.

Prepared by:

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Approved by:

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City Manager

ATTACHMENT: Ordinance