

1 [Zoning – 60 Day Extension of Interim Moratorium on Medical Cannabis Dispensaries.]

2
3 **Urgency ordinance approving a 60 day extension of the interim zoning moratorium**
4 **throughout the City on clubs or dispensaries where marijuana is grown, purchased or**
5 **distributed with a medical recommendation and making required findings, including**
6 **findings of consistency with the priority policies of Planning Code Section 101.1 and**
7 **environmental findings.**

8 Note: Additions are *single-underline italics Times New Roman*;
9 deletions are *strikethrough italics Times New Roman*.
10 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

11 Be it ordained by the People of the City and County of San Francisco:

12 Section 1. Findings.

13 (a) General Findings.

14 (1) In 1996, the voters of the State of California approved Proposition 215 (codified as
15 Health and Safety Code Section 11362.5 et seq. and entitled “The Compassionate Use Act of
16 1996”) to enable persons who are in need of marijuana for specified medical purposes to
17 obtain and use marijuana under limited, specified circumstances. The State legislature also
18 enacted SB 420 to clarify the scope of the Compassionate Use Act of 1996, allowing cities
19 and other governing bodies to adopt and enforce rules and regulations laws consistent with
20 SB 420.

21 (2) In December of 2001, the Board of Supervisors passed Resolution No. 012006,
22 declaring San Francisco to be a “Sanctuary for Medical Cannabis.”

23 (3) In November of 2002, the City's voters passed Proposition S, a declaration of
24 policy directing the City to "explore the possibility of establishing a program whereby the City
25 would grow medical cannabis and distribute it to patients attempting to exercise their rights

1 under Proposition 215." Since the passage of Proposition S, the City has witnessed a
2 dramatic increase of unregulated medical cannabis dispensaries.

3 (4) In 2002 there were approximately 2,200 individuals registered with the Department
4 of Public Health's Medical Cannabis Voluntary Identification Card Program and there are now
5 over 7,000 individuals enrolled.

6 (5) As of March 2005, there are approximately 35 medical cannabis dispensaries in
7 operation in the City, with approximately another 10 clubs scheduled to open later this year.

8 (6) The proliferation of medical cannabis dispensaries has had attendant health, safety
9 and welfare consequences that were not anticipated at the time that zoning determinations
10 were made permitting medical cannabis dispensaries to operate subject to a conditional use
11 permit in some areas of the City, and as of right in others.

12 (7) There are currently no comprehensive City laws regulating or monitoring medical
13 cannabis dispensaries.

14 (9) The healthy coexistence of medical cannabis dispensaries and surrounding
15 neighborhoods is in the best interest of residents of the City.

16 (10) On March 29, 2005, the Board of Supervisors adopted Ordinance No. 64-05, an
17 urgency Ordinance that imposed a 45-day moratorium on clubs or dispensaries where
18 marijuana is grown, purchased or distributed with a medical recommendation. A copy of said
19 Ordinance is on file with the Clerk of the Board of Supervisors in File No. 050512, and is
20 incorporated herein by reference.

21 (11) On April 1, 2005, the Mayor signed Ordinance No. 64-05 into law.

22 (12) On April 25, 2005, the Planning Department issued a report entitled "Interim
23 Ordinance on Clubs or Dispensaries Where Marijuana Is Grown, Purchased or Distributed
24 With a Medical Recommendation " for the Board's consideration. A copy of said report is on
25

1 file with the Clerk of the Board of Supervisors in File No. 050512 and is incorporated herein by
2 reference.

3 (13) On April 25, 2005 during a hearing of the Government Oversight and Audit
4 Committee of the Board of Supervisors, the Committee considered the Planning Department's
5 report and held a hearing at which it took testimony from the public and from various City
6 departments regarding Medical Cannabis Dispensaries.

7 (14) On May 10, 2005, the Board of Supervisors, in accordance with California
8 Government Code section 65858, and in furtherance of Ordinance No. 64-05, by Motion No.
9 _____ adopted as its own and formally issued the Planning Department's report
10 entitled "Interim Ordinance on Clubs or Dispensaries Where Marijuana Is Grown, Purchased
11 or Distributed With a Medical Recommendation." A copy of said Motion is on file with the
12 Clerk of the Board of Supervisors in File No. 050512 and is incorporated herein by reference.

13 (15) An extension of the interim zoning moratorium on medical cannabis dispensaries
14 will provide the City necessary additional time to draft and adopt laws, consistent with the
15 Compassionate Use Act of 1996 and SB 420, that will regulate the location and operation of
16 medical cannabis dispensaries, while still allowing for the operation of legally existing medical
17 cannabis dispensaries to guarantee that patients, their caregivers and physicians have access
18 medical cannabis.

19 (b) Findings related to the extension of the interim zoning moratorium.

20 (1) Planning Code Section 306.7 provides for the imposition of interim zoning controls
21 to accomplish several objectives, including preserving existing neighborhood-serving retail
22 uses; preserving residential neighborhoods and areas of mixed residential and commercial
23 uses in order to preserve the existing character of such neighborhoods and areas; developing
24 and conserving the City's commerce and industry to maintain the City's economic vitality, and
25 maintaining adequate services for its residents, visitors, businesses and institutions.

1 (2) The extension of these controls is intended and designed to address and
2 ameliorate the problems and conditions associated with the proliferation in the City of clubs
3 and dispensaries where marijuana is grown, purchased, or distributed with a medical
4 recommendation by imposing a temporary moratorium on new dispensaries and clubs.

5 (3) This Board has considered the impact on the public health, safety, peace, and
6 general welfare if the extension of the interim controls described in this ordinance is not
7 imposed.

8 (4) This Board has determined that the public interest will be best served by extending
9 these interim controls to ensure that the legislative scheme that may be ultimately adopted is
10 not undermined during the planning and legislative process for permanent controls, which
11 process shall be conducted within a reasonable time.

12 (c) Planning Code Section 101.1 Findings.

13 The extension of this interim zoning moratorium advances and is consistent with
14 Priority Policies 1, 2 and 5 of the Planning Code section 101.1 in that they attempt to conserve
15 a diverse economic base and existing neighborhood-serving retail and neighborhood
16 character and that is a primary purpose of this legislation. With respect to Priority Policies 3,
17 4, 6, 7 and 8, the Board finds that the extension of the interim zoning moratorium does not, at
18 this time, have an effect upon these policies, and thus, will not conflict with such policies.

19 (d) Environmental Findings.

20 The Planning Department has determined that the actions contemplated in this
21 Ordinance are in compliance with the California Environmental Quality Act (California Public
22 Resources Code sections 21000 et seq.). Such determination is on file with the Clerk of the
23 Board of Supervisors in File No. _____ and is incorporated herein by reference.

1 Section 2. The extension of the interim zoning moratorium, as described below, shall
2 be adopted as an Urgency Ordinance:

3 (a) No permit shall be issued to allow for the opening or operation of a Medical
4 Cannabis Dispensary, as defined below.

5 (b) For purposes of this Ordinance, in an RH (Residential, House), RM (Residential,
6 Mixed) or RC (Residential, Commercial) district of the City, a Medical Cannabis Dispensary
7 shall be a club or dispensary where marijuana is grown, purchased, or distributed with a
8 medical recommendation and classified as a social service or philanthropic facility as set forth
9 in Planning Code Section 209.3(d), or a club or dispensary where marijuana is grown,
10 purchased, or distributed with a medical recommendation and classified as a private
11 clubhouse as set forth in Planning Code Section 209.4(b).

12 (c) For purposes of this Ordinance, in a Neighborhood Commercial or Mixed-Use
13 district of the City, a Medical Cannabis Dispensary shall be a club or dispensary where
14 marijuana is grown, purchased, or distributed with a medical recommendation and classified
15 as an assembly or social service use as set forth in Planning Code Sections 790.50(a) and
16 890.50(a).

17 (d) For the purpose of this Ordinance, in a C (Commercial) or M (Industrial) district of
18 the City, a Medical Cannabis Dispensary shall be a club or dispensary where marijuana is
19 grown, purchased, or distributed with a medical recommendation and classified as an
20 assembly or social service use as set forth in Planning Code Section 217(d).

21 (e) The extension of the interim zoning moratorium shall remain in effect for (i) 60 days
22 from passage, unless extended in accordance with California Government Code section
23 65858 or (ii) until permanent controls are adopted to address the proliferation of Medical
24 Cannabis Dispensaries, whichever first occurs.
25

1 Section 3. Within 40 days of the Board’s approval of this Ordinance, the Planning
2 Department shall submit to the Clerk of the Board a written report describing the measures
3 taken to alleviate the conditions that led to the adoption of the Ordinance. Upon receipt of the
4 report, the Clerk shall calendar a motion for the full Board to consider and approve said report.
5 Such hearing and the action taken thereon shall be no later than 50 days after this Ordinance
6 is finally adopted.

7
8 APPROVED AS TO FORM:
9 DENNIS J. HERRERA, City Attorney

10 By: _____
11 Sarah Ellen Owsowitz
12 Deputy City Attorney

13
14
15
16
17
18
19
20
21
22
23
24
25